

**KEY DECISION: NO**

**REPORT NO. PEO2505**

**NEW NEONATAL CARE POLICY (INCLUDED IN THE SPECIAL LEAVE POLICIES)**

**SUMMARY AND RECOMMENDATIONS:**

This report seeks Cabinet's approval for the implementation of a new Neonatal Care Policy within the Special Leave Policies. This reflects a recent legislative change, introducing the Neonatal Care (Leave and Pay) Act 2023, that came into effect on the 6 April 2025.

This new law introduced the right for parents to have additional time off to be with a baby who is receiving neonatal care.

It is recommended that Cabinet approve the proposed New Neonatal Care Policy as included in the Special Leave Policies as set out at Appendix A of the report.

**1. INTRODUCTION**

- 1.1. The Neonatal Care (Leave and Pay) Act came into effect on 6 April 2025. This Act places a legal duty for employers to provide time off to allow parents to be with a baby who is receiving neonatal care.
- 1.2 Neonatal care is defined as medical care received in a hospital, care outside the hospital after discharge but under the direction of a consultant (including monitoring by and visits from healthcare professionals arranged by the hospital) and palliative or end-of-life care.

**2. NEONATAL CARE POLICY**

- 2.1. The new Neonatal Care Policy specifically outlines the following:

- Who is eligible
- The amount of leave allowable and when it can be taken
- The eligibility criteria for receiving Statutory Neonatal Care Pay

- 2.2 Neonatal care leave is a day one right, meaning employees are entitled to the leave regardless of their length of service. To be eligible for neonatal care leave:
- The employee must have parental responsibility
  - The baby must be born on or after 6 April 2025
  - The baby must have received at least 7 consecutive days of neonatal care within the first 28 days after birth.
- 2.3 Employees are entitled to up to 12 weeks of neonatal care leave. This is in addition to other statutory rights, such as maternity, paternity, adoption and shared parental leave.
- 2.4 To be eligible for statutory neonatal care pay, in addition to the eligibility criteria, employees must:
- Have 26 weeks continuous service with the employer by the end of the 15<sup>th</sup> week before the baby's due date
  - Earn at least the lower earnings limit.
- 2.5 Statutory Neonatal pay will either be paid at the applicable statutory rate, (as at 6<sup>th</sup> April 2025, the statutory rate is £187.18 per week) or 90% of the average weekly earnings, whichever is lower.

### **3. ALTERNATIVE OPTIONS**

- 3.1 The Council could choose to enhance the Statutory Neonatal Care Pay but this would increase the costs involved.

### **4. COUNSULTATION**

- 4.1 The new Neonatal Care Leave Policy has been discussed with Unison who have also reviewed the policy and there are no changes to make.

### **5. RISKS**

- 5.1 The purpose of the implementation of the policy is to ensure that the Council meets the statutory requirements of the act. The risks associated with not introducing would mean we are not legally compliant.

### **6. LEGAL IMPLICATIONS**

- 6.1 If an employer does not comply with the new legislation, they are breaking the Neonatal Care (Leave and Pay) Act 2023 which came into effect on 6 April 2025.

## **7. FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 If an employer does not comply with legislation then an individual could submit a tribunal claim which could result in a monetary sum being awarded. There are no resource implications associated with this policy.

## **8. EQUALITIES IMPACT IMPLICATIONS**

- 8.1 An Equalities Impact Assessment (EIA) Screening Tool was completed for this policy and there is a positive impact for Pregnancy and Maternity and for working parents.

## **9. CONCLUSIONS**

- 9.1 The implementation of the new Neonatal Care (Leave and Pay) Act 2023 will provide all employees with information and guidance on how to apply for support when required.

## **APPENDICES**

A – Special Leave Policies

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# APPENDIX A

## RUSHMOOR BOROUGH COUNCIL

### SPECIAL LEAVE POLICIES

This policy sets out the types of special leave available to staff within Rushmoor. Annual leave, flexitime, and family-friendly policies including maternity, maternity support and shared parental leave are covered elsewhere.

