

Maternity Leave Policy

Report of the Chief Fire Officer

For further information about this report please contact Alan Taylor, Chief Fire Officer, on 01743 260225 or Wendy Edwards, Human Resources Officer, on 01743 260292.

1 Purpose of Report

This report is to inform the Human Resources (HR) Committee of the current entitlements offered by Shropshire Fire and Rescue Service (SFRS) regarding maternity leave and the current union negotiations regarding proposals for enhancement to the existing policy.

2 Recommendations

The Committee is asked to:

- a) Agree that the current revised Brigade Order No.5, Part 3, Maternity Leave remains the same, or
- b) Consider in turn, inclusion of each of the proposals at 1 – 6 as set out in Section 5 of the report.

3 Background

Brigade Order No. 5 Part 3 Maternity Leave has currently been reviewed to incorporate new changes to employment law. Shropshire Fire and Rescue Service's policy offers enhanced benefits regarding Maternity Leave as well as those required by law, e.g. although not necessarily paid there is an entitlement for an employee to take 52 weeks leave regardless of service and also an entitlement to return to the same job in which an individual was employed prior to pregnancy when returning from 26 weeks Ordinary Maternity Leave.

The revised policy has been distributed for negotiation to UNISON, Fire Brigades Union (FBU), Fire Officers Association (FOA) and the Retained Firefighters Union (RFU) for comments. UNISON, FOA and the FBU have collectively raised concerns regarding the current policy and have entered into negotiation regarding enhancements to improve on the current benefits already provided by SFRS.

4 Recruitment and retention of female employees

Both nationally and locally the issues of equality and diversity in the fire and rescue service have high prominence. Shropshire Fire and Rescue Service are, and have always been, involved in actively encouraging women to join the Fire Service. The Equality and Diversity team are implementing positive action processes to encourage and deliver a more gender balanced workforce. An enhanced maternity policy may add to and strengthen the recruitment processes as part of an overall recruitment and retention strategy.

5 Union Proposed Changes to SFRS Maternity Policy

1. Exercise of Right to Return to Work (Page 7 of SFRS policy)

Current employment law advises that an employee should be required to give 8 weeks written notice of the date that they intend to return to work if this is before the end of Ordinary Maternity leave i.e. before the end of the 26 weeks entitlement.

SFRS Current Policy states:

Specific notification of the return date is only required when it is before the end of the Ordinary Maternity Leave period. The employee must then give 8 weeks written notice of the date she intends to return to work.

UNISON / FOA/ FBU recommend:

A family friendly employer should not need 8 weeks notice to reorganise so that an employee can return to work. The Unions recommend that the provision as stated in the National Joint Council (NJC) green book terms and conditions (NJC Circular 5/07) is retained.

“An employee shall notify the authority in writing if requested, as least 21 days before the day on which she proposes to return if this is before the end of the maternity leave period”.

Recommendation

In our opinion this is a reasonable and workable proposal

2. Relationships with sickness / annual leave (Page 7 SFRS policy)

If an employee falls ill with a pregnancy related illness in the 4 weeks prior to childbirth then maternity leave will automatically begin. This is advised as employment best practice. It is unwise to generalise about pregnancy related illnesses and this should be treated with care and the requirement for a woman to commence her maternity leave allows the employer to monitor and minimise possible unknown or unforeseen risks to the unborn child.

SFRS Current Policy states:

If an employee is absent for a pregnancy related reason in the 4 weeks prior to the estimated date of birth of their child then her maternity leave will automatically begin on her first day of absence.

UNISON / FOA/ FBU recommend:

While the Service is legally entitled to require an employee to commence maternity leave automatically, they do not have to. It is unfair that an employee's maternity plans should be disrupted because of a short illness. This stipulation could also be disruptive to the employer if an employee has to automatically start maternity leave before planned. The Unions recommend that an employee does not start maternity leave until they choose to do so and that they would be entitled to paid sick leave until the planned start of their maternity leave.

Recommendation

In our opinion it would be advisable that employees are aware of the 4 week trigger point but to add a clause that states each individual's case would be treated based on the employee's own GP advice and our Occupational Health advice and therefore discretionary of the Brigade to either enforce or allow an individual to remain at work based on risk to the employee's health and that of their unborn child.

