

North Lanarkshire Council Report

Finance & Resources

Agenda item _____ approval noting **Ref** **Date** 5 Feb 19

Maternity Policy - Breastfeeding

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Executive Summary

The purpose of this report is to provide the Finance & Resources Committee with information on recent updates to the Maternity Policy with a view to supporting the recommendation made to Policy and Resources Committee on 22nd November 2018 to support increased levels of breastfeeding in the North Lanarkshire area. The Maternity Policy is attached in Appendix One.

Recommendations

It is recommended that committee:

1. Approve the proposed change to the Maternity Policy
2. Otherwise note the contents of this report

Supporting Documents

Council business plan to 2020 Improve the council's resource base

Appendix 1 Maternity Policy

1. Background

- 1.1 The Council has a current Maternity Policy which, at present, does not make reference to the support offered to breastfeeding mothers in the workplace. The Council has made a commitment to update the policy with the view of supporting and encouraging breastfeeding in the North Lanarkshire area.
 - 1.2 The Council has a commitment to the ongoing development of the workforce across the council. To align with the Council priorities and facilitate delivery of the programme of work in the business plan, this approach needs to enable increased flexibility in the workforce and invest in people to ensure they have the right skills for the job. This policy has been reviewed to encourage the support of breastfeeding mothers on their return to work.
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2. Report

2.1 What we are trying to achieve

2.1.1 The Policy and Resources Committee on 22 November 2018 gave support to an overall approach which offered additional assistance to employees returning to work from maternity leave. This includes encouragement to continue breastfeeding through the provision appropriate facilities and access to flexible working arrangements in line with the Council's Smarter Working Policy.

2.1.2 Through this review we aim to support increased levels of breastfeeding in the North Lanarkshire area.

2.2 Here's what we have changed.

2.2.1 The changes proposed to the Maternity Policy are as follows:

- *Update to legislation*

It was recognised during the review that the legislation is required to be updated. The Sexual Discrimination Act 1975 has been replaced by the Equality Act 2010. The policy also now takes in to consideration of the Workplace (Health, Safety and Welfare) Regulations 1992 by incorporating breastfeeding provisions.

- *Addition of Breastfeeding*

In order to support and encourage breastfeeding the policy has been updated to include a section on breastfeeding which details requests that can be made by breastfeeding mothers and our commitment to support these where possible.

- *Ordinary Paternity Leave*

In line with recent changes to the Council's Paternity leave entitlements,

details of Paternity entitlement have been removed from the Maternity Policy and employees are now referred to the Special Leave Policy for details.

3. Implications

3.1 Financial Impact

Depending on existing facilities, there may be a financial impact in providing refrigeration facilities. There are no plans to convert existing buildings to provide specific space for breastfeeding, although this will be considered in all new builds.

3.2 HR/Policy/Legislative Impact

The current policy has been reviewed and updated to include the suggested changes. Subject to approval the new policy will be implemented.

3.3 Environmental Impact

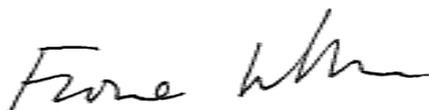
No environment impact

3.4 Risk Impact

No risk impact

4. Measures of success

- 4.1 It is anticipated that success will be measured in terms of contributing to increased levels of breastfeeding in the North Lanarkshire area by supporting breastfeeding mothers on their return to work.
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Maternity Policy

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Governance Committee		Date approved	
Review date			

Strategic Alignment
Improving the Council's Resource Base – A Workforce Strategy that is built around the needs of the Council (as a single resource base) to deliver the priority outcomes, ensuring future workforce requirements, new skills and innovative approaches, and succession planning are recognised.

Consultation process		
Stakeholders	Contacts identified for each service	
	<i>Joint Trade Unions</i>	
Distribution		

Change record

Date	<i>05/02/2019</i>	Author	<i>Lynn Crielly, criellyl@northlan.gov.uk</i>
Change made	<i>Addition of breastfeeding provisions</i>		

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1 Introduction

The following maternity provisions apply to all pregnant employees of the Council regardless of their hours of work and contractual status, with the exclusion of those employed under the Scheme of Salaries and Conditions of Service for Teaching Staff in School Education, for whom separate provisions are in place.

2 Legislation

This policy was created taking into account and incorporating the following legislation –

- (a) The Shared Parental Leave Regulations 2014
- (b) The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2008
- (c) Equality Act 2010
- (d) Work and Families Act 2006
- (e) The Maternity and Parental Leave (Amendment) Regulations 2002
- (f) Employment Act 2002
- (g) Employment Relations Act 1999
- (h) Employment Rights Act 1996
- (i) Social Security Contributions and Benefits Act 1992
- (j) Social Security Administration Act 1992
- (k) Statutory Maternity Pay (General) Regulations 1986 and subsequent Amendment Orders
- (l) Statutory Shared Parental Pay (General) Regulations 2014
- (m) Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
- (n) Workplace (Health, Safety, and Welfare) Regulations 1992

3 Our Position

The Council recognises the need for adequate maternity provisions to provide all pregnant employees with peace of mind and to ensure their health and welfare, and that of their child, during the maternity period.

