

**HERTFORDSHIRE COUNTY COUNCIL**

**CABINET  
MONDAY 27 JANUARY 2003 AT 2.00 P.M.**

Agenda Item No.

**6**

**AMENDMENTS TO EXISTING EMPLOYMENT POLICIES**

Report of the Corporate Director (People & Property)

Author: Claire Howarth Tel: 01992 556670

Executive Member:- David Beatty

**1. Purpose of report**

To inform Members of some key developments in statutory employment rights and to propose amendments to some existing employment policies on:

- Maternity Leave and Pay
- Paternity Leave and Pay
- Adoption Leave and Pay
- Flexible Working

**2. Summary**

New employment legislation comes into force in April 2003 which requires the County Council to develop new arrangements for all employees in respect of Maternity Leave and Pay, Paternity Leave and Pay, Adoption Leave and Pay, and flexible working.

The National Scheme of Conditions of Service for Local Government Service Employees has yet to be amended to reflect these changes in the law. Discussions within the NJC are unlikely to be concluded within a timescale that would allow proper implementation in time for the changes in the Law. There are no matters under discussion which need to delay Hertfordshire in the development of it's own arrangements in these areas.

This report therefore outlines the new Statutory entitlements which become law on 6 April 2003, the impact on the existing arrangements within Hertfordshire, and proposes new arrangements which meet the Council's new obligations.

**3. Conclusion**

Cabinet is asked to approve the principles of:

- A new Occupational Scheme for Maternity, Paternity and Adoption Leave and Pay
- A Flexible Working Directory

Copies of the full policies and key documentation relating to the above are available in the Members Room.

## **Background**

In December 2000, the government published “Work and Parents: Competitiveness and Choice” a consultation paper on improving the working lives of parents. The Employment Act 2002 set out the Government’s plans for implementing its proposals and during 2002 a number of Regulations were introduced which will bring the provisions of the Act into force during 2003.

The new Regulations introduce, with effect from 6 April 2003, new maternity leave rights as well as new rights to paid adoption and paternity leave, and the right for parents of young children to apply to work flexibly.

This report explains how the new Regulations will affect existing employment policies of the County Council in relation to these matters. It proposes a new Maternity Policy which incorporate provisions for Adoption and Paternity Leave and a Flexible Working Directory which provides a source of advice on a full range of flexible working options as well as a process by which employee requests can be formally considered.

As well as providing the means to implement new legislation, these policies have been developed as part of the County Council’s LifeWise Strategy. The proposed arrangements will provide Hertfordshire County Council employees who have parental responsibilities with more opportunities than ever before to balance work and family life whilst being compatible with, and beneficial to, service delivery and efficiency.

## **Summary of Changes to Statutory Maternity Rights**

From 6 April 2003 employees will be entitled to:

26 weeks with pay followed by 26 weeks without pay (if they have 26 weeks continuous service).

Other changes are increases in the length of time covered by Statutory Maternity Pay and Maternity Allowance (from 18 to 26 weeks) and increases in the actual amounts paid.

### Effect upon Hertfordshire County Council’s Existing Arrangements

Existing Maternity Provisions for Local Government Service Employees are an improvement on the current Statutory Scheme. Once the new provisions come into force however, the Scheme as it is written, will no longer be compatible as it makes no provision for the extended ordinary maternity leave.

The National Joint Council for Local Government Service Employees is engaged in negotiations in relation to amendments to the National Conditions of Service (the “Green Book”) to bring it into line with the new Statutory Provisions. These negotiations are not yet concluded, and are unlikely to be concluded within a timescale that would allow proper implementation in time for the changes in the Law. We are advised however that negotiations are only concerned with the timing of the 12 weeks half pay payment. There are no proposals on the table to extend the period of paid leave further. This is a matter which need not therefore delay Hertfordshire in the development of it’s own Occupational Maternity Scheme.

### Hertfordshire's Proposed New Maternity Scheme

In the absence of a National agreement, Hertfordshire's Maternity Policy has been amended in accordance with the new statutory provisions with some built in flexibility which will enable us to respond to whatever is the outcome of the NJC's negotiations.

The new Scheme is detailed in the "Maternity & Family Leave Policy". Full copies are available upon request from the Corporate Director (People & Property). In summary, It is proposed that the paid element of maternity leave be made up as follows:

- 6 weeks at 90% of earnings
- 20 weeks\* at the current Statutory Maternity Pay rate (£100 per week from April 2003).
- An allowance for Occupational Maternity Pay equivalent to 12 weeks at half pay which individuals can opt to receive over a 12 week or 20 week period, or as a lump sum at the end of their maternity leave.

\*currently the entitlement is for only 12 weeks Statutory Maternity Pay.

Remaining aspects of the Scheme, including the new statutory entitlement to Additional Maternity leave have been amended in accordance with the new law.

