

EQUALITY IMPACT ASSESSMENT FORM

December 2014

THE COUNCIL'S EQUALITIES STATEMENT

This Council recognises that people have different needs, requirements and goals and we will work actively against all forms of discrimination by promoting good relations and mutual respect within and between our communities, residents, elected members, job applicants and workforce.

We will also work to create equal access for everyone to our services, irrespective of ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religious beliefs or non-belief, use of Welsh language, BSL or other languages, nationality, responsibility for any dependents or any other reason which cannot be shown to be justified.

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| NAME OF NEW OR REVISED PROPOSAL* | Shared Parental Leave Policy |
| DIRECTORATE | Directorate of Corporate Services |
| SERVICE AREA | HR |
| CONTACT OFFICER | Susan Christopher |
| DATE FOR NEXT REVIEW OR REVISION | 2017 |

***Throughout this Equalities Impact Assessment Form, 'proposal' is used to refer to what is being assessed, and therefore includes policies, strategies, functions, procedures, practices, initiatives, projects and savings proposals.**

INTRODUCTION

The aim of an Equality Impact Assessment (EIA) is to ensure that Equalities issues have been consciously considered throughout the decision making processes of the work undertaken by every service area in the Council and work done at a corporate level.

The form should be used if you have identified a need for a full EIA following the screening process covered in the Equalities Implications in Committee Reports Guidance document (available on the Equalities and Welsh Language Portal on the intranet).

The EIA should highlight any areas of risk and maximise the benefits of proposals in terms of Equalities. It therefore helps to ensure that the Council has considered everyone who might be affected by the proposal.

It also helps the Council to meet its legal responsibilities under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and the Welsh Language Measure 2011. There is also a requirement under Human Rights legislation for Local Authorities to consider Human Rights in developing proposals.

The Council's work across Equalities, Welsh Language and Human Rights is covered in more detail through the Strategic Equalities Objectives and Action Plan 2012.

This approach strengthens work to promote Equalities by helping to identify and address any potential discriminatory effects before introducing something new or changing working practices, and reduces the risk of potential legal challenges.

When carrying out an EIA you should consider both the positive and negative consequences of your proposals. If a project is designed for a specific group e.g. disabled people, you also need to think about what potential effects it could have on other areas e.g. young people with a disability, BME people with a disability.

There are a number of supporting guidance documents available on the Equalities and Welsh Language Portal (the Committee report guidance mentioned above, the Consultation and Monitoring guidance) and the Council's Equalities and Welsh Language team can offer support as the EIA is being developed - the contact email is equalities@caerphilly.gov.uk.

PURPOSE OF THE PROPOSAL

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| 1 | <p>What is the proposal intended to achieve? <i>(Please give a brief description of the purpose of the new or updated proposal by way of introduction.)</i></p> <p>The policy gives employees their statutory entitlement to shared parental leave and pay as part of their terms and conditions of employment.</p> |
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| 2 | <p>Who are the service users affected by the proposal? <i>(Who will be affected by the delivery of this proposal? e.g. staff members, the public generally, or specific sections of the public i.e. youth groups, carers, road users, people using country parks, people on benefits etc.)</i></p> <p>Employees</p> |
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IMPACT ON THE PUBLIC AND STAFF

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| 3 | <p>Does the proposal ensure that everyone has an equal access to all the services available or proposed, or benefits equally from the proposed changes, or does not lose out in greater or more severe ways due to the proposals? <i>(What has been done to examine whether or not these groups have equal access to the service, or whether they need to receive the service in a different way from other people?)</i></p> <p>The policy is only applicable to employees who meet the statutory requirements (An EIA was completed by the UK Government when the statutory scheme was introduced.) Under Local Government terms and conditions of service, which are nationally agreed, there is a more beneficial system of Occupational Maternity leave and pay; shared parental leave and pay applies only when maternity leave is curtailed.</p> |
| | <p><u>Actions required</u></p> |