4 Scope

All pregnant employees of the Council are entitled to maternity leave, to return to work after the period of maternity leave, and to maintain their contractual benefits, apart from pay, and discretionary non-cash benefits during their period of maternity leave.

Employees may also be entitled to maternity pay. This depends on their length of continuous service, for Occupational Maternity Pay, and whether they qualify under the Statutory Maternity Pay Regulations, for Statutory Maternity Pay or Maternity Allowance.

5 Entitlements

(a) Period of Maternity Leave

All employees are entitled to 52 weeks maternity leave regardless of their length of service.

(b) Maternity Pay

(i) An employee With Less Than 26 Weeks Continuous Service At The Beginning Of The 14th Week Before The Expected Week Of Childbirth

will be entitled to 39 weeks Statutory Maternity Allowance. The Head of Revenue & E-Government Solutions will confirm this to the employee as the entitlement is dependent on the amount of national insurance contributions made to date. The employee is not entitled to Occupational Maternity Pay.

(ii) An employee With More Than 26 Weeks Continuous Service At The Beginning Of The 14th Week Before The Expected Week of Childbirth

will be entitled to both statutory and occupational maternity pay as follows

- (1) during the first six weeks of ordinary maternity leave an employee will be entitled to nine-tenths of a week's pay.
- (2) where an employee intends returning to work, for each of the subsequent 12 weeks she will be paid half a week's pay plus the lower rate Statutory Maternity Pay, if eligible, or Maternity Allowance, if eligible, per week, however, the combined amount cannot exceed her full pay.

This payment of 12 weeks half pay will be made on the understanding that an employee will return to Council employment for a period of at least three months. If an employee does not return, she will have to repay to the Council 12 weeks half pay.

An employee not intending to return to work for three months will receive lower rate Statutory Maternity Pay during these 12 weeks.

- (3) during the subsequent 21 weeks of maternity leave an employee will be paid the lower rate Statutory Maternity Pay.
- (4) any further period of leave will be unpaid.

6 Keeping in Touch Days

If mutually agreed by the manager and employee, an employee can do up to 10 days paid work during the period of her statutory maternity leave, except during the 2 week compulsory leave period immediately following childbirth, without losing her statutory payments or bringing her maternity leave to an end. There is no obligation on the employee to do this and it is important to note that keeping in touch days are distinct from keeping in contact with the employee.

7 Right to Return

At the end of the period of maternity leave an employee has the right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent.

“Job”, for this purpose means the nature of the work that an employee was employed to do and the capacity and place in which they were so employed.

In exceptional circumstances, if this is no longer available, an employee must be offered any other suitable vacancy. All other employment terms will be no less favourable than before. Where an employee’s “Job” is no longer available the Council’s Redeployment Policy will be applied to identify and secure another suitable vacancy.

8 Notification

(a) Commencement of Maternity Leave

An employee must notify her manager during the Qualifying Week, i.e. the 15th week before her Expected Week of Childbirth that she intends to exercise her right to take maternity leave. The notice must be in writing and must state:

- (1) that she is pregnant;
- (2) her Expected Date of Childbirth;
- (3) the date she wants her maternity leave to commence; and
- (4) if the employee has more than 26 weeks continuous service she must also confirm her intention, or otherwise, to come back to work at the end of her maternity leave for at least three months in order to receive the full entitlement of Occupational Maternity Pay.

An employee must also give their manager Maternity Certificate (Form MATB1) or an original medical certificate from their Doctor or midwife stating their Expected Week of Childbirth. This must be done as soon as is reasonably practical.

(b) Return to Work

Employees must return to work no later than the last day of the 52nd week from, and including, the week in which her maternity leave started.

If the employee proposes simply to return at the end of the 52 weeks maternity leave period, she does not need to provide the Council with any notice. However, if she wants to return before the end of the 52 weeks, she must inform her manager at least 56 days prior to her date of return, of her intention to come back to work.

If an employee wishes to return early but she does not give the required notice the Council can postpone her return by up to 56 days. However, her return cannot be postponed beyond the latest date her maternity leave period can end.

9 Automatic Commencement of Maternity Leave

An employee's maternity leave will automatically commence if she is absent from work, even for one day, for a pregnancy related condition in the four weeks prior to her Expected Week of Childbirth. In this situation, to maintain her entitlement to ordinary maternity leave, the employee must notify the Council as soon as is reasonably practicable that she is absent due to her pregnancy and the date this absence commenced.

If childbirth occurs before an employee has started her maternity leave, the ordinary maternity leave period will commence on the day after childbirth occurs. In this situation, the employee must notify the Council as soon as is reasonably practicable that she has given birth and the date the birth occurred.

10 Ante-natal Care

Employees will be entitled to take such reasonable time off with pay as is needed to attend ante-natal care appointments.

Ante-natal care covers any appointment made on the advice of a doctor, Midwife or Health Visitor. This includes relaxation, parentcraft classes and dental appointments in addition to attending ante-natal clinics.

Employees must provide their Supervisor with evidence of appointments, if requested. Whenever possible, these appointments should be arranged outwith normal working hours.

