

**Manchester City Council
Report for Information**

Report to: Human Resources Subgroup – 17 March 2015
Subject: Shared Parental Leave
Report of: Strategic Director (Reform)

Summary

The purpose of this report is to provide the HR Sub-group with information on Shared parental Leave. This report summarises the key legislative elements of the new Shared Parental Leave Regulations and considers the impact on the Council. A draft Shared Parental Leave Policy is attached at Appendix 1 for information.

Recommendations

The HR Sub Group is asked to note the new legislative requirements and provide any comments on the proposed principles along with the draft Shared Parental Leave Policy. Once finalised the Shared Parental Leave Policy will be submitted to Personnel Committee for formal approval, following consultation with trade union colleagues.

Wards Affected:

All

Anti-poverty No	Equal Opportunities Yes	Environment No	Employment Yes
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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

N/A

1.0 Shared Parental Leave (SPL) Regulations

1.1 SPL Regulations (2014) under the Children and Families Act (2014) introduced a new statutory right allowing parents of a newborn infant or a child newly placed for adoption to share up to 52 weeks' maternity leave and 39 weeks of pay in the form of shared parental leave and pay, if they meet the necessary eligibility criteria.

1.2 The regulations came into force on 1 December 2014 but only apply to children expected to be born or placed for adoption on or after 5 April 2015.

1.3 Statutory shared parental pay is available for 39 weeks at the current weekly rate of £138.18 or 90% of normal weekly earnings if this is less, although employers may choose to provide an enhanced payment. This rate is going up to £139.58 from 5 April 2015.

1.4 An impact assessment report from the Department of Business, Innovation and Skills (2013) has forecast that the take up of Shared Parental Leave to be in the region of between 2% and 8%. For information, maternity and paternity leave combined at the Council for the period from October 2013 to October 2014 was 3.5%.

1.5 It has also been reported by the Local Government Association that there are currently no plans to introduce national occupational shared parental pay schemes.

2.0 Key Features

2.1 The new scheme allows both parents to take up to the maximum entitlement of 52 weeks' leave and 39 weeks' pay minus the amount of maternity leave and pay that the mother has taken or intends to take. As a minimum, a mother must take two weeks' compulsory maternity leave following the birth of the child.

2.2 Leave can be taken at the same time by both the mother and father/partner but must not exceed the remaining 50 week entitlement to be taken during the year following the child's birth, with parents deciding how much of the SPL and pay they will each take. (e.g. if the mother takes 20 weeks' maternity leave and pay, the father or partner would be entitled to take the remaining 30 weeks leave of which 19 weeks would be with shared parental pay).

2.3 When those responsible for a child want to take SPL, the mother has to end her maternity leave and request SPL. She can request to do this prior to the birth, but has the right to change her mind.

2.4 Requests made after the birth for SPL are binding. Notice of entitlement and intention to enter into SPL must be given 8 weeks prior to the date of the first leave period.

2.5 The scheme works on the basis of notices of intention to take leave, which contain declarations from both parents about the amount of leave they are entitled to and the consent of the other parent to the taking of leave.

2.6 There is no need for the employer to contact the other parent's employer to verify details, although a parent is required to provide the other parent's employer's details if their own employer requests this.

2.7 Requests can be for one continuous period of SPL and both parents can be off at the same time, but they can also be discontinuous (i.e. leave can be interspersed with periods of work and annual leave).

2.8 Each parent can give their employer up to 3 notices informing them of when they wish to take some leave. In the case of discontinuous leave requests the employer is granted a two week discussion period with the employee to agree a pattern of leave. Where an employer and employee fail to reach agreement on periods of requested discontinuous leave then the default position will always be one continuous period of SPL.

2.9 In addition to 10 Keep In Touch (KIT) days available to mothers on maternity leave, parents on SPL can work for up to an additional 20 Shared Parental Leave In Touch (SPLIT) days during the period of SPL. These days must be agreed between the employer and employee, and will be paid at the employee's normal rate of pay without affecting shared parental leave and pay. The employee is entitled to refuse the opportunity without suffering any detriment.

2.10 An employee returning to work after a period of SPL is entitled to return to the same job on the same terms and conditions as if they had not been absent. If, however, it is not reasonably practicable to return the employee to their original job, they are entitled to be offered suitable alternative work on terms and conditions no less favourable than if they had continued to be employed in their old job.

