



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Nottinghamshire and City of Nottingham
Fire and Rescue Authority
Human Resources Committee

AMENDMENTS TO MATERNITY PROVISIONS

Report of the Chief Fire Officer

Date: 24 January 2020

Purpose of Report:

To propose amendments to the occupational maternity and adoption provisions.

Recommendations:

That Members support the proposed changes to maternity provisions, and consider and approve changes to local occupational maternity/adoption pay, as set out within the report.

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1. BACKGROUND

- 1.1 Current maternity provisions are based upon national agreements set out within the Grey Book (operational employees) or Green Book (support employees). National agreements enhance the statutory regulations and are referred to as occupational maternity or adoption provisions.
- 1.2 Additionally, local enhancements and arrangements are set out within the Service's Maternity Policy and Procedure and are applied to all Nottinghamshire Fire and Rescue Service (NFRS) employees. Some arrangements are specific to those undertaking an operational role where this requires additional requirements linked to fitness or job-related work arrangements.
- 1.3 The NFCC has recently circulated a best practice document, which has consolidated practice across all English fire and rescue services (FRSs). Whilst this is a guidance document, all FRSs have been encouraged to review their own practice against the guidance.
- 1.4 Terms and conditions across the fire sector also vary, from general annual leave provisions to specific ones, such as maternity, and Members should consider maternity within a more holistic package offered for the Service employees.

2. REPORT

- 2.1 As maternity and adoption provisions are largely based upon statutory regulations or national agreements, the existing provisions of the NFRS policy is largely in line with the NFCC model documents. However, the layout and wording of the existing policies have been changed to reflect the template in the guidance document to provide more clarity and make the document easier to follow.
- 2.2 There are however some changes that are not currently in NFRS maternity (not adoption) provisions, these include:

Para 4.27: premature births – if the birth is more than three weeks prior to the expected birth date then the period of full pay will be extended by the number of weeks the baby was premature and leave will start automatically on the day after childbirth.

Para 4.28: miscarriage, termination or still birth before 24 weeks – up to two weeks paid leave under discretionary leave arrangements.

Para 4.32: parental bereavement leave – a new Parental Bereavement (Pay and Leave Act) will be enacted in April 2020 and entitles parent to at least two weeks' paid leave (unless less than 26 weeks' service in which case leave will be unpaid). It is proposed that the Service implements this provision prior to the statutory legislation.

Para 5.1: surrogacy – this is new occupational provision – ie: not a statutory entitlement.

Para 6.1: fertility treatment – current provision is set out within the Discretionary Leave Policy, this would replace the current provision which allows for one day for implantation and up to three days' post implantation for IVF treatment and up to three days per year for IUI treatment.

- 2.3 The above proposed changes to policy are not significant in terms of additional cost, but do extend current leave arrangements which will have salary cost implications.
- 2.4 The most significant proposal is the extension of occupational maternity (OMP) and adoption pay (OAP). There three possible options which have been put forward for local determination:
 - 2.4.1 Option 1: this is to retain current occupational provisions. Currently employees with more than 1 years' service at the 11th week before the Expected Birth Date (EWC) or adoption date are entitled to receive 9/10ths of pay for six weeks and lower rate SMP/SAP for 33 weeks. Weeks 40-52 are unpaid. However, if the employee intends to return to work for at least three months following the maternity or adoption leave period, they receive would receive 90% of pay for weeks 1-6 of their leave, 50% of pay plus SMP/SAP for 12 weeks, SMP/SAP for 12 weeks and no pay after this (up to week 52).
 - 2.4.2 Option 2: the suggested approach set out in the national guidance extends the paid leave period to 26 weeks' full pay, followed by 13 weeks' SMP/SAP. This would also be applied to Adoption Leave and pay, which broadly follows OMP/OAP provisions. Following discussion with the Strategic Leadership team, this would be the supported option.
 - 2.4.3 Option 3: a couple of Services, who responded to the survey, apply local enhancement to their occupational schemes which extend full pay to 39 weeks and half pay for 13 weeks, taking paid entitlement to the full maternity leave period of 52 weeks.
- 2.5 The financial implications of each option are set out at in Section 3 of the report. It should be noted that these indicative costs do not include backfilling roles during maternity leave periods which, if maternity pay is increased, would also cost proportionately more as the cost could not be off-set by reduced or no pay periods.
- 2.6 To provide some context to potential costs, there have been nine employees who have taken maternity/adoption leave between 2016 and 2019. Five have been support employees, three whole-time firefighters and 1 on-call firefighter. There are 75 female employees in the age range 16-45.