The child's father, the spouse, partner or civil partner of the pregnant woman will have the right to take unpaid time off work to attend up to two ante-natal appointments (of up to 6.5 hours on each occasion) to accompany the women when she attends an ante-natal appointment made on the advice of registered medical practitioner. The two occasions of unpaid leave for ante-natal care appointments will be in addition to the two paid occasions of leave which may be available in the Special Leave policy (section 6.4 – Attending Hospital with a Dependant).

11 Return to Work When Employee Resigns

If an employee resigns from her employment because of her pregnancy, but her child does not live, she may be entitled to return to work if

- (1) a suitable vacancy exists;
- (2) her return to work is in accordance with the timings of the maternity period she would have been entitled to had she not resigned; and
- (3) she is certified medically fit, if appropriate, to do so

The employee does not have the right to return to the post she resigned from.

An employee who returns to work in this situation will be treated as if she had been on maternity leave during the intervening period and will, therefore, maintain her continuity of service with the Council.

12 Maternity Support Leave

Maternity Support Leave of five days paid leave is available for eligible employees to be taken at or around the time of the birth of a child. The availability of this provision will not extend beyond 8 weeks (56 days) after the date of birth of the child.

13 Ordinary Paternity Leave and Statutory Pay

Ordinary paternity leave and statutory pay may be available for a father / husband / partner subject to certain criteria.

Ordinary paternity leave is time off to support the mother / partner or to care for the child.

Paternity leave entitlements are detailed in the Special Leave Policy.

14 Shared Parental Leave and Pay

Shared parental leave (SPL) is designed to afford mothers and co-parents more flexibility in how to share the care of their child in the first year following birth or adoption.

The option to use SPL will apply to mothers and co-parents who meet the eligibility criteria (below), where a baby is due to be born on or after 5 April 2015, or for children who are placed for adoption on or after this date. Please see the Adoption Policy for more information for adoptive parents.

Co-parents are defined as fathers, spouses, civil partners, partners and adopters.

SPL does not alter a mother's entitlement to 52 weeks maternity leave. However, in order to take SPL, the mother must have served 8 weeks notice of her decision to end (curtail) her maternity leave or maternity pay early. The remaining leave will be available as SPL. The remaining weeks of pay may be available as Statutory Shared Parental Pay (ShPP). The mother must take a minimum of 2 weeks maternity leave following the birth, leaving up to 50 weeks available for SPL.

To qualify for SPL a mother must be entitled to maternity or adoption leave, or statutory maternity or adoption pay or maternity allowance, and must share the main responsibility for caring for a child with the child's father or her partner. In addition, they will be required to follow a two step process to establish eligibility.

Step 1 – Continuity test

A parent seeking to take SPL must have worked with the same employer for at least 26 weeks at the end of the 15th week before the week in which the child is due and is still employed in the first week that SPL is to be taken. The other parent has to have worked for 26 weeks (can be discontinuous) in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold of thirteen of the 66 weeks. Details of the salary values concerned can be found at <https://www.gov.uk/maternity-pay-leave/overview>

Step 2 – Individual eligibility for pay

To qualify for Statutory Shared Parental Pay the parent must, as well as passing the continuity test, have earned an average salary of the lower earnings limit or more for 18 weeks prior to the 15th week before the Expected Week of Childbirth.

SPL may be taken at any time within the period which begins on the date the child is born or placed for adoption and ends 52 weeks after that. Leave must be taken in complete weeks and may be taken either in a continuous period or in up to 3 separate (discontinuous) blocks (subject to exigencies of the service). The Council is not obliged to accept applications for discontinuous blocks.

The minimum period of leave must be one week. Eight weeks notice is required of an intention to take a block of SPL.

Shared Parental Leave in Touch (SPLIT) days

SPLIT days will be available to both parties during SPL. These are in addition to the Keeping in Touch days outlined in section 6.

If mutually agreed by the manager and employee, an employee can do up to 20 days paid work during the period of his/ her SPL except during the 2 week compulsory leave period immediately following childbirth, without losing statutory payments or bringing SPL to an end. There is no obligation on the employee to do this and it is important to note that SPLIT days are distinct from keeping in contact with the employee.

15 Breastfeeding

North Lanarkshire Council recognises the short and long-term advantages of breastfeeding for both mother and baby and supports breastfeeding as the optimal infant feeding choice for all parents.

Employees returning to work from maternity leave will be encouraged to continue breastfeeding through the provision of appropriate facilities and access to flexible working arrangements in line with the Council's Smarter Working Policy.

When making arrangements to return to work following maternity leave, employees should notify their manager that they wish to continue breastfeeding.

Where possible, the following requests will be accommodated for breastfeeding mothers during the period they are breastfeeding:

a) Flexible working

Temporarily changing working hours or patterns to allow a mother to breastfeed in line with the Council's Smarter Working Policy.

b) Suitable facilities for breastfeeding or expressing milk

A private, hygienic, safe and secure area where a breastfeeding mother can express milk and, where necessary, the facility to lie down.

c) Suitable facilities for storing breast milk

Access to a refrigerator and, where possible, a clean area where sterilising equipment may be stored.

For further information please contact your line manager.