3.0 **Considerations for the Council**

3.1 Option to pay statutory vs enhanced Shared Parental Pay

The general indication within local authorities, through Employers' Organisations, is that most authorities will not be enhancing SPL pay. A survey of AGMA authorities carried out by North West Employers found that majority stated that it was not their intention to enhance shared parental pay. Further research amongst those authorities who have published their Shared Parental Leave Policy endorse this view, with only Sheffield City Council indicating their intention to pay enhanced rates.

3.1.1 One of the reasons cited for paying the statutory rate is the logistical complexity of paying enhanced rates. An employer considering enhancing pay to employees on SPL would need to take into account the fact that SPL can be taken in discontinuous periods. The decision would then have to be made on whether it will enhance pay, for example, for all periods of shared parental leave, only the first period taken by an employee or only a certain number of weeks. Consideration will also need to be given as to whether or not an employee who has already benefited from enhanced maternity pay will be entitled to a further period of enhanced pay if she swaps to SPL.

3.1.2 There is a limited risk of discrimination claims from male employees who take

shared parental leave who consider that they are being treated less favourably than female employees on maternity leave. However, an employer may be able to defend a sex discrimination claim on the ground that a male employee on SPL is treated no less favourably than a female employee on SPL.

3.2 Cost

3.2.1 From the period October 2013 to October 2014 3.5% of the Council's workforce took maternity and paternity leave combined. This figure, together with that of the minimum and maximum take up figures of 2% and 8% from the Department of Business Innovation and Skills have been used to reflect the potential annual costs of offering SPL at the current statutory rate.

3.2.2 Cost analysis also includes consideration of the two current levels of occupational maternity pay entitlement based on service.

OPTIONS	Eligibility	Workforce Conversion Totals		
		2%** = 153 staff	3.5%** = 268 staff	8%** = 612 staff
OPTION 1 – SPL at SMP rate	Statutory Maternity Pay Over 26 week's service	153 x £8,710* = £1,332,630 pa	268 x £8,710* = £2,334,280 pa	612 x £8,710* = £5,330,520 pa
OPTION 2 – SPL at lower OMP rate	Occupational Maternity Pay (Lower Rate) 1-2 years MCC Service	153 x 12,045* = £1,842,885 pa	268 x 12,045* = £3,228,060 pa	612 x 12,045* = £7,371,540 pa
OPTION 3 – SPL at higher OMP rate	Occupational Maternity Pay (Upper Rate) 2 years+ MCC Service	153 x 13,960* = £2,135,880 pa	268 x 13,960* = £3,741,280 pa	612 x 13,960* = £8,543,520 pa

* median maternity pay estimate based on Grade 6 salary plus on-cost rate as at 2014 of 25%

** % of likely take-up levels by the workforce

N.B. workforce figures are based on the headcount of 7,655 as at the end of October 2014

The financial impact of paying the statutory rate is minimal as 92% is directly recoverable in the form of a rebate from HMRC in the same way as is currently the case for the payment of statutory paternity and maternity pay.

The cost of payments at enhanced rates i.e. the lower OMP and the higher OMP rates are not recoverable and would have to be borne by the Council, along with the administrative/management costs of processing OMP rates.

4.0 Changes to Other Family Friendly Policies

4.1 The current Maternity Leave Policy in place, with the introduction of Shared Parental Leave regulations under the Children and Families Act (2014), will remain unchanged.

4.2 Paternity Leave and the current Maternity Support policies remain unchanged and will still continue to be an option for expectant parents. However, paternity leave must be taken before SPL.

4.3 Under the Children and Families Act (2014), adoption regulations are set to change whereby, from April 2015 leave and pay for adoptive parents will be brought into line with current maternity leave and pay. Adoption leave will be available to employees from the first day of their employment and statutory adoption pay will be enhanced to 90% for the first 6 weeks bringing it into line with statutory maternity pay. In light of these changes the current adoption policy will be reviewed and updated to reflect the changes and ensure compliance with statutory regulations and principles.

5.0 Conclusion

5.1 The Shared Parental Leave Policy will enable the Council to ensure consistency in responding to notifications regarding requests for Shared Parental leave as it sets out a standard set of working arrangements and clearly articulates an employee's rights and responsibilities.

5.2 The HR Sub Group is requested to provide comment and feedback on the proposals and the draft Shared Parental Leave Policy.