3. Qualifying period for Statutory Maternity Pay and Contractual Pay (Page 5 SFRS policy)

For an employee to qualify for statutory maternity pay, as directed by employment law, they must have 26 weeks continuous service at the end of the 15th week before they are due to give birth. Which in effect equates to 12 weeks service before they become pregnant.

SFRS Current policy states:

An employee's entitlement to Maternity Pay is dependent upon their length of service. If an employee has less than 26 weeks service by the end of the 15th week before the estimated birth of their child they are not entitled to pay but can claim Maternity Allowance, which will be paid by the benefit agency.

UNISON / FOA/ FBU recommend:

Maternity and parental rights should be seen as measures to protect and promote the health and safety and welfare of working parents and their children. As the labour market has changed there are an increasing number of agency and temporary workers (often women and low paid) and they may never build up the amount of service necessary to claim these maternity provisions. For these reasons it is important that contractual maternity schemes are open to workers from day one. All employees should qualify from day one of their employment.

Recommendation:

In our opinion the requirement for 26 weeks service, as advised by employment law, should stand. As an employer SFRS vacancies are offered on permanent or fixed term contracts and would therefore allow an individual to build up this qualifying period.

4. Contractual Pay (page 5 SFRS policy)

As directed by employment law the minimum requirement for statutory payment of maternity pay is 6 weeks at 90% of earnings and 33 weeks at statutory maternity pay of £117.18 per week (2008/09).

SFRS Current Policy states:

Entitled to 6 weeks pay at 9/10ths of their average earnings. Followed by 12 weeks at half pay plus Statutory Maternity pay (unless the total exceeds full pay) and then 21 weeks at Statutory Maternity Pay.

UNISON / FOA/ FBU recommend:

Sufficient maternity pay is crucial in reducing the financial impact that pregnancy and childbirth can have on the working lives of women. They also recognise that the low level of statutory maternity pay is inadequate for people's basic needs. London Fire Brigade offer 15 weeks full pay and 24 weeks half pay and Lothian borders have a similar scheme. Many private companies and Government Departments offer enhanced Maternity pay. Asda offer 26 weeks on full pay with no qualifying period needed. NHS offer full pay for the first 8 weeks and half pay for the next 18 weeks followed by 13 weeks SMP. The current Fire Brigades Union have published a best practice document for FBU officials regarding the development and negotiation of family friendly policies within the UK Fire and Rescue Service. This states that all employees regardless of length of service shall be entitled to 39 weeks maternity leave at full pay followed by 13 weeks at half pay.

Recommendation:

As previously advised there have been 10 pregnant employees over the past 10 years, however, the implementation of this policy and one of its desired intentions i.e. to attract and retained females in the service, may increase this average figure of 1 per year and therefore

costs would be likely to increase over future years. Outlined below are 5 Options A-E, based on both an average non uniformed support staff salary of Grade 7 and a Wholetime Firefighter. Option A is based on current costs. Option B is based on maximum benefit entitlements of 39 weeks at full pay and 13 weeks at half pay. Options C to E are based on variations of the above ranging from 75% of benefits to 50% of maximum benefits.

	Grade 7	Firefighter
Salary plus on costs	28,440	36,616

Option A: Current Maternity Policy Entitlement		
6 weeks at 90% pay +	2,953	3,802
6 weeks SMP – limited to make up full salary	329	422
12 weeks at 50% pay +	3,282	4,225
12 weeks SMP	1,406	1,406
21 weeks at SMP	2,461	2,461
Total	10,431	12,316
39 weeks SMP refund to SFRS	-4,570	-4,570
Option A: Total cost to SFRS	5,861	7,746

Option B: Maximum Maternity Entitlement		
39 weeks at 100% pay	21,330	27,462
13 weeks at 50% pay	3,555	4,577
Total	24,885	32,039
39 weeks SMP refund to SFRS	-4,570	-4,570
Option B: Total cost to SFRS	20,315	27,469
Difference in cost compared to current policy	14,454	19,723

Option C:		
20 weeks at 100% pay	10,938	14,083
6 weeks at 50% pay +	1,641	2,112
6 weeks at SMP	703	703
13 weeks at SMP	1,523	1,523
Total	14,805	18,421
39 weeks SMP refund to SFRS	-4,570	-4,570
Option C: Total cost to SFRS	10,235	13,851
Difference in cost compared to current policy	4,374	6,105