Rushmoor Borough Council accepts that there may be occasions when an employee needs some time off work for reasons such as child or elder care, for compassionate/bereavement reasons, or to participate in public duties or as a reservist in a defence service.

The Council will be sympathetic and reasonable to individual circumstances.

Requests for special leave should be made as early as possible, setting out the reasons for the leave and an indication as to how much time is required.

#### 1. Carers Leave

Employees are entitled to unpaid leave to give or arrange care for a 'dependant' who has:

- A physical or mental illness or injury that means they're expected to need care for more than 3 months
- A disability (as defined in the Equality Act 2010)
- Care needs because of their old age

The dependant does not have to be a family member, it can be anyone who relies on them for care.

Employees are entitled to carers leave from their first day of work.

#### How much time off is allowed?

Employees can take up to one week of leave every 12 months, they can either take a whole week off or take individual/half days to the equivalent of their working week throughout the year.

Note: if the employee needs to care for more than one person they cannot take a week of carer's leave for each dependant. They can only take one week every 12 months.

## **Requesting carers leave**

Employees are required to give their manager notice before they want the leave to start.

- If the request is for one day or half a day, the notice period must be at least 3 days
- If the request is for more than one day, the notice period must be at least twice as long as the leave requested.

## **Can time off be refused?**

The manager cannot refuse a request for carers leave however they can request that it be taken at a different time within one month, if the time off requested would cause serious disruption to services.

The manager should confirm by email with the employee within 7 days of the original request, the revised dates agreed and the reason for the delay.

## ***2. Emergency leave to care for dependants***

Employees have a statutory right to take a reasonable period of unpaid time off work to deal with an emergency involving a dependent such as:

- a dependant falls ill or has an accident
- to deal with an unexpected disruption or breakdown in care arrangements for a dependent; for example, when the childminder or nurse fails to turn up;
- to deal with an incident involving the employee's child during school hours; for example, if the child is being suspended from school.

### ***Who counts as a dependant?***

A dependent is someone who depends on the employee for care. A dependent could be a spouse, partner, child, parent, or someone else, for example an elderly neighbour.

### ***Is emergency leave paid?***

Emergency leave is unpaid, so employees may be able to use flexitime, annual leave or time-off in lieu (TOIL).

### ***How much time off is allowed?***

There is no set limit to the amount of time off which can be taken. In most cases, this will be anything from a few hours to one or two days, but longer periods may be agreed dependent on the needs of the service.

### ***What happens where more than a few days off are needed, or it is known in advance that a problem is going to arise?***

Emergency leave for the care of dependents is intended to cover unforeseen matters. Where a problem is anticipated, the employee should take annual leave, flexitime/ TOIL or can apply for unpaid leave (see section 10 Extended Unpaid Leave). If the reason relates to a child, parental leave may apply (see Parental Leave policy).

### ***3. Compassionate Leave***

Paid compassionate leave may be granted by the line manager to give employees the time they need to deal with traumatic or life changing events or following the death of someone close to them such as a close family member.

#### **How much paid leave is allowed?**

Up to five working days (pro-rata for part timers working less than 5 days per week) may be granted by the line manager, with a further two days at the discretion of the relevant Head of Service.

In the event of bereavement of a close family member (partner, adult child parent, grandparent, sibling, guardian), one day may be granted to attend the funeral in addition to any compassionate leave that is granted.

In the case of bereavement of other persons (member of partner's family, friend, colleague etc) unpaid leave of up to one day will be allowed depending on circumstances and location of funeral.

The Director has discretion to extend paid compassionate/bereavement leave for longer periods, according to the needs of the employee.

### ***4. Parental Bereavement Leave***

The Council is committed to supporting bereaved parents through their grief by ensuring they can take parental bereavement leave.

This applies to employees who suffer the loss of a child under the age of 18 including parents who suffer a stillbirth after 24 weeks of pregnancy. It applies in

all circumstances where there is parental responsibility, so extends to partners of the child's parent and adoptive parents.

