

## LEADERSHIP GROUP

### SHARED PARENTAL LEAVE POLICY

#### Executive summary

1. Leadership Group is asked to consider and agree a new Shared Parental Leave policy, drafted to reflect the new legislative entitlement for eligible staff. In particular, LG is asked to agree that the pay provisions applicable to Shared Parental Leave should mirror those that are applicable to Maternity and Adoption Leave.

Contact: Lisa Miller, HR Policy Manager, Extension 86679.

#### Issues and Options

2. Shared Parental Leave is a new way for parents to share statutory leave and pay on the birth or adoption of a child. The birth mother or primary carer of an adopted child may opt to end their Maternity or Adoption Leave early and convert their remaining entitlement to Shared Parental Leave. Both parents can then choose how to share this leave between them and can either take it over separate periods or at the same time. This form of leave offers additional flexibility to parents in managing their caring responsibilities in the child's first year and aims to address the legacy attitude that the main child-caring role lies with women.

3. Shared Parental Leave applies to parents of children due to be born or placed for adoption on or after 5 April 2015. It does not replace the existing right to Maternity and Adoption Leave. Additional Paternity Leave, however, is abolished. The Maternity, Adoption and Paternity policies have been updated to reflect this.

4. The system of Shared Parental Leave is particularly complex; and throughout the policy we have aimed to distil and simplify the various provisions which are set out across six separate pieces of legislation. To that end, examples have been provided in the document as well as a flowchart to aid understanding. A small working group has supported the policy's development and this has included representation from the Solicitor's Office, the TUS, the Parliamentary Staff Forum, the Scottish Human Rights Commissioner's Office and the HR Office, including equalities. We have also conducted a short benchmarking survey to gain insight into how other public sector organisations in Scotland were responding to this legislation and the results have helped to inform our work.

5. There are specific provisions which LG should be aware of:

#### The right to request discontinuous periods of leave

6. A member of staff is entitled to submit three separate notices to book Shared Parental Leave meaning in effect, that their period of leave can be discontinuous rather than taken in a single block. Whilst this does have the potential to disrupt cover arrangements, it can be tailored to the advantage of the business as well as the individual. For example, a skilled and knowledgeable member of staff who we would otherwise lose for up to a year, may return to work to provide critical input to a

specific project or to support a peak period of business activity before resuming their leave.

7. There is a process to be followed on receipt of such a notice and this is set out in the policy. There are three options available to the business – to accept the request, refuse it or negotiate a compromise in terms of the timing of leave periods.

8. Whilst we can allow for more than three notices to book leave within our policy, it is the HR Office's recommendation that we do not over commit ourselves beyond statutory requirements at this stage in this regard. This will allow us time to monitor and assess the impact of discontinuous leave in practice and take a view when the policy is next reviewed if it would be appropriate to extend our provisions. Discretion can exceptionally be applied to individual circumstances in the meantime.

- **Is LG content to cap the number of Shared Parental Leave requests at three?**

### **The introduction of Shared Parental Leave In Touch (SPLIT) Days**

9. This new type of leave sees the introduction of Shared Parental Leave In Touch (SPLIT) Days. Up to 20 SPLIT days are available to be worked by mutual agreement during Shared Parental Leave. These operate on the same basis as the 10 Keeping In Touch (KIT) Days which are available to those taking Maternity or Adoption Leave. As such, any work carried out on a day or part of day will be considered a days' work for these purposes and a full day's pay will apply. Crucially, the entitlement to SPLIT days is over and above the entitlement to 10 KIT Days during Maternity or Adoption Leave period. Therefore, an individual converting their Maternity or Adoption leave to Shared Parental Leave may request to work up to 30 days for the purposes of keeping in touch and up-to-date with the business without bringing their leave to an end. That being said, such requests are unlikely to be made during periods of leave where full contractual pay already applies. As such, requests for a combined total of 30 KIT and SPLIT days are considered unlikely. In any case, the organisation is not obliged to offer the member of staff any work during Shared Parental Leave and request will only be granted if these meet business needs.