### Financial Implications

On average 166 women employed on Local Government Service conditions of Service take maternity leave in any 12 month period. Hertfordshire County Council will continue to be able to claim back 92% of the payments of Statutory Maternity Pay (SMP) we make. The overall financial impact of these changes is therefore minimal and can be met from within existing budgets.

### **Summary of New Statutory Right to paid Paternity Leave**

A new right to 2 weeks Paternity Leave, with a new entitlement to Statutory Paternity Pay at the rate of £100 per week is being introduced. To be eligible employees must have, or expect to have responsibility for the child's upbringing and be the biological father of the child or the mother's husband or partner. They must also have 26 weeks continuous service.

### Effect upon Hertfordshire County Council's Existing Arrangements

At present, Hertfordshire County Council grants 5 days paid "Maternity Support Leave" to the nominated "Carer" of the mother (which could be someone other than the father, husband or partner).

### Hertfordshire's Proposed New Paternity Leave and Pay Scheme

The details of this scheme are again provided within Appendix A). In summary, it is proposed that the existing "Maternity Support Scheme" be renamed "Paternity Scheme" and that the eligibility criterion is brought into line with the statutory definition.

The proposed new scheme provides that an employee with the required length of service will be entitled to two weeks Paternity Leave. The first week will be paid at full pay, and the second week will be paid at the current Statutory Paternity Pay rate. Where an

employee does not have the required length of service, then they will be entitled to one week's Paternity Leave paid at full pay.

#### Financial Implications

The previous take-up of "Maternity Support Leave" was recorded and managed locally there are therefore no corporate statistics which would help to predict how many people are likely to take paternity leave. Hertfordshire County Council will in future be able to claim back 92% of the payments of Statutory Paternity Pay (SMP) we make in the same way as we can currently claim back Statutory Maternity Pay. The overall impact is likely therefore to be cost neutral, if not minimal savings.

#### **Summary of New Rights to Paid Leave for Adoptive Parents**

A new right to adoption leave and pay is being introduced. Adopters will be entitled to 26 weeks paid adoption leave at the rate of £100 per week followed by a further 26 weeks unpaid leave. The new right will be available to individuals who adopt, or one partner of a couple where the couple adopt jointly. A new right to paternity leave and pay for the other member of the couple, or an adopter's partner, is also being introduced.

#### Effect upon Hertfordshire County Council's Existing Arrangements

Currently HCC gives 1 full weeks pay followed by 7 weeks half pay if the child is under 12 months. If the child is over 12 months then 5 days is granted.

The proposed new HCC Scheme is a significant improvement on the Statutory Adoption provisions as it matches the Occupational Maternity Scheme. This will mean that adoptive parents are offered the same benefits as biological parents i.e. 6 weeks at 90% earnings followed by 20 weeks Statutory Adoption Pay and 12 weeks half pay.

This and is intended to reflect the priority that the County Council places on the provision of support for adoptive parents in its role as Lead Adoption Agency.

#### Financial Implications

Employers will be able to recover the amount of Statutory Adoption Pay (SAP) they pay out in the same way as they can currently claim back Statutory Maternity Pay. This means that Hertfordshire County Council will be able to claim back 92% of the statutory payments we make. Although the occupational elements of the scheme will not be reclaimable. Statistically, adoption leave has been rarely requested in recent years.

The cost of keeping a child in residential care for 26 weeks is around £65k. The cost of looking after a child in foster care for 26 weeks is around £8k. On average the cost of providing paid adoption leave would be less than these two options. Additionally, there are known to be significant benefits to the welfare of a child in long term adoption rather than short term care.

#### **Summary of New Right to Apply to Work Flexibly**

A new right for parents of young, or disabled, children to request flexible working is being introduced. From 6 April 2003 eligible employees who are parents of children aged under six, or of disabled children aged under 18, will have the right to apply to work flexibly. Their employers will have a duty to consider such requests seriously.

### Effect upon Hertfordshire County Council

In order for the County Council to meet these new statutory responsibilities, and as a significant intervention within the County Councils' WorkLife Balance Strategy "LifeWise", a Flexible Working Directory has been developed. The directory provides guidance and definitions across a range of flexible working models. It also provides an effective and formal process whereby requests can be properly considered without prejudicing standards of service delivery and operational efficiency. It is not intended that the models be prescriptive. Managers and individuals are encouraged to adapt the models to suit local circumstances and need.

The County Council's LifeWise strategy recognises that worklife balance is not an issue which concerns only the parents of young and disabled children. The scope of the directory has therefore been extended beyond the statutory requirement, inasmuch as the options contained within it will apply to all Hertfordshire County Council employees (except those under the control of school governing bodies and uniformed fire service employees, for whom separate arrangements apply).

### Background Papers

None