

## **DUNDEE CITY COUNCIL**

**REPORT TO: Personnel Committee - 16 April 2007**

**REPORT ON: Adoption Leave and Pay Guidelines for Employees**

**REPORT BY: Assistant Chief Executive (Management)**

**REPORT NO: 215-2007**

### **1 PURPOSE OF REPORT**

1.1 The purpose of this report is to seek the Committee's approval of the proposed revised Adoption Leave and Pay Guidelines for Employees.

### **2 RECOMMENDATIONS**

It is recommended that the Committee:-

2.1 approves the revised Adoption Leave and Pay Guidelines for Employees, attached as Appendix 1;

2.2 approves that employees who commenced with Dundee City Council in the year prior to 1 April 2007 be exempt from the one year's service requirement and receive enhanced leave and pay, where applicable.

### **3 FINANCIAL IMPLICATIONS**

3.1 The cost of implementing the revised Guidelines will be funded by existing department budgets.

### **4 SUSTAINABILITY POLICY IMPLICATIONS**

4.1 None.

### **5 EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 None.

### **6 BACKGROUND**

6.1 Dundee City Council's Adoption Leave and Pay arrangements provide certain enhancements over and above both the national scheme for Scottish Councils and the statutory entitlements. The Dundee City Council policy and procedure is explained in the Adoption Leave and Pay Guidelines for Employees.

6.2 The Work and Families Act 2006 came into force on 1 October 2006, and introduced changes relating to adoption leave in relation to employees where the expected date of the child's placement is on or after 1 April 2007, and the guidelines have been amended accordingly.

6.3 In addition, the guidelines have been amended to ensure compliance with the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and, as such, with effect from 1 April 2007, all employees whether permanent, fixed term or temporary will require one year's continuous service with Dundee City Council to receive enhanced leave and pay. Under the Dundee scheme, the service requirement to date has been applied only to fixed term and temporary employees, therefore, in order to ensure equal treatment, it is proposed that all existing employees at 31 March 2007 are exempted from the service requirement.

## **7 CONSULTATION**

7.1 The Chief Executive, Depute Chief Executive (Finance) and Depute Chief Executive (Support Services) have been consulted in the preparation of this report, as have the trade unions.

## **8 BACKGROUND PAPERS**

8.1 None.

J C Petrie  
Assistant Chief Executive (Management)

9 April 2007

## DUNDEE CITY COUNCIL

### ADOPTION LEAVE AND PAY GUIDELINES FOR EMPLOYEES

Dundee City Council has an Adoption Leave and Pay Policy, which offers enhanced occupational adoption pay benefits for all employees (excluding teachers who have a separate policy). These enhanced benefits are for employees who have one year's continuous service with Dundee City Council and who are able to confirm that they will return to work for at least a 3 month period following their adoption leave. This is detailed below in 1.1.

There is also a nationally agreed Adoption Leave and Pay Procedure and Statutory Adoption Leave and Pay. These are detailed below in 1.2 and 1.3.

#### 1. ADOPTION LEAVE AND PAY

##### 1.1 OPTION 1 - Dundee City Council Enhanced Leave and Pay

To receive enhanced leave and pay, employees must have one year's continuous service with Dundee City Council and indicate that they intend to return to work and actually return to work for a 3 month period (excluding sick leave).

##### Leave

Adoption leave will begin from the date of the child's placement (whether this is earlier or later than expected) or from a fixed date which can be up to 14 days before the expected date of placement, and will comprise 52 weeks leave - 26 weeks ordinary adoption leave (OAL) and 26 weeks additional adoption leave (AAL).

##### Pay

Adoption pay is paid for the first 39 weeks of adoption leave - as follows:-

12 weeks full pay (inclusive of statutory adoption pay (SAP) where applicable)  
 12 weeks half pay (supplemented by SAP, where applicable, up to the maximum of full pay)  
 15 weeks SAP

The remaining 13 week period is unpaid leave.