Option D:		
26 weeks at 100% pay	14,222	18,304
6 weeks at 50% pay +	1,641	2,112
6 weeks at SMP	703	703
7 weeks at SMP	820	820
Total	17,386	21,939
39 weeks SMP refund to SFRS	-4,570	-4,570
Option D: Total cost to SFRS	12,816	17,369
Difference in cost compared to current policy	6,955	9,623

Option E:		
30 weeks at 100% pay	16,408	21,125
9 weeks at 50% pay +	2,461	3,169
9 weeks at SMP	1,055	1,055
Total	19,924	25,349
39 weeks SMP refund to SFRS	-4,570	-4,570
Option E: Total cost to SFRS	15,354	20,779
Difference in cost compared to current policy	9,493	13,032

In our opinion enhancements to the current policy would strengthen our recruitment strategy to attract females to the service to enable us to deliver a more gender balanced workforce and we would propose to recommend Option D.

5. Repayment of Contractual Pay (page 6 SFRS policy)

Statutory Maternity Pay is a non refundable payment, however SFRS can require an employee to return contractual pay.

SFRS Current Policy states:

Payments made during maternity leave will be paid on the understanding that the employee will return to Shropshire Fire and Rescue Service employment for a period of at least 3 months. (Sick leave taken immediately after the completion of maternity leave does not qualify for this purpose). Under this agreement written notification of intention to return is required for those employees with over one year's service. In the event of the employee not returning to work, she will refund all monies paid. Payments made to an employee by way of SMP are not refundable.

UNISON / FOA/ FBU recommend:

Making a woman repay maternity pay if she does not return to work at the end of her maternity leave serves no real purpose. This should be seen as part of conditions of service and recognition of work already done. Women can be pressurised into returning to work for a short period of time for financial reasons when it is better for them not to do

so. It also discriminates against workers on fixed term contracts, whose contracts would have expired by the end of maternity leave and would not be able to return to work.

Recommendation:

If the maternity enhancements are agreed then, in our opinion, it would not be unreasonable for an employee to be required to re-pay a proportion of the amount e.g. 50% and this must be made clear within the policy. It would not be accurate to state that this is payment for work previously carried out as employees receive a monthly salary.

6. Premature Birth (page 9 SFRS policy)

SFRS Current Policy states:

The Brigade will consider an extension of maternity leave taking account of each case on its merits.

UNISON / FOA/ FBU recommend:

If babies are born prematurely (4 weeks earlier or more) then they take longer to develop and often cannot be left when the usual maternity period is over. This can also cause difficulties if babies are kept in hospital for some time, so that much of the maternity leave has been used up before the child is brought home.

Consideration should be given for the contractual maternity scheme to start once the baby has come home, and for the period between the birth and the start of maternity leave to be treated as paid compassionate leave. Alternatively, an extra week of maternity leave for every week that the baby is born prematurely should be given.

Recommendation:

By law statutory maternity pay is payable upon the birth of a child. In our opinion we are required to commence payment of this. It would not be unreasonable to increase the leave period of an individual but this would require co-operation on behalf of the employee to keep SFRS fully informed of their individual circumstances during this time.

6 Policy Group's view

These proposals were considered by Policy Group on 10 February 2009 and they were supportive of the recommendations set out at 5 above subject to the caveats set out in the "Financial Implications" section below.

7 Other Fire and Rescue Service Policy

It is understood that other Fire and Rescue Services are introducing a revised policy, covering Maternity, Paternity and Adoption. These policies have been developed in collaboration with representative bodies and staff and afford employees significantly enhanced benefits and flexibility, aimed at making the Fire and Rescue Service an 'employer of choice for women' and thus enhance diversity profiles.

8 Financial Implications

The main financial implications would arise from any decision to increase contractual pay, and the options are set out above. It is difficult to quantify the implications. Within Shropshire Fire and Rescue Service there have been 10 pregnant employees over the past 10 years which equates to an average of 1 per year. There have been 3 Wholtime Firefighters and 7 Non-uniformed support staff.

The extra costs to SFRS would be as indicated in the cost analysis table above i.e. no additional cost if the current policy continued, up to a maximum cost of £20,000 if Option B was chosen and a firefighter was concerned. What cannot be predicted is that if the proposals were accepted there may be an increase on the current average of 1 female per year.

