

SHARED PARENTAL LEAVE
WDA/14/15

Recommendation

That:

1. Members approve the Shared Parental Leave Policy; and
2. Members agree to pay Shared Parental Pay on the same basis as current Maternity Pay.

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Report of the Chief Executive

1. Purpose of the Report

- 1.1 To present to Members for approval, a Proposed Shared Parental Leave Policy and for Members to consider and approve payments of Shared Parental Pay on the same basis as current Maternity Pay.

2. Background

- 2.1 Shared Parental Leave (SPL) is a new statutory entitlement for employees, which came into force from 1st December 2014 for eligible parents of children due to be born or adopted on or after 5th April 2015.
- 2.2 Shared Parental Leave is intended to allow parents greater flexibility and choice in how they care for their new child in its first year.
- 2.3 The introduction of SPL offers a unique opportunity for employers to take positive action in relation to increasingly important workforce issues: fathers in the workplace, gender equality, choice and control of working life and engagement.

3. Shared Parental Leave Overview

- 3.1 Shared Parental Leave (SPL) allows parents the right to share leave with a partner and/or split up periods of leave.
- 3.2 The amount of leave available is calculated using the mother's entitlement to maternity/adoption leave, which currently allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement by a curtailment notice, then they and/or their partner may opt-in to the SPL system and take any remaining weeks of maternity/adoption leave as SPL.
- 3.3 This means that their partner could begin to take SPL while the mother is still on maternity/adoption leave. SPL enables parents to share the caring

responsibilities evenly or have one parent taking the main caring role, depending on their preferences and circumstances.

3.4 Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave.

3.5 In order to qualify for SPL the employee must meet the eligibility criteria:

A mother must:

- Have a partner (secondary carer)
- Be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance
- Have curtailed or given notice to reduce their maternity/adoption leave.

A parent (usually the father) intending to take SPL must:

- Be an employee
- Share the primary responsibility for the child with the other parent at the time of birth or placement for adoption
- Have properly notified their employer of their entitlement and provided the necessary declarations and evidence

3.6 In addition to the above, a parent wanting to take SPL is required to satisfy the 'continuity of employment test' and their partner must meet the employment and earnings test.'

4. Shared Parental Leave Policy

4.1 To ensure consistency in making and responding to notifications regarding Shared Parental Leave it is recommended that the employers set out the working arrangements and the employee's rights in a policy.

4.2 Due to the complexity of Shared Parental Leave, the proposed Policy attached at Appendix 1 is a standalone policy, however, it will form part of the approved Worklife Balance Policy which includes the wider provisions of flexible working arrangements.

4.3 The draft policy attached at Appendix 1 sets clear guidance on how SPL would be administered including:

- Eligibility and conditions of SPL
 - Bringing Maternity leave to an end early
 - Notice and booking leave
 - Varying leave
 - Keeping in touch during SPL
 - The payments an employee may be entitled to while on SPL
 - All relevant forms and documentation
- 4.4 Shared parental leave cannot begin before the birth or placement for adoption and must be taken by the day before the child's first birthday or the day before the first anniversary of the placement of an adopted child.

5. Shared Parental Pay

- 5.1 A mother, subject to certain criteria, will be entitled to statutory maternity pay/adoption pay for up to 39 weeks. If the mother gives notice to reduce their entitlement before they will have received it for 39 weeks then any remaining weeks could become available as Shared Parental Pay (ShPP).
- 5.2 To qualify for ShPP an employee needs to have met the 'continuity of employment test' and their partner must meet the 'employment of earnings test' just like Shared Parental Leave.
- 5.3 There are a number of options available to the Authority in relation to payment of ShPP which include:
- a) Adopting only the statutory minimum payment
 - b) Enhancing the ShPP, but separately for other maternity enhancements
 - c) Match ShPP to existing maternity provisions
- 5.4 Statutory Maternity Pay currently allows the employee on Maternity Leave to receive:

Six weeks' pay at 90% of average weekly earnings
The remaining weeks at Statutory Maternity Pay (SMP)

- 5.5 As with many organisations the Authority currently offers enhanced maternity and paternity provisions through the enhancement of pay by affording the employee on maternity leave:

Six weeks paid at 90% of salary
Twelve weeks as half salary plus SMP
The remaining weeks at SMP only

- 5.6 It is recommended that the Authority match ShPP to existing maternity provisions. This ensures that the risk of potential discrimination is removed as both men and women are treated equally as parents.
- 5.7 Matching ShPP to current existing maternity provisions as it is more likely to promote inclusiveness, impact positively on female career progression, talent retention and employee engagement.
- 5.8 The proposed Shared Parental Leave Policy is therefore drafted to reflect the alignment of ShPP with the existing maternity provisions in relation to pay.

5. Risk Implications

- 5.1 There are no significant risks to the Authority in adopting a Shared Parental Leave Policy.
- 5.2 In order to ensure that there remains no future legal challenge from employees in relation to equality (in particular discrimination) of payment provisions during shared parental leave, it is recommended that those provisions related to pay are aligned with the current maternity pay entitlements.

6. HR Implications

- 6.1 There are no immediate implications associated with this report.
- 6.2 Awareness training of the Shared Parental Leave Policy will be provided to all employees of the Authority.
- 6.3 The Policy will be included in the induction process for all new employees.
- 6.4 The Policy will be reviewed and updated in line with any future legislative requirements.

7. Environmental Implications

- 7.1 There are no environmental implications associated with this report.

8. Financial Implications

- 8.1 There are no immediate financial implications associated with this report. Although should any employee who is eligible, apply for shared parental leave, there will be a cost to the Authority at that time.

9. Legal Implications

- 9.1 The Shared Parental Leave Regulations 2014 came into force in December 2014 and apply to eligible parents of children due to be born or adopted on or after April 2015.
- 9.2 The regulations give eligible parents the right to take Shared Parental Leave and place a duty on employers to ensure that their employees are not penalised for using their entitlement.
- 9.3 There is no legal obligation to produce a written policy in relation to shared parental leave, however by doing so the Authority will ensure there is consistency in making and responding to shared parental leave notifications and requests. An adopted policy also sets out the working arrangements for employees who are eligible to apply.

10. Conclusion

- 10.1 Shared Parental Leave is a new entitlement for employees which came into force from 1st December 2014 for eligible parents of children due to be born or adopted on or after 5th April 2015.
- 10.2 To ensure consistency in making and responding to notifications regarding Shared Parental Leave, it would be beneficial for the Authority to set out the working arrangements and employee's rights in a Policy.
- 10.3 Members are asked to approve the draft Shared Parental Leave Policy attached at Appendix 1, which sets out clear guidance on how SPL will be administered and provides the appropriate paperwork to allow application.
- 10.4 In order to ensure that there remains no future legal challenge from employees in relation to equality (in particular discrimination) of payment provisions during shared parental leave, it is recommended that those provisions related to pay are aligned with the current maternity pay entitlements as reflected in the attached policy.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.