##### 1.2 OPTION 2 - SJC National Conditions

The nationally agreed procedure applies to employees who have completed at least 26 weeks continuous service at the beginning of the 15th week before the expected date of placement and who intend to return to work. (Continuous service includes continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.)

Leave

Adoption leave will begin no earlier than 14 days before the expected date of placement and will comprise 52 weeks leave - 26 weeks OAL and 26 weeks AAL or will continue until the contract ends.

Pay

Adoption pay is paid for the first 39 weeks of adoption leave or until the contract ends- as follows:-

6 weeks at 90% of full pay (inclusive of SAP where applicable)  
 12 weeks half pay (supplemented by SAP, where applicable, up to the maximum of full pay)  
 21 weeks SAP

1.3 **OPTION 3 - Statutory Adoption Leave**

This applies to employees who have less than 26 weeks continuous service with Dundee City Council or who have decided they will not be returning to work.

Leave

Adoption leave will begin no earlier than 14 days before the expected date of placement and will comprise 52 weeks leave - 26 weeks OAL and 26 weeks AAL.

Pay

In order to qualify for SAP, employees must have 26 weeks continuous service with Dundee City Council by the 15th week before the expected date of placement and average weekly earnings must be at least equal to the lower earnings limit for National Insurance Contributions. Payment is as follows:-

6 weeks at 90% of full pay (inclusive of SAP)  
 33 weeks SAP

1.4 **General Information**

The rate of SAP is reviewed annually and details of the current rates are available from Departmental Administration Sections.

SAP is calculated and paid on a complete week basis which means that the monthly salary can fluctuate depending upon the number of Saturdays in a month.

Where an employee is not entitled to receive SAP, Form SMP1 will be issued by the department's payroll section which will enable them to apply to JobCentre Plus for any other benefits they may be entitled to. If this is the case the employee must provide a letter from JobCentre Plus confirming the payment they will receive.

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### 1.5 **Recovery of Occupational Adoption Pay**

Where an employee receives occupational adoption pay but does not return to work for at least a 3 month period (excluding sick leave), they will be liable to repay the Council the full amount of occupational adoption pay paid to them.

Employees who are unsure whether they wish to return to work, may wish to consider only receiving SAP as detailed in 1.3. This would ensure that they were not liable to repay the Council any occupational adoption pay. On return to work for a 3 month period, they would receive the balance of any occupational adoption pay due.

## 2. **NOTIFICATION PERIODS**

### 2.1 **Notification of Intention to take Adoption Leave**

An employee must submit the form "Notification of Intention to take Adoption Leave" within 7 days of being notified by the adoption agency that a match with a child for adoption has been made, indicating the date the child is to be placed, and the date he/she wants adoption leave to start, and whether he/she intends to return to work. Documentary evidence of entitlement to adoption leave and pay, which may be provided in the form of a matching certificate from the adoption agency, should be submitted with the form, or as soon as practicable thereafter.

Within 28 days of receipt of the above notification, the employee will receive written confirmation of the latest date by which he/she must return to work, this will include paid and unpaid leave.

Where an employee does not intend to return to work following adoption the "Notification of Intention to take Adoption Leave" form should still be submitted with the documentary evidence to ensure he/she receives the SAP they are entitled to.

### 2.2 **Returning to Work**

Where an employee intends to return to work before the end of the 52 week period of leave, he/she must notify the Head of Department, in writing, 8 weeks prior to the intended date of return. Failure to do so may result in the return being postponed by 8 weeks or not later than the end of the 52 week period. At the time of writing, the employee must be physically fit to return.

## 3. **CONTACT DURING ADOPTION LEAVE**

Managers are encouraged to maintain contact with employees during adoption leave, for example to pass on information on important developments within the workplace or any job opportunities within the section. Prior to the commencement of adoption leave, a discussion should take place regarding any preferences for maintaining contact.

#### 4. **KEEPING IN TOUCH DAYS**

Employees can undertake up to 10 days work during the period of adoption leave, known as Keeping in Touch Days (KIT days). There is no obligation to either undertake this work or offer it and, therefore, this should only be carried out by mutual agreement where the Manager and employee have agreed on the work that will be carried out and the payment that will be received.

