

**NORTH LINCOLNSHIRE COUNCIL**

**CORPORATE SERVICES CABINET MEMBER**

**ADDITIONAL PATERNITY LEAVE**

**1 OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To seek approval for the new Additional Paternity Leave procedure.

**2 BACKGROUND INFORMATION**

- 2.1 The new procedure establishes the concept of Additional Paternity Leave (APL) and Additional Statutory Paternity Pay (ASPP) introduced by the previous government. The scheme will have an effect for parents of children due on or after 3 April 2011 (or matched for adoption on or after 3 April 2011).
- 2.2 The new scheme is aimed at giving mothers and fathers more choice in child care responsibilities and a more equitable sharing of leave entitlements. It will mean that:
- Families will have the choice to transfer up to six months' leave to the child's father should they want to, which can be taken by the father once the mother has returned to work.
  - Fathers can start to take this leave from 20 weeks after the child is born, giving parents the option of dividing a period of paid leave entitlement between them.
  - Some of the leave may be paid if taken during what would have been the mother's 39 week statutory pay period. Fathers would receive the same rate of statutory maternity/adoption pay as the mother would have received.
  - Parents will be required to 'self-certify' by providing details of their eligibility to the council.
- 2.3 As with ordinary paternity leave, additional paternity leave is not limited to 'fathers'. It will also apply to:
- employees married to or the partner and civil partner of mothers
  - employees married to or the partner or civil partner of a person adopting a child, including those adopting from overseas where the child enters Great Britain on or after 3 April 2011.

**3 OPTIONS FOR CONSIDERATION**

- 3.1 To consider and accept the procedure.
- 3.2 To reject the procedure.

- 3.3 To make recommendations to extend the provisions of the proposed procedure beyond the statutory minimum requirements.

#### **4 ANALYSIS OF OPTIONS**

- 4.1 Acceptance of the revised procedure will ensure that the council continues to comply with legislative requirements surrounding family leave.
- 4.2 Rejecting the proposed procedure would result in the council's approach not complying with legislation in this area.
- 4.3 Recommending further changes to the procedure would require further consultation and delay implementation.

#### **5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

##### **5.1 Financial**

As APL introduces a new statutory right to leave and pay for eligible employees there will be an associated cost although this is difficult to quantify. In their final impact assessment the Department for Business Innovation and Skills (BIS) estimated the likely take up of APL to be 4% to 8% of eligible employees with the amount of time taken unlikely to be greater than 13 weeks but often considerably less. The rate of ASPP effective from 3 April 2011 is £128.73 per week. 92% of this can be reclaimed from Government however there may be a cost involved in temporarily covering any employee absence. It should also be noted that across the council as a whole the cost attributable to the absence of fathers is likely to be offset by the early return to work of mothers.

It is not the intention of the council to extend the provision of pay for APL beyond the statutory rate.

##### **5.2 Staffing**

The new statutory right to APL has the potential to remove a larger number of employees from the workplace for a significant period of time than has been the case previously. The requirement to provide temporary cover for this employee absence will need to be determined on a case by case basis.

##### **5.3 Property**

None.

##### **5.4 IT**

None.

#### **6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)**

- 6.1 The new Additional Paternity Leave procedure complies with the Additional Statutory Paternity Pay (General) Regulations 2010; Additional Statutory Paternity

Pay (Weekly Rates) Regulations 2010; Employment Rights Act 1996 (Application of Section 80BB to Adoptions from Overseas) Regulations 2010.

## **7. OUTCOMES OF CONSULTATION**

7.1 The relevant trade unions have been consulted and are supportive of the revisions.

## **8 RECOMMENDATIONS**

8.1 That the procedure be approved and adopted.

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**Background Papers used in the preparation of this report: None**

Final Impact Assessment – Additional Paternity Leave and Pay (BIS)

## 1.0 Introduction

1.1 This procedure describes the steps to be taken where individuals wish to take Additional Paternity Leave (APL) in order to care for a baby or newly matched adopted child/children.

**Note 1:** *Entitlement to Additional Paternity Leave (APL) and/or Additional Statutory Paternity Pay (ASPP) is only available for babies due on or after 3 April 2011, or those adopting a child on or after this date.*

1.2 This procedure applies to all employees of the council other than those appointed by schools with delegated powers.

**Note 2:** *References to adoption within this procedure primarily apply to situations where an adopter is matched with a child and the child is placed for adoption within Great Britain. Similar provisions apply where a child is adopted from overseas although the detailed operation of this procedure differs slightly for practical reasons. Employees wishing to request APL for a child adopted from overseas should seek further detail from their HR service team.*

## 2.0 Eligibility

2.1 Employees eligible for APL must be either the child's father, married to the mother (adopter) or living with the mother in a family relationship. Employees must also have or expect to have, the main responsibility (apart from any responsibility of the mother (adopter) for the upbringing of the child.

