

URN: 20-094

Subject: New Parental Bereavement Leave Policy

Report to: Policy and Resources Committee

Report by: Angela Sallis, HR Advisor (Policy), requested by Sarah Tate, Head of OD

Date: 8th November 2020

SUBJECT MATTER/RECOMMENDATIONS

New Parental Bereavement Leave Policy

Recommendation:

1. proposes the new Parental Bereavement Leave Policy for approval
2. Agrees to carry out a review of this policy after three years unless there is a significant change in legislation requiring earlier review.

1. BACKGROUND

On 6th April 2020 the government introduced the Parental Bereavement (Pay and Leave) Act to support parents who tragically lose a child.

Sadly, bereavement is something that will affect all of us at some time in our lives. In fact, research suggests that 1 in 10 employees are likely to be affected by the death of a loved one at any given point. Until recently, there has been no legal obligation for employers to provide paid time off for grieving parents, despite the prevalence of childhood deaths: around 7,600 babies, children and young people under the age of 18 died in 2017.

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. The new legislation changed this with the introduction of the new Parental Bereavement Leave and Pay Regulations – known as 'Jack's Law' – which came into force on 6 April 2020.

The Council has always been supportive of any member of staff who sadly suffers a bereavement of

any kind, including the tragic loss of a child and this new policy does not change that. The Parental Bereavement Leave Policy has been drafted to provide information and guidance for employees, managers and HR, on the new legislation and what it entitles parents to, should it be required.

Who is entitled to paid parental bereavement leave?

- Employed parents and adults with parental responsibility who have suffered the loss of a child under the age of 18
- Adults with 'parental responsibility' include adopters, foster parents and 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 parents
- The new entitlement also applies to parents who suffer a stillbirth after 24 weeks of pregnancy. In this instance, female employees will still be entitled to up to 52 weeks of maternity leave and/or pay, as will a mother who loses a child after it is born
- Parents and primary carers must have been employed for a continuous period of at least 26 weeks before the child's death to be eligible for paid parental bereavement leave. All employees have a 'day one' right to unpaid bereavement leave.

What are employees entitled to?

- Parental bereavement leave of 2 weeks which can be taken as two weeks together, 2 separate weeks of leave or only one week of leave (a week is the same number of days that an employee normally works).
- Statutory Parental Bereavement Pay, if eligible, £151.20 a week or 90% of an employees average weekly earnings (whichever is lower)
- Notice requirements for taking the leave will be flexible, so it can be taken at short notice

The new policy has been written by HR, feedback has been given by ELT, UNISON HR, and Senior Performance and Data Protection Officer. The policy was considered by ELT in August 2020 and following this, minor changes were made. The policy was reviewed by JCWG on 2nd November and their comments have been reviewed and the policy amended as appropriate. Once the policy is approved it will be made available to staff via the Loop and training will be given to managers as and when required.

2. FINANCIAL IMPLICATIONS

None at this stage.

3. RISK IMPLICATIONS

None at this stage.

4. POLICY IMPLICATIONS

None at this stage.

5. RECOMMENDATIONS

1. Proposes the new Parental Bereavement Leave Policy for approval

2. Agrees to carry out a review of this policy after three years unless there is a significant change in legislation requiring earlier review.

6. BACKGROUND PAPERS

None

Area for consideration	Comment
Monitoring Officer Consultation:	Carried out
Section 151 Officer Consultation:	Carried out
Existing Council Policies:	None, new policy
Financial Implications:	NA
Legal Implications (including human rights)	Employment Rights Act 1996, Parental Bereavement (Pay and Leave) Act
Risk Implications:	Considered
Equality Issues/EQIA assessment:	NA
Crime & Disorder:	NA
Every Child Matters:	NA



Parental bereavement leave policy

Author	Human Resources
Version No.	1
Updated by	AS
Date of update	9 th July 2020
Description of changes to this version	New policy
Document Status	DRAFT– reviewed by JCWG 2/11/20 and amended. For P&R 17/11/20
Review date (unless required earlier i.e. due to a change in legislation)	July 2024

Introduction

The Council recognises that, while dealing with any bereavement is difficult, the death of a child is among the most devastating events that an employee can ever face.