Payment for a day's work will be no more than a normal day's pay and will be offset by SAP.

#### 5. **ANNUAL LEAVE**

Where practicable, all accrued annual leave, flexi-time and time off in lieu should be taken prior to the commencement of adoption leave.

Whilst absent on adoption leave, all annual leave is accrued. Where adoption leave overlaps two leave years, accrued annual leave is added to the annual leave entitlement for the new leave year and must be taken before the end of that year's leave.

Consideration can be given to flexible ways of taking accrued annual leave. For example, at the end of the adoption leave period or to return on a part-week basis for a short period of time. All requests should be discussed and agreed with the line manager.

Where employees work term-time only they should contact their Departmental Administration Section for advice.

Where an employee does not return to work following adoption leave, he/she will not accrue annual leave as the effective date of resignation will be the date adoption leave started.

#### 6. **PUBLIC HOLIDAYS**

During the paid period of adoption leave, all public holidays will be accrued and added to accrued annual leave entitlement

Where employees work term-time only they should contact their Departmental Administration Section for advice.

#### 7. **SICKNESS ABSENCE ENTITLEMENTS**

Employees should contact the Departmental Administration Section for advice on entitlements prior, during and at the end of the adoption leave period.

## 8. **APPLYING FOR JOB SHARE/PART-TIME WORK/FLEXIBLE WORKING**

Where employees request to return to work either on a job share, part-time or flexible working basis, all requests will be considered under the appropriate procedure. The approval of the Head of Department may be granted on a permanent or temporary basis (for example, using accrued annual leave to work reduced hours or working flexibly on a temporary/trial basis).

Employees should contact the Departmental Administration Section for further details.

If returning to work on a part-time basis, accrued annual leave and public holidays should be taken prior to starting a reduced hours/job share contract as these days would have been accrued on a full-time basis. It is possible to waive this entitlement in certain circumstances.

## 9. **PENSION PAYMENTS**

Normal pension payments will continue to be deducted from both SAP and Occupation Adoption Pay.

If a period of unpaid leave is taken, all benefits accrued in the Pension Fund are frozen until payments start again on return to work.

Where employees wish to arrange to pay contributions for this period they should contact their Departmental Administration Section within 30 days of returning to work.

## 10. **CAR USERS**

### 10.1 **Essential Car Users**

During the 26 weeks OAL period, the full essential user lump sum payment will be received.

### 10.2 **Car Leasing**

Special arrangements have been made in relation to adoption leave and resignations. These are contained in the General Guidelines of the Council's Full Maintenance Car Scheme.

## 11. **ADOPTION/PATERNITY SUPPORT LEAVE**

Adoption Support Leave/Paternity Leave of one week, or two consecutive weeks, may be granted to the spouse or partner of the parent nominated as "Principal Carer" of a child placed for adoption. To qualify, the employee must have been employed by the Council for a continuous period of 26 weeks. Only one period of leave is available irrespective of whether more than one child is placed together.

The employee may choose to start the leave at any time from the date of the child's placement, provided that the leave period is completed within 56 days of the child's placement. The leave may start on any day of the week.

If the employee earns an amount equal to, or above, the Lower Earnings Limit, there is an entitlement to Statutory Paternity Pay (SPP).

If the employee decides to take the Adoption Support Leave within 15 working days of the child's placement, then during the first week of such leave, he/she will receive normal pay (offset by SPP)

Full details are available from Departmental Administration Sections.

