

**Manchester City Council
Report for Resolution**

Report to: Personnel Committee – 11 March 2020
Subject: Parental Bereavement Leave Regulations 2020
Report of: Director of HR/OD

Summary

The Parental Bereavement Leave and Pay Regulations 2020, known as ‘Jacks Law’, will come into force from 06 April 2020. The regulations provide employed parents the right to statutory leave and pay entitlements if they lose a child under the age of 18, or suffer a stillbirth from 24 weeks of pregnancy, irrespective of how long they have worked for an employer. As a result our Special Leave Policy requires updating to reflect the new legislation.

Recommendation

The Committee is asked to approve the introduction of a day one right to two weeks’ paid parental bereavement leave in the existing Special Leave Policy. This entitlement is enhanced in comparison to the regulations requirement for employees to have 26 weeks of continuous service in order to receive paid leave at the statutory rate.

Wards affected: All

Financial considerations – Revenue: None

Financial considerations – Capital: None

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Background documents (available for public inspection):

Parental Bereavement Leave Regulations 2020 are available via legislation.gov.uk:
<http://www.legislation.gov.uk/ukdsi/2020/9780111192245/contents>

1.0 Background and Context

1.1 Current provision for bereavement as in Special Leave Policy

Our current bereavement provision allows limited paid leave to attend the funeral and deal with probate matters as below:

“Managers should grant paid special leave to employees who require time off on the death of a close family member, partner or dependant to make funeral arrangements, including attendance at the funeral and to attend to probate matters. The number of days approved will depend on the context, for example, the location of the funeral and the extent to which the employee is responsible for funeral arrangements.”

- 1.2 The existing provision does not stipulate the amount of time that is reasonable which could cause inconsistency in application across the organisation, the new legislation provides welcome guidance and clarity for managers and employees at an emotionally difficult time.

2.0 Overview of statutory entitlement under the new regulations:

- 2.1 To reflect the variety of modern family units the definition of a ‘bereaved parent’ under the regulations will now include not just parents, but also primary carers, adopters, foster parents, guardians, and more informal groups (such as close relatives or family friends who have taken responsibility for the child’s care in the absence of parents). The statutory entitlement of the new regulations are as follows.

- Parents or carers will be entitled to at least two weeks’ leave following the loss of a child under the age of 18 or a stillbirth after 24 weeks of pregnancy.
- Employees with 26 weeks’ continuous service will receive paid leave at the statutory rate and other staff will be entitled to unpaid leave.
- Leave can either be taken in one block or in two separate blocks of one week. The employee can take one single week if they wish.
- Leave can be taken within a period of 56 weeks from the child’s death, and notice requirements will be flexible so leave can be taken without prior notice.
- An employee will be required to complete a written declaration confirming that they meet the eligibility requirements for paid leave within a reasonable timeframe, however employers must be sensitive. Parents will not need to provide the employer with a death certificate as evidence.

- 2.2 The government consultation response also states:

“We would emphasise that this entitlement is the minimum that an employee should expect, and we would encourage all employers to consider enhancing this offer in their own workplace bereavement or special leave policies.”

3.0 Policy Recommendation

3.1 Given the high value that we place in our workforce, and the emphasis that the statutory entitlements should be the minimum that an employee should expect, it is recommended that the Council implements a policy provision of a day one right to two weeks of paid (full pay) bereavement leave. Aside from this, it is recommended that the Council meets statutory requirements in terms of eligibility, flexibility of leave, and notice requirements.

4.0 Policy Amendments

4.1 Please see below for wording, as verbatim, that will be included in the revised Special Leave policy:

The Loss of a Child

7.4.2 On the death of a child under the age of 18, or a stillbirth after 24 weeks of pregnancy, a bereaved parent is entitled to two weeks of paid Special Leave.

7.4.3 For the purposes of this policy, a ‘bereaved parent’ means any person who has a statutory entitlement to parental bereavement leave in respect of a child and includes:

- a child’s parent, including natural, adoptive and those who have become a parent(s) under statutory provisions on surrogacy and fertility treatment;
- a child’s natural parent where the child has been adopted but there is a court order for the child to have contact with the natural parent;
- a person with whom a child has been placed for adoption as long as that placement has not been terminated;
- a person who is living with a child who has entered the UK for the purpose of being adopted by that person, and that person has received official notification from the relevant authorities that they are eligible to adopt;
- an “intended parent” under a surrogacy arrangement where it was expected that the court would make a parental order under the Human Fertilisation and Embryology Act 2008;
- a person who for a continuous period of at least four weeks before the child’s death lived with the child in the person’s home, and had day to day responsibility for the child’s care (provided they are not paid for that role, foster payments excepted and the child’s parent or anyone with legal parental responsibility is not also living in the home with the child); and
- the partner of any of the above bereaved parent who lives with the bereaved parent and the child in an enduring family relationship.

7.4.4 The two weeks’ leave can be taken either in one block of two weeks, or as two separate blocks of one week each.

7.4.5 Leave can be taken within a period of 56 weeks from the child’s death. No

notice will be required for leave taken within two weeks after the date of the death. If leave is taken after this initial period, at least one week's notice should normally be given.

5.0 Implementation

- 5.1 The revised policy and provisions will be implemented in line with the regulations coming into force on 06 April 2020. The Shared Service Centre are aware of the revised provisions and are able to process any requests from the implementation date as these would fall under Special Leave and be processed as such.

6.0 Key Policies and Considerations

(a) Equal Opportunities

(b) Risk Management

(c) Legal Considerations

None

7.0 Trade Union Comments

To follow

8.0 Comments of the Director of HROD

No additional comments.