If the Committee decided to recommend a change to the current arrangements, the Fire Authority would need to consider how to fund the extra cost, either by virement from an existing budget or by funding the cost from reserves. If the latter course was agreed money would be available for one year only, and this would mean committing future years' budgets for growth. Given that the Fire Authority are currently predicting a deficit in 2010/11 and later years, they may wish to reconsider the policy along with other potential growth items when putting together the next year's budget.

9 Legal Comment

The Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2008 provide employees whose children were born on or after 5 October 2008, with the same terms and conditions during Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML). The recommendations of the Maternity Leave policy incorporate all relevant legislation and statutory entitlement with regard to maternity leave and pay.

10 Equality Impact Assessment

An Initial Equality Impact Assessment has been completed and is attached to this report.

11 Appendices

Appendix 1

Brigade Order Human Resources No. 5, Part 3, Maternity Leave

Appendix 2

Fire Brigades Union Negotiating Maternity, Paternity and Adoption Rights

12 Background Papers

There are no background papers associated with this report.

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	*
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*



Directorate	HR	Department/ Section	HR Dept
Name of officers completing (minimum of 2)	Wendy Edwards Suzanne Levine	Job title	HR Officer
Name of Policy/Service/Activity to be assessed	Maternity Policy	Date of assessment	1 February 2009
New or existing policy	N / E Existing		

1) Briefly describe the aims, objectives and purpose of the policy/service/activity (referred to as policy in document) and also consider the following:

- What are the key performance indicators?
- Who is intended to benefit or be affected by it? (is this positive or negative)
- What outcomes do you want to achieve from this policy?

The policy is designed to give guidance and details on the provisions and conditions of service relating to maternity leave and entitlements.
This policy benefits all employees of Shropshire Fire and Rescue Service.

The policy has a possible affect on the organisation in terms of the absence period of the employee concerned and potentially the community in terms of the affect on service delivery.

1 a) Who implements this policy?

HR Manager and all Line Managers

<p>2) How does your current policy meet the needs around age, disability, race, religion/belief, gender, sexual orientation and caring responsibilities?</p> <p>Are there any obvious barriers to accessing the service? E.g. physical or other.</p>	<p>The policy is non discriminatory and provides the same entitlement to all female employees. Employee's needs are also considered on an individual basis. Could prove discriminatory based on gender regarding provisions for adoption leave. Adoption leave policy does not give provision for such enhancements.</p> <p>SFRS employees who have a pregnant partner. Consideration of operational resilience for those needing time off for ante natal appointments etc.</p>
<p>2a) Where do you think improvements could be made?</p>	<p>This is a current update of the previous policy and incorporates identified improvements such as: Statutory legislation Uniform issue Childcare vouchers</p>
<p>2b) Have issues of equality been identified in this area of service</p>	<p>Issues regarding provision of uniform for pregnant employees. This has been resolved and incorporated</p>

delivery by SFRS?	into this policy.		
<p>3) Have we had any specific feedback or complaints on this area?</p> <p>Is there evidence that this has come from any of these specific groups: race, gender, disability, religion/belief, age, sexual orientation, caring responsibilities?</p>	<p>Yes related to 2b above.</p> <p>Gender specific. This has been resolved and discussed with employees on an individual basis.</p>		
3a) Do we have any feedback from managers or frontline staff on this policy?	No. Advice and guidance is given to Line Managers.		
3b) Is there any feedback from voluntary/community organisations?	No		
3c) Is there any research / models of practice that may inform SFRS view?	<p>Models of practice: Employment law & current legislation. CIPD / ACAS / EEF.</p> <p>Research: Other regional Fire Service Policies. The FBU negotiating maternity, paternity and adoption rights developed by FBU National Women's committee.</p>		
<p>4) Detail the Actions / Improvement areas you have identified, or the need for further research. (These must be put onto the Action and Improvements Form FB XX for consideration by Steering Group)</p> <p>If you have found considerable actions or research this will require you to proceed to a full assessment.</p>	Identified improvement areas have been incorporated into this policy.		
5) Should the policy now proceed to a full impact assessment?	Y	N NO	Please detail

I am satisfied that this policy has been successfully impact assessed. I understand the Impact Assessment of this policy is a statutory obligation and that, as owners of this policy, we take responsibility for the completion and quality of this process.

Line Manager		Date	
Please note that this impact assessment will be scrutinised by the Equality and Diversity Officer.			