Employees can take two weeks of parental bereavement leave, as:

- a single block of two weeks; or
- two separate blocks of one week at different times.

The leave can be taken within the 56 weeks after the bereavement. An employee might choose, for example, to take it at a particularly difficult time such as the child's birthday.

To take leave more than 56 days after the bereavement, employees should give the line manager at least one week's notice. No notice is required prior to 56 days.

The council recognises the need to provide bereaved parents with as much support as possible and will continue to pay normal pay during this leave.

The above is the statutory minimum entitlement for leave. The council will also want to ensure employees are supported on an individual basis, according to the needs of the family.

## **5. Leave for Public Duties**

An employee is able to take a reasonable amount of time off work to attend to public duties.

If an employee is appointed to a position which gives him/her a statutory entitlement to time off work to attend to public duties, the employee must notify their manager without delay and discuss how much time is expected to be required. If at all possible, time off to attend to public duties should be taken outside of normal working time.

### **What are Public Duties?**

Public duties cover such duties as those covered by the Employment Rights Act of 1996, for example an employee who is a Justice of the Peace, Special Constable or a School Governor.

### **Will time off be paid?**

The Act does not provide a legal entitlement for the time off to be paid, but Rushmoor Borough Council will allow up to 5 days per annum paid leave (pro-rated for part timers) to attend to Public Duties – subject to line manager approval. Written evidence should be provided of the requirement to attend.

Any additional time may be granted if considered to be 'reasonable' but should be taken as unpaid leave, annual leave, flexi-time or time off in lieu with prior agreement of the line manager.

Paid time off work is part of normal remuneration and therefore subject to PAYE tax and National Insurance deductions in the normal way. Agreed unpaid time off should be notified to Payroll by the line manager so that the appropriate deductions can be made.

### **Can time off be refused?**

If total time off for public duties is considered to be unreasonable, the line manager may refuse time off. In deciding what is reasonable the time taken to perform these duties, the amount of time taken off and the effect on the employee's performance will be considered.

### **6. *Jury Service***

All men and women between the ages of 18-70 may be required to attend court for jury service. Normal pay will continue during jury service but any allowances paid by the court (apart from travelling or subsistence) should be refunded to Rushmoor Borough Council.

### **7. *Witness at Court***

If an employee is required to attend court as a witness, normal pay will continue but evidence of attendance may be requested by the line manager. Additionally, any allowances paid by the court (apart from travelling and subsistence allowances) should be refunded to Rushmoor Borough Council.

### **8. *Service in non-regular forces***

Employees that are Voluntary Reservists in a defence service will be granted up to two weeks additional paid leave each year in order to attend annual training camp. Evidence of the requirement to attend should be produced. Any other training required should be taken out of the employee's annual leave, flexitime or time off in lieu. It will not be necessary for any payments made to the employee for their service to be reimbursed to Rushmoor Borough Council.

Time required by members of staff for public duties in relation to duties as Special Fire Officers or Special Constables will be considered on their merits by their Head of Service.

### **9. *Volunteering leave***

Employees can take up to 2 days (pro-rata for part-time staff) paid leave per year to volunteer in the borough. For further details see 'Support for Volunteering' in the Staff Handbook/Working for Rushmoor/Work Policies and Procedures on Inform.

### **10. Extended unpaid leave**

Occasionally employees may require a longer period of leave that is not covered by any of the policies above. The circumstances in which this may be considered would be, for example, to look after an unwell child or elderly dependent.

Any such request should be made to the line manager who will consider it in the light of the circumstances and the Council's ability to cover the employee's absence.

### **11. Neonatal Care Leave**

Neonatal care leave is a day one right, meaning employees are entitled to it regardless of their length of service. To be eligible for neonatal care leave:

- The employee must have parental responsibility.
- The baby must be born on or after 6 April 2025.
- The baby must have received at least 7 consecutive days of neonatal care within the first 28 days after birth.