- 2.7 Enhancement of maternity benefits is a key recruitment and retention aid for female employees between the ages of 16 and 45. Enhancing maternity benefits is also considered to be a mark of an employer concerned with closing the gender pay gap and retaining its female employees.
- 2.8 The Strategic Leadership Team has recently reviewed and approved the proposed changes to maternity provisions, and increases to current maternity/adoption payments as set under Option 2, subject to agreement by the Human Resources Committee.

3. FINANCIAL IMPLICATIONS

- 3.1 It is difficult to accurately predict the cost of increasing occupational maternity/adoption payments as this will vary on the numbers taking maternity/adoption leave, their service length, their pay level and the length of the maternity/adoption absence.
- 3.2 The table below uses indicative costs for a competent firefighter taking 12 months' maternity/adoption leave. The figures reflect gross pay and are off-set by statutory payments:

	OMP/OAP	Difference
Option 1 (no change)	4132.75	
Option 2	11663.60	7530.85
Option 3	21377.72	17244.97

- 3.3 This does not include any additional costs associated with providing cover during maternity/adoption leave which would increase if this could not be off-set due to increased maternity/adoption payments.
- 3.4 There is no budgetary provision made for maternity or adoption payments, and therefore any associated salary costs would be an overspend on the existing salary budget.

4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

- 4.1 The Service already offers enhanced maternity pay and leave arrangements through its Occupational Maternity Scheme.
- 4.2 It is generally accepted that enhancing maternity/adoption benefits can be a factor in attracting and retaining women as employees, and is seen as an indicator of a good employer. Given the lack of women in operational and senior roles, and the Service's commitment to increasing this figure, there is a case for improving the current maternity/adoption offer as part of our wider

inclusion strategy and a measure for improving our gender pay gap (currently 7.7% mean average, 6.3% median).

- 4.3 The proposal to consider enhancing maternity/adoption pay will undoubtedly lead to increased employment costs for the Service. However, the question is whether the unquantifiable “cost” of not doing so, which may be to convey a perceived lack of support for women in the workplace which could impact on recruitment and retention of female employees, outweighs this cost. It should be borne in mind that an average of three employees have taken maternity or adoption leave each year since 2016.

5. EQUALITIES IMPLICATIONS

An equality impact assessment has been undertaken and shows that any of the proposed changes which the Service may approve would have a positive impact for female employees.

6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

7. LEGAL IMPLICATIONS

There are no legal implications arising from this report.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1 If the Service chooses not to implement the proposals, this may impact upon the future recruitment or retention female employees. Particularly in view of the fact that two local FRSs offer significantly enhanced maternity benefits. However, retention of the current provisions is in line with both statutory regulations and national conditions of service and therefore could not be challenged on a legal basis.
- 8.2 If the Service adopts the proposals, particularly in relation to enhanced maternity/adoption pay, then there may be a higher likelihood of challenge from male employees seeking equal treatment i.e. in relation to shared parental pay. However, recent outcomes from claims through the employment tribunal have not been successful in claiming parity of treatment with maternity provisions.

9. COLLABORATION IMPLICATIONS

There are no collaboration implications.

10. RECOMMENDATIONS

It is recommended that Members:

- 10.1 Support the changes to maternity provisions set out at Paragraph 2.2.
- 10.2 Either
 - (a) Maintain the existing occupational maternity/adoption pay provisions (Option1), or
 - (b) Approve the enhancement to occupational maternity/adoption pay to extend the paid leave period to 26 weeks' full pay, followed by 13 weeks' SMP/SAP with effect from 1 April 2020 (Option 2), or
 - (c) Approve the enhancement to occupational maternity/adoption pay to extend the paid leave period to 39 weeks and half pay for 13 weeks, taking paid entitlement to the full maternity leave period of 52 weeks (Option 3).

11. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)

None.

John Buckley
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