2.2 Employees with 26 weeks' continuous service prior to the 15<sup>th</sup> week before the baby is due are eligible to take a minimum of two weeks and a maximum of 26 weeks' leave in circumstances where the mother (or adopter) has transferred their leave entitlement and returned to work.

2.3 The leave can be taken between 20 weeks and one year after the child is born (or matched). The leave must be taken as complete weeks and must be taken as one continuous period.

2.4 Employees may be entitled to receive Additional Statutory Paternity Pay (ASPP) during their partner's 39 week period of Statutory Maternity Pay (SMP), Maternity

Allowance (MA) or Statutory Adoption Pay (SAP) period. All APL taken after the end of the SMP, MA or SAP period is unpaid.

- 2.5 Employees cannot start their APL or get any ASPP if the mother or adopter is:
- Still on a period of annual, sick or parental leave which directly follows maternity or adoption leave;
  - getting SMP, MA or SAP during this time.
- 2.6 Employees can choose different end dates for their leave and pay, for example if they wish to continue to take a period of unpaid APL after any entitlement to ASPP has ended.

### **3.0 Additional Statutory Paternity Pay (ASPP)**

- 3.1 Employees will qualify for ASPP if:
- The mother or adopter has returned to work;
  - the mother stopped claiming any relevant pay, with at least two weeks of unexpired Statutory Pay period remaining;
  - the employee earns at least the Lower Earnings Limit (LEL) for National Insurance contributions in force at the end of the qualifying week. (Lower earnings limit is £102.00 per week for 2011/2012)
- 3.2 ASPP will be payable for a maximum period of 19 weeks and will equate to £128.73 per week (ASPP rate for 2011/2012) or 90% of pay if this is less than £128.73 per week.

*Note 3: The current rate of ASPP is £128.73 (2011/2012). The rates of ASPP and the LEL are usually revised in April each year. To confirm the current rates employees should seek advice from their HR service team or the council's Payroll Section.*

- 3.3 Employees have the right to take unpaid APL if they meet the eligibility criteria for leave but not pay. Employees who are not eligible for ASPP will be given form ASPP1 by the council's Payroll Section explaining the reason why.

## **4.0 Notification**

4.1 Employees must inform their manager at least eight weeks before they wish their leave to begin by completing the APL request form Appendix 1. The manager will inform the HR service team.

4.2 The HR service team will write to the employee within 28 days of the receipt of notification and confirm the relevant dates of leave. The employee will also be asked to provide:

- A copy of the child's birth certificate or adoption matching certificate.
- The employment details of the mother or adopter that has taken adoption leave.

Failure to provide this information within 28 days of the written request may invalidate any request to take leave.

4.3 If employees need to change the leave date or no longer wish to take leave they must give at least six weeks' notice.

4.4 If an employee is no longer eligible for APL they must inform their manager as soon as possible.

4.5 If an employee wishes to return to work earlier they must give at least six weeks' notice of the earlier date.

4.6 If an employee fails to provide six weeks' notice of a change in dates, there is no obligation on the council to modify the dates if it is not practical to do so, for example because temporary cover has been obtained for the period of leave.

4.7 The HR service team will write to the employee within 28 days of the receipt of any notification of a change in dates.

## **5.0 Maintaining contact**

- 5.1 Preserving dialogue and communication between managers and parents during APL is to the advantage of all concerned. As a minimum employees should always be advised of any matters relating to pay and benefits, office relocation, potential redundancy issues, promotional opportunities or any other significant matter, such as a restructure, which might affect his/her job on return.
- 5.2 Maintaining more comprehensive contact however, could also potentially give managers an early indication of the employee's plans regarding returning to work, It should also ensure that an employee feels welcomed back when his/her APL is over, confident that he/she has been thought of as part of the team even whilst they have been away.
- 5.3 On this basis it is important to establish in advance what contact the employee wishes to have with the council during his/her APL period. Where an employee has stated an intention to return to work a pre-APL discussion must take place, between the manager and employee. Ideally this should take place approximately one month prior to the start of the APL period. The discussion must be supportive in nature, be confidential and be conducted with the purpose of:
- Establishing an agreed level of contact;
  - agreeing the preferred method of contact;
  - ascertaining whether the employee may wish to attend work during his/her APL period and if so, at what stage;
  - allowing the employee to voice any concerns they may have;
  - making the employee aware of the availability of the council's Confidential Staff Welfare and Counselling Service.
- 5.4 Establishing this up-front will help managers feel confident about making contact. In turn this will help employees avoid feeling isolated. It should also remind managers of their responsibility to plan for the individual's return.
- 5.5 If agreed the manager should maintain regular contact with the employee during the APL period and ensure they are kept up to date of any additional developments, as though he/she was attending work normally. For example:
- Council-wide messages on key developments in the organisation;
  - revised policies, procedures and associated documentation;

