

COMMITTEE	Finance, Policy and Resources
DATE	7 June 2016
INTERIM DIRECTOR	Richard Ellis
TITLE OF REPORT	Special Leave policy – follow up report
REPORT NUMBER	CG16/078
CHECKLIST COMPLETED	Yes

1. PURPOSE OF REPORT

This is a follow up report on the Special Leave policy following a question raised by Members at Committee on 19 April 2016 in respect of the Parental Leave provision and whether foster carers and kinship carers could be included under this provision.

2. RECOMMENDATION(S)

The Committee is requested to:

- a) Approve the inclusion of foster carers and kinship carers under the Parental Leave provision and revised wording to be inserted in the Special Leave policy, as attached at Appendix 1.

3. FINANCIAL IMPLICATIONS

There are no financial implications in relation to the recommendation in this report.

4. OTHER IMPLICATIONS

Not applicable.

5. BACKGROUND/MAIN ISSUES

The revised Special leave policy was approved by the Finance, Policy and Resources Committee on 19 April 2016.

However, members raised a question with regard to one of the provisions in the policy namely that of Parental Leave.

The question was in relation to the eligibility criteria for Parental Leave, specifically concerning foster carers and kinship carers.

One of the criteria for Parental leave states that to be eligible the employee must 'not be a foster parent (unless they've secured parental responsibility through the courts)'.

It was agreed at Committee that officers would check out whether this criterion was set down in law (in which case it could not be altered) or whether there was any flexibility to include foster carers (and kinship carers) as qualifying for Parental Leave.

On undertaking research into the matter it was established that the law permits employers to extend Parental Leave to those groups who are 'not eligible'. This therefore would allow the Council discretion to include foster carers and kinship carers as qualifying for Parental Leave (assuming the other relevant criteria for qualification were met).

In light of the above, it is recommended that Committee approves the inclusion of foster carers and kinship carers under the Parental Leave provision and revised wording to be inserted in the Special Leave policy, as attached at Appendix 1.

The two revisions made to the wording of the Parental Leave provision are:-

Removal of the 5th bullet point stating 'Is not a foster parent (unless they've secured parental responsibility through the courts).'

Addition of the line 'Note: Both foster carers and kinship carers qualify for Parental Leave provided they meet the first two bullet points above.'

6. IMPACT

Improving Customer Experience –

The proposal will have no impact on the customer experience.

Improving Staff Experience –

The proposal may have a slight positive impact on the employee experience as it will allow employees who are foster carers or kinship carers to apply and qualify for Parental Leave (assuming they meet the relevant criteria in the Special leave policy).

Improving our use of Resources –

The proposal will have no impact on the use of resources.

Corporate -

There are no corporate implications in respect of this proposal.

Public –

It is not expected that this report will be of interest to the public. An Equality and Human Rights Impact Assessment in relation to this follow up report is not required as the change being proposed is minor and will have negligible impact on the operation of the policy (with an EHRIA having been compiled in respect of the first report seeking approval for the revised Special leave policy).

7. MANAGEMENT OF RISK

There have been no risks identified in relation to this proposal.

8. BACKGROUND PAPERS

Xpert HR website www.xperthr.co.uk

Gov.uk website pages –

www.gov.uk/parental-leave/eligibility

www.gov.uk/foster-carers/types-of-foster-care

Scottish Government website on kinship care -

www.gov.scot/Topics/People/Young-People/protecting/lac/kinship

9. REPORT AUTHOR DETAILS

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Parental Leave

This is a statutory entitlement for parents where they can take **unpaid** leave to look after their child's welfare e.g. this could include for spending time with the child, looking at new schools, settling a child into a new school or for spending time with family members i.e. grandparents.

An employee is entitled to take 18 weeks' leave for each child and adopted child, up to their 18th birthday.

Time off must be taken as a whole week (not individual days unless the child is disabled), with a maximum 4 weeks per child per year (unless agreed with the Council). A week is the equivalent to the employee's usual working week and pro-rated for part-time employees.

Parental leave applies to each child not to an individual's job. For instance, where someone joins the Council and they have used 10 weeks parental leave with a previous employer, they can use up to 8 weeks (the remaining balance of the 18 week entitlement) with the Council, if they're eligible.

To be eligible for Parental Leave the following criteria must be met –

- The person must be an employee (not a “worker”) and have at least 1 year's service with the Council
- The child must be under 18 years' old
- The employee must be named on the child's birth/adoption certificate (proof can be requested prior to first period of leave)
- Have or expect to have parental responsibility

Note: Both foster carers and kinship carers qualify for Parental Leave provided they meet the first two bullet points above.

The employee must give at least **21 days'** notice of their intention to take Parental Leave and provide the intended start and end dates.

The Council can delay the start of the period of Parental Leave where granting the leave would cause significant disruption to the Service.

However, it can't be delayed by the Council -

- If there is no “significant reason”
- When it is requested by the child's father immediately after the birth/adoption of the child
- Where it impacts the employee's eligibility for Parental Leave i.e. after the child's 18th birthday

If the Parental Leave is postponed by the Council, the manager must write to the employee within **7 days** from the date that the original request is received explaining the reasons for the change and suggesting a more suitable start date – which must be within 6 months of the original requested start date and in agreement with the employee. The Council cannot change the amount of leave that has been requested by the employee.