Neonatal care is defined as medical care received in a hospital, care outside the hospital after discharge but under the direction of a consultant (including monitoring by and visits from healthcare professionals arranged by the hospital), and palliative or end-of-life care.

#### **How much neonatal care leave is allowed?**

Employees are entitled to up to 12 weeks of neonatal care leave. This is in addition to other statutory rights, such as maternity, paternity, adoption, and shared parental leave. The leave must be taken within 68 weeks of the baby's birth.

Neonatal Care Leave is categorised into two tiers:

- **Tier 1:** Leave that begins when the employee's child is receiving neonatal care and ends on the 7th day after the baby ceases to receive neonatal care. This means leave can be taken while the baby is still in neonatal care or within the first week post-discharge.
- **Tier 2:** Leave that begins after Tier 1 ends (more than 7 days after the child has stopped receiving neonatal care) and ends 68 weeks after the baby's

birth. This means leave can be taken from the second week post-discharge up to 68 weeks after birth.

Notice requirements - the required length of notice differs depending on when the leave is taken.

- For each week of Tier 1 period leave, notice must be given before the employee is due to start work on the first day of absence in that week, unless it is not reasonably practicable, in which case the employee must give as much notice as soon as it is reasonably practicable.
- For a single week of Tier 2 period leave, notice must be given no later than 15 days before the first day of the Neonatal Care Leave to which the notice relates. For two or more consecutive weeks of Tier 2 leave, notice must be given no later than 28 days before the first day of the neonatal care leave to which the notice relates.

### **Is Neonatal Care leave paid?**

For statutory neonatal care pay (SNCP), in addition to the eligibility criteria, employees must:

- Have 26 weeks' continuous service with the employer by the end of the 15th week before the baby's due date.
- Earn at least the lower earnings limit.

Neonatal Pay will be at the statutory neonatal pay rate, or 90% of the employee's average weekly earnings, whichever is lower. As of 6 April 2025, the statutory rate of pay will be £187.18 per week.

Employees must submit a request for Neonatal Pay to their employer within 28 days of starting Neonatal Leave.

### ***12. Impact on Pension Scheme of unpaid leave***

Where employees take unpaid leave of longer than one week and belong to the Local Government Pension Scheme (LGPS) they may wish to continue pension contributions during this period.

The employee should notify the People Team in advance, who will arrange for the employee to pay s/he would have paid had they not been on unpaid leave. Any such payments will be based on normal salary and may be repaid in either a lump sum or spread over an agreed period of time on return.

If the employee does not wish to continue pension contributions during the unpaid leave there is no need to notify HR. Contributions will be frozen in the Superannuation Fund until the return date.

For further information please contact Hampshire Pension Services <http://www3.hants.gov.uk/pensions> or take independent advice.

### ***13. Requests for leave that are declined***

Should an employee feel a request special leave has been unreasonably refused, s/he should speak with the Head of Service or Executive Director in the first instance.

## RUSHMOOR BOROUGH COUNCIL

### ‘QUICK GUIDE’ SUMMARY TABLE OF SPECIAL LEAVE ENTITLEMENTS

<b>Type of leave</b>	<b>Statutory</b>	<b>Paid / unpaid</b>	<b>Number of days</b>
Carers Leave	Yes	Unpaid	Up to one week every 12 months
Dependants	Yes	Unpaid	Usually up to 2 days
Compassionate/Bereavement	No	Paid	Up to 5 days granted by line manager, further 2 days agreed by HOS  Director has discretion to extend leave in exceptional circumstances  1 day's leave to attend a funeral following the death of a close relative
Parental Bereavement leave	Yes	Paid	Up to 2 weeks
Public duties (e.g. school Governor, JP)	Yes	Paid	Up to 5 days per academic year
Jury service or attendance at court as a witness	Yes	Paid	As required by the court
Non-Regular Forces	No	Paid for Annual Camp	Up to 2 weeks
Volunteering	No	Paid	Up to 2 days
Extended unpaid leave	No	No	Dependent on circumstances
Neonatal Leave	Yes	Paid	Up to 12 weeks

### Document control information

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