- minutes of relevant meetings, cabinet reports and pertinent newsletters;
- invitations to team social events.

5.6 At the meeting the employee should also be given the opportunity to discuss training received to date and identify future training needs. Managers should ensure that career aspirations have been addressed or at least understood and a method of communicating any suitable vacancies should be agreed. Where requested, copies of the council's recruitment bulletin should be provided. Opportunities for training during the period of APL should also be discussed.

5.7 A form at Appendix 2 is available to assist in the above process.

### **6.0 Work during the APL period**

6.1 It remains in the interests of every employer to welcome staff back into the workplace when they are ready to return.

6.2 To facilitate this all employees may, by agreement with their manager do up to 10 days' work known as 'Keeping in Touch (KIT)' days during their APL period.

6.3 KIT days may enable an employee to be re-inducted to the workplace. Dependant on the nature of the work and the changes that have taken place in the job, this may involve retraining during the month prior to the employees' return from APL. Employees should also have the opportunity to attend relevant training courses, team and section meetings.

6.4 There is no obligation on an employee to take up any offer of KIT days and similarly there is no obligation on a manager to offer the work. However, the use of KIT days is encouraged by the council to ease an employee's return to work.

6.5 Attendance at work for KIT days will be paid at the hourly rate applicable to the employee's spinal column point for the hours worked, subject to the pay plus any ASPP not exceeding his/her normal earnings for that day.

6.6 Working for part of a day will constitute a full day against the entitlement of 10 KIT days.

6.7 The use of KIT days, subject to the maximum allowance of 10 days not being exceeded, will have no detrimental effect on an employee's entitlement to ASPP. Equally the application of KIT days will in no way extend the APL period.

### **7.0 Flexible working arrangements**

7.1 In returning to work the employee may consider a return under flexible working arrangements in line with the council's Flexible Working policy B.3.6. Employees are required to discuss any revisions to working arrangements with their manager prior to the return to work date.

### **8.0 Conditions of employment**

8.1 The contract of employment continues throughout APL and an employee has a statutory right to continue to benefit from the terms and conditions of employment which would have applied had he/she not been on leave, (except for payment of wages or salary).

8.2 APL shall be regarded as continuous service for the purposes of the NJC's sickness scheme and annual leave provisions.

8.3 Annual leave will continue to accrue during the APL period. Any bank holidays that occur will also accrue and employees will be entitled to a substitute day's leave for each bank holiday falling in this period. These will be added to annual leave entitlement and subject to a maximum of five days not being exceeded may be carried over to the following year.

8.4 Employees who have completed not less than one year's service at the date of return following APL can apply to take parental leave in line with the council's Parental Leave policy B.3.5.

### **9.0 Pension scheme**

9.1 If an employee is an existing local government pension scheme member they will remain a member of the scheme and deductions will be made throughout any paid period of APL.

- 9.2 Pension contributions will be based on the pay that an employee is actually receiving, however, pension benefits will continue to accrue as they would, had he/she not been on a period of APL.
- 9.3 If employees opt to take unpaid APL they will be contacted by the payroll section in order for them to decide whether or not to pay the reduced pension contributions for the unpaid period. Arrangements are usually made on return to work and employees must elect to make these pension contributions within 30 days of return. Should employees decide not to make contributions then this will count as a break in pensionable service.

### **10.0 Additional guidance**

- 10.1 The council produces a paternity/maternity support information pack, which provides additional assistance for employees and managers alike. This includes useful contacts, full advice on pensions and details of potential savings on childcare costs. Copies can be obtained from HR service teams.
- 10.2 The line manager will offer support and guidance to the employee upon their return from APL.
- 10.3 More advice on the terms and conditions that apply to APL and ASPP in exceptional circumstances, including:
- Adopting a child from abroad;
  - early births;
  - death of the mother or adopter;
- can be obtained from the HR service team.