This policy sets out our commitment to supporting bereaved parents through their grief including ensuring they are aware that they can take parental bereavement leave and the support available to them.

The policy applies to employees who suffer the loss of a child under the age of 18 and includes parents who suffer a stillbirth after 24 weeks of pregnancy.

1.0 Purpose

The purpose of this policy is to set out an employee's entitlements to parental bereavement leave including time off and other support offered.

The Council is committed to providing support to employees who experience loss in their lives and, in particular, understands that the death of a child, or a stillbirth, can be one of the most harrowing experiences of someone's life.

2.0 Who can take parental bereavement leave

2.1 Parental bereavement leave is available to employees from day one of employment and they can take this leave whatever their length of service, if they are the parent of the child who has passed away, or the partner of the child's parent. In general, employees can take this type of leave if they have parental responsibility for the child; this includes adoptive parents. For additional information please see 2.3 below.

2.2 An employee who has suffered a bereavement who is unsure if they are entitled to parental bereavement leave, or other leave, should contact the HR Department for clarification.

2.3 Employees may take parental bereavement leave if they fall into any one of the following categories:

- A 'natural' parent
- An adoptive parent, and those with whom a child has been placed under the 'foster to adopt' scheme, provided the placement is ongoing
- A 'natural' parent where the child has been adopted but a Court Order exists to allow the 'natural' parent to have contact with the child
- An employee who is living with a child who has entered Great Britain from overseas in relation to whom has received official notification that they are eligible to adopt
- An intended parent under a surrogacy arrangement where it was expected that a parental order would be made
- A 'parent in fact' which is someone in whose home the child has been living for a period of at least four weeks before the death and has had day to day responsibility for the child, subject to exceptions. This category includes guardians and foster parents but does not include paid carers.
- The partner of anyone who falls into the above categories, where they live in an enduring family relationship with the child and their parent.

3.0 What leave a bereaved parent can take

3.1 An employee can take two weeks parental bereavement leave, which they can take as:

- A single block of one week or
- A single block of two weeks or
- Two separate blocks of one week

Leave cannot be taken as individual days.

3.2 An employee can take the leave at the time(s) they choose within the 56 weeks after their bereavement. They might choose, for example, to take it at a particularly difficult time such as their child's birthday.

3.3 An employee who has suffered a stillbirth after 24 weeks of pregnancy, will still be entitled to take their full entitlement to maternity and paternity leave, provided they were eligible to take maternity or paternity leave in the first place, in addition to parental bereavement leave. However, parental bereavement leave cannot be taken at the same time as maternity or paternity leave.

3.4 If an employee has lost more than one child, they have a separate entitlement to bereavement leave for each child who has passed away.

4.0 Notice to take parental bereavement leave

4.1 Leave to be taken within the first 56 days of the bereavement

If an employee needs to take parental bereavement leave within the first 56 days after their bereavement, they can take the leave straight away and do not need to give any notice. The employee should let their line manager, or Human Resources know no later than the time when they were due to start work on the first day they wish to take leave, or if that is not feasible, as soon as they can.

4.2 Leave to be taken more than 56 days after the bereavement

If an employee wishes to take leave more than 56 days after their bereavement, they should give their line manager, or the HR department, at least one week's notice.

5.0 If an employee changes their mind about taking parental bereavement leave

5.1 An employee can cancel their planned leave and take it at a different time (within the 56 weeks after their bereavement) as long as the period of leave has not already started.

5.2 Where the planned leave was due to begin during the first 56 days after their bereavement, they should let their line manager or the HR department know that they no longer wish to take it, before their normal start time on the first day of the planned leave.

5.3 Where the leave was due to begin more than 56 days after their bereavement, the employee should let their line manager or HR Department know at least one week in advance that they wish to cancel it.

