

Report to: **Governance Committee**

Date of meeting: **3 March 2020**

By: **Chief Operating Officer**

Title: **New Legislation - Parental Bereavement Leave and Pay**

Purpose: **To advise the Governance Committee of legislation expected to come into force in April 2020 and to seek its agreement to the recommendations as set out in this report.**

RECOMMENDATIONS

The Governance Committee is recommended to agree the Council's Parental Bereavement Policy for employees as: two weeks leave on full pay, from day one of employment, as a separate entitlement to the current policy provisions for compassionate leave.

1. Background

1.1 The Parental Bereavement (Leave and Pay) Act 2018 will entitle employees who lose a child under the age of 18 or suffer a stillbirth from the 24th week of pregnancy, to two weeks' unpaid leave as a right from day one of their employment. For employees with 26 weeks service, the leave will be paid at the statutory rate. The rate has yet to be confirmed but is expected to be similar to that for maternity/paternity leave; currently £148.68 per week or 90% of the employee's earnings, if this is lower.

1.2 The Government is aiming for the new law to be in force from April 2020

1.3 For the first time, this legislation brings in the right to have statutory paid leave to cover not just practicalities, such as registering the death of a child, but also some time to grieve. Bereaved parents and primary carers will be entitled to two weeks leave which can be taken in either a single continuous block of two weeks or in two separate blocks of one week at different times (for example the first week immediately after the child's death and the second week at the time of the funeral). It must be taken within a 56-week window from the child's death, which allows time for moments such as anniversaries.

1.4 'Primary carers' include adopters, foster parents, guardians and those classed as 'kinship carers' who may be close relatives or family friends that have assumed responsibility for looking after a child in the absence of parent.

1.5 Employees already taking family leave such as maternity leave, paternity leave, adoption leave, shared parental leave and parental leave will be entitled to take their statutory bereavement leave in addition to any of these types of leave. It could be taken immediately before and/or after the family leave. In certain circumstances, this may mean a gap from the end of the family leave, such as maternity, and before a period of statutory parental bereavement leave begins. There is currently no guidance from the Government about whether statutory parental bereavement leave could interrupt another period of family leave.

1.6 Notice requirements for taking the leave are intended to be flexible, so it can be taken at short notice.

1.7 If an employee loses more than one child, they will be entitled to take a separate two week period of leave for each child.

2. Supporting Information

2.1 Under the Employment Rights Act 1996, employees currently have the legal right to take 'reasonable' time off to deal with an emergency such as the death of a child. This entitlement is only to unpaid leave and does not necessarily allow for a longer time off to grieve or to deal fully with practical matters such as registering the death and arranging a funeral.

2.2 East Sussex County Council's current 'Paid and Unpaid Leave Policy' already has provision for 'compassionate leave' and allows line managers the discretion to approve up to 2 weeks paid leave if a close family relative, dependant or close friend dies. Further paid leave can be granted with approval from the relevant Chief Officer.

2.3 Our current records indicate that there has been minimal take-up of paid compassionate leave due to parental bereavement in recent years. Whilst the new legislation only requires the statutory minimum to be paid, as a 'good' employer, and in light of the historical minimal take-up of compassionate leave for this purpose, it is proposed that the County Council's policy position in relation to parental bereavement is to allow employees to take two weeks leave on full pay from day one of their employment. This approach will also align to the range of initiatives the Council has implemented in recent years to support the wellbeing of our staff.

2.4 It is further proposed that this entitlement is kept separate to the provisions of compassionate leave, thereby enabling both entitlements to be used, subject to line manager approval, in the event of a parental bereavement situation.

3. Conclusion and Recommendations

3.1 New legislation, expected to be implemented in April 2020, will require employers to introduce paid leave in circumstances of a child's death, at a statutory level as a minimum, provided employees meet the length of service requirement.

3.2 In light of the historical low number of employees taking leave in such circumstances and the Council's broader employee health and wellbeing agenda, the Governance Committee is recommended to agree the Council's Parental Bereavement Policy for employees as: two weeks leave on full pay, from day one of employment, as a separate entitlement to the current policy provisions for compassionate leave.

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