

ANGUS COUNCIL

PERSONNEL AND PROPERTY SERVICES COMMITTEE - 1 FEBRUARY 2000

REPORT BY DIRECTOR OF PERSONNEL

FAIRNESS AT WORK - EMPLOYMENT RELATIONS ACT 1999  
IMPLICATIONS FOR ANGUS COUNCIL

**ABSTRACT**

This report advises of provisions in the Employment Relations Act 1999 which came into force on 15 December 1999 and which introduced new minimum statutory entitlements for Maternity Leave, Parental Leave and Time Off for Dependants. Consideration is also given to their impact on certain contractual conditions of service currently enjoyed by employees of Angus Council.

**1 RECOMMENDATION**

The Committee note and approve the terms of this report.

**2 SUMMARY OF NEW PROVISIONS AND IMPLICATIONS FOR ANGUS COUNCIL**

In summary, the **Maternity Leave** regulations which apply to women whose expected week of childbirth falls on or after 30 April 2000 -

- increase Ordinary Maternity Leave from 14 weeks to 18 weeks,
- reduce the qualifying period for Additional Maternity Leave from 2 years to 1 year, which means that mothers who qualify will be able to extend their maternity leave until 29 weeks after the birth,

*The Committee is asked to note that the new statutory entitlements are either equal to or less than the contractual rights currently enjoyed by employees and therefore no action is required by the Council other than to update advisory notes which make reference to the previous statutory entitlements.*

**Parental Leave** is a new right to take **unpaid** time off work to look after a child or make arrangements for the child's welfare.

In summary, the regulations -

- apply to employees who have completed 1 year's continuous service,
- apply to parents of children born after 15 December 1999 and under 5 years of age,
- extend the age limit for disabled children to under 18 years of age,
- include special arrangements for parents who adopt children,
- impose a maximum entitlement of 13 weeks Parental Leave for **each** child,
- require employees to demonstrate parental responsibility,
- allow employers certain rights to postpone requests for Parental Leave,
- suggest that a Parental Leave scheme should be agreed locally, and

- provide for a **Fall Back Scheme** to apply where no agreed scheme has been introduced.

The Fall Back Scheme states that -

- except in the case of disabled children, leave must be taken in blocks or multiples of one week
- leave is limited to 4 weeks per child in any year
- the employee must give 21 days notice
- the employer can postpone leave for up to 6 months (some limitations)

*It is proposed that the Parental Leave Fall Back Scheme be adopted given the short notice of the finalised Regulations and to allow time for the development of advice and guidance for managers and the preparation of effective administrative procedures.*

Council employees already benefit from a nationally negotiated condition of service, 'Maternity Support Leave' which includes 5 days **paid** leave to assist the mother at or around the time of the birth. This is currently available to an employee who is the child's father, mother's partner or a person nominated as carer by the mother.

*The Committee is asked to note that the new Parental Leave provisions are **in addition** to this Maternity Support Leave condition.*

**Time off for Dependants** is a new right granted to employees from 15 December 1999. All employees, regardless of service with their employer, will have the right to take a reasonable period of **unpaid** time off to deal with an emergency involving a **dependant** and consequently not be dismissed or suffer any other detriment.

In summary, the regulations allow for an employee to deal with an unexpected or sudden problem and make necessary longer term arrangements, for example -

- if a dependant falls ill, has an accident or has been assaulted,
- when a partner is having a baby,
- to make longer term care arrangements for a dependant who is ill or injured,
- to deal with the death of a dependant, i.e. to make funeral arrangements or to attend the funeral,
- to deal with an unexpected disruption or breakdown in care arrangements for a dependant, e.g. when the childminder fails to turn up,
- to deal with an incident involving the child during school hours, e.g. if the child has been suspended.

Those classed as 'dependants', for the purposes of this time off, vary slightly depending on the reason, however, a dependant is generally regarded as the employee's parent, child, spouse, or a cohabitee, where cohabitee is described in the Act as "a person who lives in the same household as the employee, otherwise by reason of being his employee, tenant, lodger or boarder".

The Council has two conditions of service which relate to the above.

Firstly, 'Leave of Absence - Funeral'. Under this condition an employee is entitled to a maximum of 3 days **paid** leave where he/she has responsibility for funeral arrangements for a dependant. Where the employee is only attending a funeral they are nevertheless entitled to time off but managers have discretion to allow up to a maximum of 3 days **paid** leave.

*This is an enhancement to, and is not affected by, the new statutory entitlement.*

Secondly, 'Leave of Absence - Other Reasons'. Under this condition managers have discretion to grant **paid or unpaid** leave to an employee for a number of reasons including emergencies. Emergencies are not defined but generally managers have applied this discretion fairly and realistically, taking individual circumstances into account.

*With regard to this particular condition the introduction of the statutory entitlement removes any discretionary aspect relating an employees **right to time off for dependants**. However, discretion does remain in terms of whether leave should be paid or unpaid, and whether time off should be granted for other reasons, not involving dependants.*

*While employers are being encouraged to prepare formal Time Off for Dependent Policies, given the Council's present policies in this regard as outlined above it is suggested that we wait to see the implications of the New Statutory provisions in practice prior to considering whether any changes to our existing policies are required.*

### **3 CONSULTATION**

The Chief Officers' Management Team have been consulted on the terms of this report.

### **4 CONCLUSION**

It is quite clear that some employees, in certain circumstances, could benefit from more than one entitlement at the same point in time. For example, the husband of a new mother could request time off under Maternity Support Leave, Parental Leave or the Time Off for Dependants provisions. It is important therefore that employees and managers receive advice and guidance to ensure that they are fully aware of the statutory entitlement and the Council's present conditions. Staff from the Personnel Department are currently drafting Guidelines which will be made available to managers and employees in all departments.

**Janice Torbet**  
**Director of Personnel**  
**December 1999**  
**FJK**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.