6.0 Pay during parental bereavement leave

- 6.1 To receive statutory parental bereavement pay an employee must have:
- at least 26 weeks' continuous employment with us by the week before the one in which their child passed away (and still be employed by us on the date of the bereavement); and
 - normal weekly earnings in the eight weeks up to the week before their bereavement of at least the lower earnings limit relevant for national insurance purposes
- 6.2 If an employee is unsure if they are entitled to statutory parental bereavement pay, they should contact the HR Department who will be able to advise them.
- 6.3 If an employee qualifies for statutory parental bereavement pay, they will be paid during their leave at the rate set by the Government each year or at 90% of their average weekly earnings where this figure is lower. If an employee is not eligible, their leave will be unpaid.
- 6.4 The employee will need to give us notice of the weeks for which they wish to claim statutory parental bereavement pay by informing their line manager or HR Department, this may be via a form that the HR Department will ask the employee to sign. Employees must normally sign and return the form to the HR Department within 28 days of the first day for which they are claiming. However, if that is not possible, employees are requested to sign and return the form as soon as they can.

7.0 Terms and conditions during parental bereavement leave

During parental bereavement leave, the employee will continue to receive all the terms and conditions of employment that they would have received had they not taken this leave, with the exception of remuneration, which will be replaced by statutory parental bereavement pay, if an employee is eligible for it. This means that while sums paid by way of salary will cease, all other benefits will remain in place, for example holiday entitlement will continue to accrue and pension contributions will continue to be paid.

8.0 Returning to work after parental bereavement leave

- 8.1 When an employee returns to work after some time on parental bereavement leave, they are generally entitled to return to the same job.
- 8.2 However, a slightly different rule applies if an employee returns from time on bereavement leave that follows on immediately from some maternity, adoption, paternity leave or shared parental leave (taken in relation to the child who has passed away), and their total time on leave is more than 26 weeks. In these circumstances an employee has the right to return to the same job unless this is not reasonably practicable, in which case they have the right to return to a suitable and appropriate job on the same terms and conditions.
- 8.3 This rule also applies if an employee's leave includes more than four weeks of ordinary parental leave (taken in relation to any child) regardless of the total length of the leave.
- 8.4 On an employee's first day back to work, their line manager (or designated deputy) will set time aside to hold an informal meeting with them to discuss any arrangements regarding their return to work and any additional support we may be able to offer them.

9.0 Employee Assistance Programme

We would like to remind employees that they have access to a 24-hour telephone counselling service, and we encourage them to use it if they feel they would like to talk to someone about their loss.

This is an independent and confidential employee assistance programme which is available 24 hours a day, 7 days a week. It can be accessed by phoning 08001697676. Details are available on The Loop or by contacting HR.

10.0 Other support available

Employee's may wish to speak to their GP / surgery about the help and support which is available to them. Other organisations which can be contacted include:

Care for the Family – www.careforthefamily.org.uk

Cruse Bereavement Care - www.cruse.org.uk

Child Bereavement UK - www.childbereavementuk.org

Time Norfolk – www.timenorfolk.org.uk – for pregnancy loss

Child death helpline – www.childdeathhelpline.org.uk

11.0 Flexible working

We appreciate that a temporary period of flexible working may be beneficial to employees after they have suffered a loss. To discuss this further, employees should contact their line manager or Human Resources.

12.0 Line manager responsibilities

12.1 Upon being notified by an employee that they wish to take parental bereavement leave, the line manager should notify Human Resources and provide them with information which has been provided by the employee as soon as possible.

12.2 If HR are notified by the employee, they will inform the line manager.

12.3 When an employee returns to work, the line manager (or designated deputy) should set time aside to hold an informal meeting with the employee to discuss any arrangements regarding their return to work and any additional support we may be able to offer them. Support and information can be sought from HR.

13.0 Data Protection

When dealing with parental bereavement leave, we will process data collected in accordance with our data protection policy. In particular, we will record only the personal information required and keep the information only for as long as necessary.