## 12. **GENERAL INFORMATION**

- Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- Adoption leave and pay is not available in circumstances where a child is not newly placed for adoption, for example where a step parent is adopting a partner's child.
- Normal pay is defined as the normal wage or salary, inclusive of all contractual allowances. However, these will be reduced in accordance with the level of pay being received.
- When calculating continuous service for adoption leave and pay purposes, entitlement is based on continuous service with any public authority as listed within the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999.
- Employees are entitled to take reasonable time off without loss of pay during normal working hours to attend meetings/training sessions required during the adoption process prior to the placement of a child and may be asked to provide evidence of appointments. Such time off will be granted irrespective of whether they subsequently withdraw the application to adopt.
- If the child's placement ends during the adoption leave period, the employee can continue adoption leave for up to 8 weeks after the end of the placement.
- Where an employee has chosen not to return to work following the placement of a child, but the placement ends, he/she may be entitled to return to work. Further information is available from Departmental Administration Sections.
- If employed on a sessional, relief or supply basis, the Departmental Administration Section should be contacted for advice.
- If an employee will be using registered childcare, Childcare Vouchers can assist with the costs. The vouchers are exempt from Tax and National Insurance contributions. For further information contact the Administration Section, Personnel Department, Ext. 4003.

1 April 2007

**DUNDEE CITY COUNCIL**

**NOTIFICATION OF INTENTION TO TAKE ADOPTION LEAVE**

This form must be submitted within 7 days of being notified by the adoption agency that a match with a child for adoption has been made. Any queries should be directed, in the first instance, to your Departmental Administration Section

**FULL NAME** ..... **PAY NO.** .....

**HOME ADDRESS** .....

..... **DATE OF BIRTH** .....

**EMPLOYING DEPARTMENT** .....

**JOB TITLE** .....

**START DATE WITH DUNDEE CITY COUNCIL** .....  
(Tayside Regional Council/Dundee District Council)

**PLEASE PROVIDE DETAILS OF SERVICE OVER THE PREVIOUS EIGHT YEARS WITH ANY LOCAL AUTHORITY, WHICH MAY BE CONSIDERED FOR ADOPTION LEAVE AND PAY PURPOSES**

.....  
.....  
.....

**EXPECTED DATE OF PLACEMENT** .....

**MY LEAVE WILL BEGIN ON** .....

**ADOPTION LEAVE AND PAY**

Please indicate the option you wish to take and ensure that you complete the Declaration Form on page 4 if you select section 1 or 2:-

**1 OPTION 1 - Dundee City Council Enhanced Leave and Pay**

I intend to take the Council's enhanced adoption leave in accordance with Section 1.1.

I intend to return to work after my period of leave on .....

I wish to be paid:-

a) Occupational Adoption Pay plus Statutory Adoption Pay (if applicable) .....

b) Statutory Adoption Pay (if applicable) only .....

Signed ..... Date .....

**OR**

**2 OPTION 2 - SJC National Conditions**

I intend to take adoption leave in accordance with section 1.2.

I intend to return to work after my period of leave on .....

I wish to be paid:-

a) Occupational Adoption Pay plus Statutory Maternity Pay (if applicable) .....

b) Statutory Adoption Pay (if applicable) only .....

Signed ..... Date .....

**OR**

**3 OPTION 3 - Statutory Adoption Leave and Pay**

I intend to take adoption leave in accordance with section 1.3.

I intend to return to work after my period of leave on .....

Signed ..... Date .....

**NB You must advise your Departmental Administration Section not less than 8 weeks before returning if the date is different from the date you have stated in the appropriate option above.**

**4     RESIGNATION FROM POST**

I do not intend to return to work following the birth of my child and am, therefore, resigning from my post, but wish to apply for any Statutory Adoption Pay to which I am entitled.

Signed ..... Date .....

**DECLARATION**

The following declaration must be signed by both employee and head of department prior to the start of adoption leave if you are taking adoption leave and pay in accordance with 1 and 2.

I understand the conditions of the adoption leave scheme and give an undertaking that I will comply with the scheme. I understand that, if I choose an option whereby I will return to work and will consequently receive occupational adoption pay, I undertake to do so for a period of at least 3 months (this includes annual leave but excludes periods of sickness absence). I agree that, in the event of my not returning to work for the period as stated above, I will repay the Council, or authorise the Council to deduct from any sum due to me by the Council, e.g. from outstanding salary payment, the occupational portion of my adoption pay.

**SIGNATURE OF APPLICANT** ..... **DATE** .....

**HEAD OF DEPARTMENT** ..... **DATE** .....