### **Shared Parental Pay**

10. The new legislative provisions simply provide that staff taking Shared Parental Leave be paid at the statutory rate (£139.58 a week from 5 April 2015) or 90 per cent of their average weekly earnings, if that is less. As an employer, the SPCB provides contractual Maternity and Adoption pay which exceed statutory entitlements. LG agreed to mirror these contractual pay provisions in relation to Additional Paternity Leave when it was introduced in 2011, in the interests of advancing equality and to eliminate the risk of discrimination claims. Now that Additional Paternity Leave is being abolished and replaced by Shared Parental Leave, LG is asked to similarly agree that contractual Shared Parental pay will mirror the provisions which would apply to a mother or primary carer taking Maternity or Adoption Leave. This would ensure fairness in the application of this policy, particularly where both partners could be employed by the SPCB. A recent Personnel Today and XpertHR survey suggests 75% of UK employers will match Shared Parental pay to their Maternity and Adoption provisions.

- **Does LG agree that Shared Parental Pay should mirror contractual maternity and adoption pay provisions, in line with its previous decision on Additional Paternity Pay?**

### **Related Developments**

11. LG should also be aware of a related legislative development, which means that a partner is now entitled to take unpaid time off work to accompany a pregnant woman to two ante-natal appointments. When our work-life balance policies were realigned in 2011, the HR Office anticipated that legislation would move in this direction and asked LG to allow partners paid time off for this purpose. This was agreed, subject to the discretion of the line manager agreeing time off for non-routine ante-natal appointments. In the interests of equality, LG also agreed to apply this provision to partners of primary carers in the context of adoption, in relation to high-level contact visits with the child in preparation for placement. In light of the new legal position on this, the HR Office has taken the opportunity to update the Paternity policy to reflect that paid time off will be available to accompany a partner at up to two appointments.

12. Similarly, LG should note that statutory changes have recently been made to the right to request flexible working. Previously restricted to individuals with caring responsibilities in prescribed circumstances, the right to request is now available to all employees with a minimum of 26 weeks' service. As a progressive employer, we have extended this right to all members of staff since 2011 and as such, we do not require to adapt our position to reflect this legislative change. The statutory procedure for considering requests has been somewhat relaxed and simplified. The main change for us to be aware of is that we now have three months to consider a request if required, although in practice we should aim to conclude the issue as soon as reasonably practicable. The Flexible Working Policy will be amended to reflect the less prescriptive procedure.

### **Resource Implications**

10. The Group Head of Financial Resources has been consulted as to the potential financial implications of matching Shared Parental pay to our maternity and adoption provisions and has confirmed that budget can be made available as necessary. Estimating the likely costs is difficult. The UK Government suggests that 2-6% of eligible parents will take the option of Shared Parental Leave, an assumption based on the actual take-up rates of Additional Paternity Leave. In this organisation, only 2 members of staff have taken Additional Paternity Leave since it was introduced in 2011. On the basis of the UK Government's estimate, the organisation Working Families suggests the additional costs to organisations paying at an enhanced level will amount to approximately 2% of their maternity pay costs. Of course, these additional costs may be neutralized by mothers returning to work earlier than would otherwise be the case by sharing their leave entitlement with their partner.

11. The TUS has been consulted and is content. A TUS representative was a member of the small working group that helped to develop and shape the new policy.

### **Dependencies**

12. Successful implementation of this new policy will depend on senior managers cascading the new policies and guidance down to staff at all levels in their business areas and generally being seen to support the policy.

### **Governance issues**

13. An Equalities Impact Assessment has been carried out and the outcomes taken into account throughout the policy development process and in the recommendations to equalise contractual pay across our Maternity, Adoption and Shared Parental Leave provisions. Additionally, the Equalities Manager and a representative from the Office of the Solicitor participated in the small working group that helped to develop and shape the new policy.

### **Publication Scheme**

14. This paper should not be published until the new policy has been endorsed and communicated to staff.

### **Next steps**

15. The next steps will be to:

- Publish the new policy in March;
- Communicate these complex arrangements to interested staff, by means which might include Snippets sessions or audio clip (or both); and
- Monitor take-up of Shared Parental Leave and assess its impact to inform future reviews.

### **Decision**

16. LG is invited to:

- Note the new entitlement to Shared Parental Leave and its key provisions;
- Endorse the new policy;
- Decide if the number of requests to book Shared Parental Leave should be capped at three; and
- Decide if Shared Parental Pay should mirror contractual maternity and adoption pay provisions, in line with its previous decision on Additional Paternity Pay ;
- Note the new legal provisions around accompanying partners to ante-natal appointments and to the procedure for considering flexible working requests;
- Support the implementation of this new policy by cascading relevant information to staff.

**Human Resources Office  
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