

<b>7 October 2019</b>		<b>ITEM: 5</b>
<b>General Services Committee</b>		
<b>Enhanced Pay for Adoption Leave</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Non-key	
<b>Report of:</b> Mykela Pratt, Strategic Lead HR, Resourcing and Improvement		
<b>Accountable Assistant Director:</b> n/a		
<b>Accountable Director:</b> Jackie Hinchliffe, Director of HR, OD & Transformation		
<b>This report is public.</b>		

## Executive Summary

The purpose of the Council's 'Working Families Policy and Procedures' is to support staff with family commitments to achieve an effective work-life balance.

There is currently a difference between the pay that an employee receives on maternity leave compared to those on adoption leave with those using adoption leave not receiving an additional 12 weeks at half pay. This report recommends enhancing the pay provision for adoption leave in order for this to match the existing enhanced occupational maternity pay provision.

### 1. Recommendation

#### 1.1 General Services Committee support the proposal to enhance adoption leave pay to align with existing maternity leave provision.

### 2. Introduction and Background

2.1 The purpose of the Council's 'Working Families Policy and Procedures' is to supporting staff with family responsibilities to achieve an effective work-life balance. It provides benefits over and above what are required by law and covers maternity, paternity and parental provisions and guidance.

### 3. Issues, Options and Analysis of Options

3.1 The current provision relating to maternity leave, regardless of length of service, is an entitlement to a maximum of 52 weeks maternity leave made up of:

- 26 Ordinary Maternity leave (OML)
- 26 weeks Additional Maternity Leave (AML)

3.2 There are three main types of maternity pay:

- Statutory maternity pay
- Maternity allowance
- Occupational maternity pay

3.3 Employee eligibility to receive one or a combination of these payments is dependent upon level of earnings and length of local government service.

3.4 Current entitlement and levels of maternity and adoption pay based on length of service are detailed in the table below.

Ref.	Length of Service	Payment	Type
a)	Less than 26 weeks' service	39 weeks at standard rate (£148.68)	Maternity Pay
b)	At least 26 weeks', but less than 1 years' service	6 weeks' pay at 90% of average earnings; 33 weeks at standard rate; or 90% of average earnings, whichever is lower	
c)	At least 1 years' service	6 weeks at 90% of average earnings; 12 weeks at half pay plus standard rate, providing the total does not exceed full pay; an additional 21 weeks at standard rate	
d)	At least 26 weeks' service	6 weeks at 90% of average earning 33 weeks pay at the SMP standard rate; or 90% of average earnings, whichever is lower	Adoption Pay

3.5 A parent adopting a child under the age of 18, regardless of length of service, is entitled to a maximum of 52 weeks adoption leave made up of:

- 26 Ordinary Adoption leave (OAL)

- 26 weeks Additional Adoption Leave (AAL)
- 3.6 It is recommended that the enhanced pay for maternity leave is mirrored across adoption leave and as such the recommendation is to implement the below which would replace the current provision outlined at point d) in the table at 3.4 of this report.

**Employees with at least 26 weeks' local government service, whose average weekly earnings are at least equal to the lower earnings limit for national insurance contributions are entitled to statutory adoption pay (SAP) and occupational adoption pay (OAP) as follows:**

- **6 weeks at 90% of average earnings**
  - **12 weeks at half pay plus standard rate (£148.68 as at April 2019), providing the total does not exceed full pay**
  - **an additional 21 weeks at standard rate or 90% whichever is the lowest**
- 3.7 The 12 weeks at half pay is occupational adoption pay (OAP), i.e. an extra entitlement which Thurrock Council offers.
- 3.8 The provision of adoption leave and associated adoption pay can be applied to any employee with the appropriate length of service regardless of gender.
- 3.9 The full policy is at appendix 1 for information with the additional points for clarification around entitlement to receive such benefit outlined in section 22.

#### **4. Reasons for Recommendation**

- 4.1 Whilst the disparity between maternity and adoption leave pay is not illegal it represents a challenge in the level of financial support provided to employees who choose to adopt a child.
- 4.2 A number of organisations have already taken the step to align their adoption leave pay provision to that of maternity leave including Maldon District Council, Tending District Council and the Bank of England.
- 4.3 At Thurrock Council in the 2018/19 financial year there were no employees who used adoption leave, this will vary year on year so as such financial implications will vary.
- 4.4 In amending the policy to enhance the pay afforded to employees who take adoption leave, the Council will be ensuring parity for employees who adopt. Adoption is an area in which the Council promotes so ensuring our policy reflects this priority may help encourage employees to consider adoption.

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

5.1 The Trade Unions formally recognised by the Council - Unison, Unite and GMB - have been consulted on these proposed changes and are in agreement with the recommendation made.

## **6. Impact on corporate policies, priorities, performance and community impact**

6.1 The recommendation, if agreed, would require a change to the Working Families Policy as shown in appendix 1.

6.2 This policy encourages and promotes adoption as a form of permanence for children in care and is supportive of parents who have chosen to adopt.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Jo Freeman**  
**Finance Manager**

Financial implications will be variable depending upon the number of employees qualifying for and choosing to take adoption leave. The enhanced pay on offer relates to OAP at 12 weeks at half pay which would be an additional cost to the Council.

### **7.2 Legal**

Implications verified by: **Paul Field**  
**Senior Employment Lawyer**

It is not currently a legal requirement to offer enhanced pay for adoption leave. However, there is a risk that offering less in adoption pay than maternity pay may indirectly discriminate on the grounds of sexual orientation. The policy, which amounts to a neutral 'provision, criterion or practice, may disadvantage LGBTI couples. A higher proportion of same sex couples adopt children than opposite sex couples, and where as medical advances mean the number of opposite sex couples adopting are declining, the numbers of same sex couples are increasing.

### **7.3 Diversity and Equality**

Implications verified by: **Natalie Warren**  
**Strategic Lead Community Development**

In supporting the recommendation the Council would be ensuring the working families policy enhances the support on offer to employees who choose to adopt. The recommendation will ensure equality for those who choose to adopt a child and align the enhanced pay to those who take maternity leave.

#### **7.4 Other implications**

The proposed recommendation would be an enhanced benefit to staff employed at the Council.

#### **8. Appendices to the report**

- Appendix 1 – Working Families Policy and Procedures

#### **Report Author:**

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