

Subject:	Extended Maternity and Paternity Leave for Premature Births		
Date of Meeting:	11 July 2019		
Report of:	Executive Director Finances & Resources		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 In support of the [smallest things](#) campaign, the council has the opportunity to introduce a policy offering extended maternity and paternity leave to all staff who become parents of premature babies. This report sets out a proposal to do this.
- 1.2 Parents of premature children will be entitled to an extra day's leave for every day the baby is born prematurely, i.e. extra leave at full pay for the difference in days between the birth date and the due date. This leave entitlement will be offered at the end of the Maternity or Paternity Leave period.
- 1.3 The adoption of this policy would support Our People Promise (the council's wide-ranging programme to improve the employer offer to staff) by supporting our employees' wellbeing, especially during stressful and life changing situations. As well as improving our employer offer, this move would further strengthen the council's 'brand' in the recruitment market.

2. RECOMMENDATIONS:

- 2.1 That Brighton & Hove City Council adopts the premature births leave policy, i.e. that an employee is given an additional days leave for every day that a premature baby is born prior to its due date.
- 2.2 That the council also adopts the ACAS [guidance](#), with regard to supporting employees to attend medical appointments upon their return to work after having a premature baby.
- 2.3 That on adoption of this policy the council should seek to be accredited to the [Employer with a heart](#) Chartermark awarded by The Smallest Things campaign.
- 2.4 That schools be allowed to adopt this policy locally as they see fit, with a view to recommending schools adopt this policy within a reasonable timeframe.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Nationally 1 in 8 babies are born prematurely. Premature births fall into 3 categories:

- Extremely pre-term (before 28 weeks)
- Very pre-term (before 32 weeks)
- Moderate to late pre-term (32 – 37 weeks)

For the purposes of this policy the above recommendation will apply to all births that are premature.

3.2 According to [Office for National Statistics](#) (ONS) figures from 2012:

- 7% of live births were pre-term (between 26 and 36 weeks gestation)
- Of the 7% of pre-term births almost 5% were extremely pre-term, 11% were very pre-term and 84% were moderately pre-term.

3.3 The [table](#) below shows the average length of stay in hospital for babies born at different gestations in 2015 in England, Scotland and Wales.

Gestation at birth	Average length of stay (days)	Average age at discharge (gestational age in weeks)
Before and up to 27 weeks	93	39.5
28-31 weeks	44	36.4
32-36 weeks	13	36.6
More than 37 weeks	4	40.4
Average	8	38.6

3.4 In 2017/18, the following numbers of staff took maternity and paternity leave, the council does not retain figures on whether any of these births were premature, however statistically we would expect between 7 and 9 of these births to have been premature, see 3.8 below.

Type of leave	No. of employees
Maternity leave	63
Paternity leave	9
Shared parental leave	1
Total	73***

3.5 The above figures are similar to the 2016/17 figures (74 in total).

3.6 Our data shows that of the 73 employees on paid maternity and paternity leave in 2017/18 only, 1 employee triggered early leave in excess of 14 days. This was not due to premature birth.

3.7 When using the national average of 1 in 8 live births being premature the council estimates that 9 of the 73 parents on leave in 2017/18 could have experienced premature birth.

- 3.8 Using the [ONS](#) figures it is estimated that of those possible 9 pre-term births, 7 - 8 will be between 32 and 36 weeks and 1 – 2 births will be less than 32 weeks gestation. For the purposes of the calculation at 7.1 below it has been assumed that pre-term babies are born on average at 34 weeks and those who are very pre-term at 29 weeks.
- 3.9 When a child is born prematurely the development of the child that would normally have been undertaken in the womb, instead happens after birth. If a child is born prematurely the time taken for the premature child to 'catch up' to their expected development if born at full term, is normally equal to the time the child was born before their due date.
- 3.10 The additional wording on premature births to be added to the maternity policy will ensure that the premature child has reached certain 'developmental markers' by the time the employee is due to return to work.
- 3.11 A premature child may spend the first couple of months of their life in hospital, by adopting this policy the council will ensure that parents of premature children are able to spend maternity leave with their child at home, and not in hospital.
- 3.12 The additional wording within the Maternity policy will essentially ensure that employees of children born before 37 weeks be able to take additional leave on normal pay. This additional leave will equate to the number of days a baby is born prematurely. The additional leave is in addition to Maternity and Paternity leave. Full details can be seen in Appendix 1.
- 3.13 The council should also adopt the best [practice guide](#) issued by ACAS which is aimed at supporting those parents returning to work following the end of the maternity leave and the extended leave proposed within this document.
- 3.14 The ACAS guide recommends that employees are reminded of their right to any additional leave such as (unpaid) parental leave, special discretionary leave, and flexible working arrangements. At what is a difficult time for employees the help and support that managers can give in reminding staff of the council's additional leave policies, as recommended by ACAS, is likely to be beneficial to employees, so long as it is done in a sensitive and caring manner.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Consideration was given to introducing additional leave to support the parents of premature babies that would have equated to an additional weeks leave for every week that a baby spends in hospital. However guidance received from the smallest things campaign has highlighted that while this is would have been welcomed it is not in keeping with the aims of their campaign, as the amount of time spent in hospital may not equate to the difference in development.
- 4.2 The aim of giving additional leave would be to ensure that the child has met certain developmental markers by the time the parent is due to return to work, but also to ensure that the parents get the time with their child at home, rather than having this important time curtailed due to hospital stays.

