

DUNDEE CITY COUNCIL

REPORT TO: Personnel Committee - 12 March 2007

REPORT ON: Maternity Leave and Pay Guidelines for Employees

REPORT BY: Assistant Chief Executive (Management)

REPORT NO: 97-2007

1 PURPOSE OF REPORT

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

2 RECOMMENDATIONS

It is recommended that the Committee:-

- 2.1 approves the revised Maternity 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 maternity 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 Maternity Leave and Pay arrangements provide certain enhancements over and above both the national scheme for Scottish Councils and the statutory entitlements. The Dundee City policy and procedure is explained in the Maternity 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 maternity leave in relation to employees whose expected week of childbirth begins 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)

2 March 2007

DUNDEE CITY COUNCIL

MATERNITY LEAVE AND PAY GUIDELINES FOR EMPLOYEES

Dundee City Council has a Maternity Leave and Pay Policy, which offers enhanced occupational maternity 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 maternity leave. This is detailed below in 1.1.

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

1. MATERNITY 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

Maternity leave will begin no earlier than 11 weeks before the expected week of childbirth (EWC), or from the date of childbirth, if that is earlier, and will comprise 52 weeks leave - 26 weeks ordinary maternity leave (OML) and 26 weeks additional maternity leave (AML).

Pay

Maternity pay is paid for the first 39 weeks of maternity leave - as follows:-

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

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 EWC 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.)

1 April 2007

Leave

Maternity leave will begin no earlier than 11 weeks before the EWC, or from the date of childbirth, if that is earlier, and will comprise 52 weeks leave - 26 weeks OML and 26 weeks AML or will continue until the contract ends.

Pay

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

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

1.3 **OPTION 3 - Statutory Maternity 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

Maternity leave will begin no earlier than 11 weeks before the EWC, or from the date of childbirth, if that is earlier, and will comprise 52 weeks leave - 26 weeks OML and 26 weeks AML.

Statutory Maternity Pay

In order to qualify for SMP, employees must have 26 weeks continuous service with Dundee City Council by the 15th week before the EWC 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 SMP)
 33 weeks SMP

1.4 **General Information**

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

SMP 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 SMP, 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 Maternity Pay**

Where an employee receives occupational maternity 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 maternity pay paid to them.

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

2. **NOTIFICATION PERIODS**

2.1 **Notification of Intention to take Maternity Leave**

Where practicable, employees must submit the form "Notification of Intention to take Maternity Leave" no later than the first working day of the 15th week before the EWC, indicating the date they intend to begin maternity leave. A MATB1 Certificate, which is provided by a GP or Midwife, confirms the EWC and 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 they must return to work, this will include paid and unpaid leave.

Where an employee does not intend to return to work following the birth of their child the "Notification of Intention to take Maternity Leave" form should still be submitted with the MATB1 Certificate to ensure they receive the SMP 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, they must notify their Head of Department, in writing, 8 weeks prior to the intended date of return. Failure to do so may result in their 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 MATERNITY LEAVE**

Managers are encouraged to maintain contact with employees during maternity 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 maternity 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 maternity 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.

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Payment for a days work will be no more than a normal days pay and will be offset by SMP.

There must be no work undertaken during the first 2 weeks following the birth of the child.

5. **ANNUAL LEAVE**

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

Whilst absent on maternity leave, all annual leave is accrued. Where maternity 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 maternity 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 maternity leave, they will not accrue annual leave as the effective date of resignation will be the date they started maternity leave.

6. **PUBLIC HOLIDAYS**

During the paid period of maternity 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 their Departmental Administration Section for advice on entitlements prior, during and at the end of the maternity 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 SMP and occupational maternity 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. **HEALTH AND SAFETY**

Where employees are pregnant, have recently given birth or are breastfeeding, there are responsibilities for both the employee and the Council to ensure there are no potential risks in the workplace or that no work is undertaken which may adversely affect mother or child.

A risk assessment should be undertaken. Full details of health and safety requirements are available from Departmental Administration Sections and are posted on the corporate intranet site.

Modification may be required when an employee returns to work or if they are breastfeeding and wish to continue on their return to work. The Council has a Breastfeeding at Work policy which is available from Departmental Administration Sections.

In accordance with Dundee City Council's duty of care, employees may require to be referred to the Council Medical Adviser to assess their fitness to undertake their full range of duties prior to and following a period of maternity leave.

11. **CAR USERS**

11.1 **Essential Car Users**

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

11.2 **Car Leasing**

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

12. **MATERNITY/PATERNITY SUPPORT LEAVE**

12.1 **Maternity Support Leave**

Maternity Support Leave is available where the child's father or partner or nominated carer, of the expectant mother is an employee of the Council. It comprises one week's leave on full normal pay. Full details are available from Departmental Administration Sections.

12.2 **Paternity Support Leave**

In addition to maternity support leave, the father, partner or spouse may also qualify for an additional week's paternity leave on statutory paternity pay (SPP) in order to support the mother and care for the child.

In the event of maternity support leave not being requested, the father, partner or spouse may qualify for statutory paternity leave with pay. This leave comprises 2 weeks leave on SPP which must be taken within 56 days of the birth of the child.

Full details are available from Departmental Administration Sections.

13. **GENERAL INFORMATION**

- 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 maternity 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 for ante-natal care (including attendance at ante-natal classes) and may be asked to provide evidence of appointments.
- There is an entitlement to occupational maternity leave and pay where a pregnancy lasts for 24+ weeks, but the child does not live following birth.
- Where an employee has chosen not to return to work following the birth of their child, but the child does not live, they 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.

DUNDEE CITY COUNCIL

NOTIFICATION OF INTENTION TO TAKE MATERNITY LEAVE

This form must be submitted no later than 15 weeks before your EWC, together with your MATB1 maternity certificate, issued by your GP or midwife. 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 MATERNITY LEAVE AND PAY PURPOSES

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

EXPECTED DATE OF CHILDBIRTH

MY LEAVE WILL BEGIN ON

MATERNITY 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 maternity 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 Maternity Pay plus Statutory Maternity Pay (if applicable)
- b) Statutory Maternity Pay (if applicable) only

Signed Date

OR

2 OPTION 2 - SJC National Conditions

I intend to take maternity 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 Maternity Pay plus Statutory Maternity Pay (if applicable)
- b) Statutory Maternity Pay (if applicable) only

Signed Date

OR

3 OPTION 3 - Statutory Maternity Leave and Pay

I intend to take maternity 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.

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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 Maternity Pay to which I am entitled.

Signed Date

1 April 2007

DECLARATION

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

I understand the conditions of the maternity 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 maternity 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 maternity pay.

SIGNATURE OF APPLICANT **DATE**

HEAD OF DEPARTMENT **DATE**