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| 4 | <p>What are the consequences of the above for specific groups? <i>(Has the service delivery been examined to assess if there is any indirect affect on any groups? Could the consequences of the policy or savings proposal differ dependent upon people’s disability, race, gender, sexuality, age, language, religion/belief?)</i></p> <p>The policy ensures that any employees who are parents can take leave in the first year after the birth of their child or after adoption. The policy applies to both male and female employees who have the main responsibility of caring for a child.</p> <p>While shared parental leave is designed to give both parents the opportunity to participate in caring for their child during its first year, the operation of the scheme is dependent on the mother choosing to bring her maternity leave to an end or the main adopter bringing their adoption leave to an end. In Shuter v Ford Motor Company Ltd ET/3203504/13, a male employee whose employer failed to provide enhanced additional paternity pay while providing enhanced maternity pay claimed direct and/or indirect sex discrimination. The tribunal rejected Mr Shuter's analogy with <i>Alvarez</i> when he argued that his comparator was a female employee who had given birth and taken maternity leave exceeding 20 weeks. The rationale behind this comparator was that, since the earliest point at which a woman could elect to end her maternity leave and transfer the balance to the other parent, the purpose of leave from that point was for childcare. The tribunal considered that the right to take additional paternity leave was not a free-standing right but was dependent on the mother choosing to return to work. In each case, the mother would make that decision in the light of her own personal circumstances. The Council do not therefore consider that not paying enhanced occupational shared parental pay is direct discrimination.</p> <p>However, the Council accepts that paying enhance occupational pay only to women on maternity leave and main adopters on adoption leave is a provision, criterion or practice (PCP) with which some men and women cannot access, and may be indirectly discriminatory. In <i>Shuter</i> (above), the only question for the tribunal (due to Ford conceding the other points) was whether Ford could justify its PCP, of paying women basic pay when on leave beyond 20 weeks after the birth of a child when looking after the child, as a proportionate means of achieving a legitimate aim. The tribunal accepted that Ford's aim in paying full basic pay to women on maternity leave was to recruit and retain women in its male-dominated workforce. The tribunal concluded that this aim was being successfully achieved by the enhanced maternity package, as demonstrated and supported by documentary evidence going back to 1999. The tribunal also accepted that the aim was legitimate.</p> <p>The Council has a balance of female and male employees. The enhanced occupational maternity pay has been a part of local government terms and conditions for many decades. The enhanced adoption pay is also part of nationally agreed terms and conditions. There is anecdotal evidence to suggest</p> |
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| | <p>that they enable the Council to recruit and retain female employees. In addition to this, the Council has acknowledged that it has an ageing workforce and is actively considering ways to encourage younger employees. Enhanced occupational maternity pay is also a key tool in recruitment of younger female employees.</p> <p>The cost of providing enhanced shared parental pay is considered prohibitive in light of the current austerity and savings required. The costs would also be disproportionate to the discriminatory impact as both female and male employees can access the statutory shared parental pay. The option of removing the enhanced occupational maternity and adoption pay so that all employees receive pay in line with the statutory schemes has been considered but this would involve the Council moving away from nationally agreed terms and conditions and it may mean that the Council would have difficulty recruiting younger female employees. It may also mean that the Council has difficulty retaining employees who expected to be able to access the enhanced occupational maternity pay when they joined the Council. There is also concern that there may be disruption to the Council's services if larger numbers of employees have access to generous leave schemes.</p> <p>The Council is also conscious that to allow a more generous shared parental pay scheme than other local employers may mean that the Council is subsidising shared parental pay, adoption and maternity schemes of other less generous employers.</p> |
| | <p><u>Actions required</u></p> |

INFORMATION COLLECTION

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| <p>5</p> | <p>Is full information and analysis of users of the service available? <i>(Is this service effectively engaging with all its potential users or is there higher or lower participation of uptake by one or more groups? If so, what has been done to address any difference in take up of the service? Does any savings proposals include an analysis of those affected?)</i></p> <p>It is not known at present what the take up of shared parental leave or pay may be. The policy will be reviewed to consider the implications once it has begun.</p> |
| | <p><u>Actions required</u></p> |

CONSULTATION

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| 6 | <p>What consultation has taken place? <i>(What steps have been taken to ensure that people from various groups have been consulted during the development of this proposal? Have the Council's Equalities staff been consulted? Have you referred to the Equalities Consultation and Monitoring Guidance?)</i></p> <p>Consultation has been undertaken with the Council's recognised trade unions, Senior Policy Officer (Equalities and Welsh Language), Legal and Governance, Corporate Management Team, HR Strategy Group.</p> |
| | <p><u>Actions required</u></p> |

MONITORING AND REVIEW

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| 7 | <p>How will the proposal be monitored? <i>(What monitoring process has been set up to assess the extent that the service is being used by all sections of the community, or that the savings proposals are achieving the intended outcomes with no adverse impact? Are comments or complaints systems set up to record issues by Equalities category to be able analyse responses from particular groups?)</i></p> <p>The decision on whether the statutory Shared Parental Leave Scheme is to be retained or an enhanced Shared Parental Leave Scheme is to be introduced will be reviewed one year after the introduction of the Scheme. This review will be undertaken looking at the numbers of applications for Shared Parental Leave received, feedback from other local Councils in Wales, any case law, any complaints and trade union feedback received.</p> |
| | <p><u>Actions required</u></p> |

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| <p>8</p> | <p>How will the above be evaluated? <i>(What methods will be used to ensure that the needs of all sections of the community are being met?)</i></p> <p>Review to be undertaken one year after the policy has been effective, taking account of the feedback received from the avenues identified above.</p> |
| | <p><u>Actions required</u></p> <p>Evaluation of the feedback received.</p> |
| <p>9</p> | <p>Have any support / guidance / training requirements been identified? <i>(Has the EIA or consultation process shown a need for awareness raising amongst staff, or identified the need for Equality training of some sort?)</i></p> <p>Training for HR employees in operation of the policy/legislation – undertaken on 5th March 2015.</p> <p>Guidance provided to Managers on the operation of the policy in the light of requests that they receive.</p> <p>Equalities guidance document on entitlements of parents to Shared Parental Leave and associated policies to be placed on the HR Support Portal for all employees.</p> <p>Frequently Asked Questions to be added to the HR Support Portal.</p> |
| | <p><u>Actions required</u></p> <p>Equalities guidance to be written and Frequently Asked Questions to be added to the HR Support Portal.</p> |

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| 10 | <p>Where you have identified mitigating factors in previous answers that lessen the impact on any particular group in the community, or have identified any elsewhere, please summarise them here.</p> <p>Please refer to Section 7.</p> |
| 11 | <p>What wider use will you make of this Equality Impact Assessment? <i>(What use will you make of this document i.e. as a consultation response, appendix to approval reports, publicity etc. in addition to the mandatory action shown below?)</i></p> <p>To inform any future decisions on the policy.</p> |
| | <p><u>Actions required</u></p> <ul style="list-style-type: none"> EIA, when completed, to be returned to equalities@caerphilly.gov.uk for publishing on the Council's website. |

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| Completed By: | Susan Christopher |
| Date: | 19 th March 2015 |
| Position: | Principal HR Officer |
| Name of Head of Service: | Gareth Hardacre |