- 4.3 It is acknowledged that the additional leave costs may have a disproportionate impact on smaller teams, both in terms of costs and in terms of being able to cover the extended absence of the employee. However, in terms of costs where the provision of this policy would have unmanageable budgetary implications Targeted Budget Management (TBM) reporting will identify this and corporate contingency funds may be made available (see 7.2 below).
- 4.4 In terms of covering extended absences, it is envisaged that the cover arrangements already in place due to the original maternity leave would be extended to cover the additional leave of the new parents.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The council has contacted the [Smallest Things](#) campaign, and the proposed policy is in accordance with the recommendations contained within their Employer with a Heart campaign.
- 5.2 The council has informed the unions about the introduction of this policy and they are broadly supportive of the adoption of this policy.
- 5.3 Waltham Forest has already implemented a similar arrangement, and there have not been any material issues following on from its decision.

6. CONCLUSION

- 6.1 The council can continue the development of Our People Promise and support employees during what can clearly be a distressing time. The policy has been developed with regard to the Smallest Things guidance, and as such can be viewed as an appropriate and compassionate amendment to the council's maternity policy.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 As at March 2019 the average weekly salary at BHCC for females aged 55 and under is £490.00. Therefore, based on the above data, the estimated potential annual cost to BHCC of implementing the policy amendment is as follows:

Number of premature births x average weeks prior to due date	Total number of weeks in born prior to Due Date	Total cost based on average weekly salary
8 x 5	40	£19,600
1 x 10	10	£4,900
Total	50	£24,500

- 7.2 Schools will be able to adopt this policy locally if they so choose, if all schools adopted the policy then the expected costs based on the same scenario as the

table above for council staff would be as follows, based on an average weekly payment of £320 for schools staff.

Number of premature births x average weeks prior to due date	Total number of weeks in born prior to Due Date	Total cost based on average weekly salary
7 x 5	35	£7,700
1 x 10	10	£3,200
Total		£10,900

- 7.3 The estimated additional cost is £24,500 per annum across the council however this is based on averages and could fluctuate. The additional costs would be borne by the service in the same way maternity/paternity pay is currently funded, and reflected in TBM reports. Should this new cost cause a service to overspend then corporately held contingency funding or risk provisions may be applied to offset this cost.

Finance Officer Consulted: James Hengeveld

Date:29th May 2019

Legal Implications:

- 7.4 There is no legal requirement to adopt this policy, however the Council is under a statutory duty to promote equality of opportunity and to eliminate discrimination (Public Sector Equality Duty). The implementation of this policy (which also meets commitments under Our People Promise) is evidence of the council's compliance with that duty of protecting the health, safety and welfare of its employees."

Lawyer Consulted:Simon Court

Date:29th May 2019

Equalities Implications:

- 7.5 This policy amendment seeks to ensure that no matter the circumstances around a child's birth that the parents, our employees, are able to return to work, and continue to be supported at work.

Sustainability Implications:

- 7.6 None

Any Other Significant Implications:

- 7.7 None

SUPPORTING DOCUMENTATION

Appendices:

1. Additional wording for the council's Maternity Leave Policy

Appendix 1

xx **Premature birth**

If a woman gives birth prematurely to a living child, at any point in her pregnancy, even in cases where the baby later dies, she will be entitled to Maternity Leave, Statutory Maternity Pay, Occupational Maternity Pay or Maternity Allowance in the usual way.

xx **Smallest Things campaign**

When a baby is born too early some aspects of their development are not complete and they may not be ready for life outside of the womb. Many of these babies therefore, will need urgent neonatal care after birth and are likely to be hospitalised for a longer period than babies born at full term. This means parents of premature babies will often have to wait weeks for their new-born baby to be allowed home.

The Council recognises that premature birth is one of the most stressful experiences a new parent can face. The Council wants to assist employees coping with the premature birth of their baby and has chosen to support the [‘Smallest Things’](#) campaign.

xx **Premature Baby Leave and Pay**

With effect from xxxx, parents of babies born at or before 37 weeks will be entitled to receive a day’s Premature Baby Leave and Premature Baby Pay for every day their premature baby was born before the due date.

This additional entitlement will be added to the end of your Maternity Leave period* (a) after the Maternity Leave entitlement has been exhausted, or (b) at any point at which you opt to end your Maternity Leave within the 52 weeks statutory entitlement.

Parents of pre-term babies often spend the first few weeks after the birth of their baby in hospital and 60% of mothers feel that their maternity leave is too short. Premature Baby Leave is additional time off work for you to spend time with your baby. Premature Baby Pay, full pay for applicable days, will be paid during Premature Baby Leave.

It is important to note that your normal entitlement to maternity pay will not be affected by this scheme. Please see **note 17** above for information on how maternity pay is calculated when a baby is born prematurely.

Due to the unexpected nature of premature birth it may be that you have not provided the documents required to trigger your maternity pay. It is recommended that you or a representative advises your manager of the birth as soon as possible. This means that they can deal with any administrative processes on your behalf in order to ensure that you’re statutory and/or occupational maternity payments can commence.

*Once you have reached the end of your Maternity Leave period you may opt to take Premature Baby Leave. N.B. The leave must be taken in one block,

i.e. it cannot be taken as odd days or separate weeks. After the Premature Baby Leave has ended you may return to work as agreed with your line manager in accordance with the Maternity Leave Policy – see **notes 42 – 50** in the Maternity Information Pack.