



**AGENDA ITEM**

(2.1.3)

**PEOPLE & CULTURE COMMITTEE**

**PREGNANCY AND LOSS POLICY FOR EMPLOYEES**

<b>Date of meeting</b>	13/10/2021
<b>FOI Status</b>	Choose an item.
<b>If closed please indicate reason</b>	Choose an item.
<b>Prepared by</b>	Karen Wright, Assistant Director of Policy, Compliance and Governance
<b>Presented by</b>	Karen Wright, Assistant Director of Policy, Compliance and Governance
<b>Approving Executive Sponsor</b>	Executive Director for People
<b>Report purpose</b>	FOR NOTING

**Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)**

<b>Committee/Group/Individuals</b>	<b>Date</b>	<b>Outcome</b>
(Insert Name)	(DD/MM/YYYY)	Choose an item.

**ACRONYMS**

UK	United Kingdom
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**1. SITUATION/BACKGROUND**

1.1 On the 1 April <sup>2021</sup> New Zealand brought in new legislation, which gives working parents the right to three days paid leave, if they suffer a miscarriage at any time during the pregnancy or the stillbirth of their baby. The right also extends to those parents welcoming a child through adoption or surrogacy. Prior to this India was the only country in the world that gave parents the right to miscarriage leave.



- 1.2 In UK Legislation, when a baby is still born after 24 weeks of pregnancy or the child dies shortly after the birth, the mother remains entitled to their full maternity leave and pay and the father / partner with primary caring responsibility to the full paternity leave and pay. They would also be entitled to parental leave and pay, which was introduced in April 2020.
- 1.3 The above provisions are also mirrored in the Agenda for Change Terms and Conditions of Employment and the Health Board's Maternity, Paternity, Adoption and Surrogacy Policy and the NHS Wales Special Leave Policy.
- 1.4 In the UK, there are no specific statutory rights in the event that a mother suffers a miscarriage (Stillbirth, ectopic pregnancy, molar pregnancy, embryo transfer loss, termination) before 24 weeks of pregnancy.
- 1.5 The Health Board's Maternity, Paternity, Adoption and Surrogacy Policy states, when an employee has a miscarriage before the 25 week of pregnancy, this time off work should be managed as sick leave, in accordance with the Managing Attendance at Work Policy. Where the miscarriage occurs on or after the 25 week of pregnancy, the employee is entitled to their full maternity leave and pay.
- 1.6 In the above scenarios the partner would be entitled to take sick leave, due to the mental impact of the miscarriage or request emergency carers and dependent leave, to care for the mother. The NHS Wales Special Leave Policy provides, usually no more than 3 days per episode, as there is an expectation that other types of leave may be taken to extend the period of absence.
- 1.7 Despite progressive and supportive NHS terms and conditions of service and associated employment policies there is still a significant gap, in respect of the support available for employees suffering a miscarriage before 24 weeks of the pregnancy.
- 1.8 One of the reasons may be that the topic of miscarriage, ectopic, molar and termination of pregnancy are still a taboo in the workplace. Consequently, this silence and the lack of acknowledgement of the common phenomena of miscarriage and the impact on those suffering as a result, acts as a barrier and deterrent to employees, regardless of gender, reaching out to their manager to discuss the matter and ask for support at this difficult and sad time.
- 1.9 In the UK, a woman is first invited for an antenatal scan when she is 12 weeks' pregnant, and there is a tendency not to disclose the



pregnancy until after this date. Employees are not legally required to disclose their pregnancy to their employer until 15 weeks before the expected week of childbirth i.e. 25 weeks' pregnant. Therefore, female employee frequently suffer miscarriages and their manager is not aware.

- 1.10 Employees may not choose to tell their manager for a number of reasons. For example, they may not want to talk to their manager about it, they may be too upset to do so, and/or they may not want their manager to know that they are trying for a baby, for fear of being passed over for promotion etc.
- 1.11 There are many possible reasons why employees do not talk about suffering a miscarriage. However, an employer that has a policy that offers bereavement leave and pay, provides a supportive environment, and encourages employees regardless of their gender to open up and talk about miscarriage, may help to break down the miscarriage taboo. It may also provide the necessary reassurance that they can confide in, seek and receive support from their manager.
- 1.12 There are no plans to extend UK law to mirror the miscarriage rights of Indian and New Zealand citizens. However, due to this topic receiving considerable media coverage around the world recently, it is having had the impact of placing this topic higher on the agenda of many UK employers and employees.
- 1.13 Within the UK, since the legislation was introduced in New Zealand, the Co-op and Channel 4, to name but two organisations, have recently developed and implemented Pregnancy and Loss Policies, to support their employee, with this sad and often challenging life event, that occurs in as many as one in every four pregnancies.
- 1.14 Following supportive discussions with Trade Union colleagues, the Health Board is in the process of developing in partnership, a Pregnancy and Loss Policy. This policy will formalise the process and provisions available to employees that suffer a pregnancy loss, regardless of the reason. This will ensure that all employees who suffer miscarriage are treated with compassion, dignity and respect, as well as fairly and consistently by their manager.
- 1.15 The current draft Policy set outs:
  - the application process – application form;
  - the classification of the leave – bereavement;
  - the scope of the policy – to include surrogate and adoptive parents;

- how the leave will be recorded – number of days currently being discussed with trade union colleagues to ensure fairness and parity with other bereavement situations;
- the offer of paid leave provision;
- the confidentiality issues and talking to the manager about miscarriage;
- the support available on returning to work – phased return, flexible working etc.;
- the free and confidential psychological and emotional support available via the Health Board – Employee Assistance Scheme, Wellbeing Service, Mental Health First Aiders etc.;
- the contact for external bereavement charities and organisations; and
- an overview to help employees to understand bereavement, grief and loss.

## **2. SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)**

- 2.1 A sub group of the Health Board’s Workforce Policy Working Group is currently developing the Pregnancy and Loss Policy in partnership.
- 2.2 It is planned that the Workforce Policy Working Group will approve the final draft of the Pregnancy and Loss Policy in October 2021.
- 2.3 The final draft of the Pregnancy and Loss Policy will be presented to the Board for approval on the 25 November 2021. Approval of this policy will be sought via the Board, because the next meeting of the People and Culture Committee will not be held until February 2022.

## **3. KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE**

- 3.1 There are no key risks or matters relating to the development of a Pregnancy and Loss Policy requiring escalation to the Board.

## **4. IMPACT ASSESSMENT**

<b>Quality/Safety/Patient Experience implications</b>	There are no specific quality and safety implications related to the activity outlined in this report.
<b>Related Health and Care standard(s)</b>	Staff and Resources If more than one Healthcare Standard applies please list below:



<p><b>Equality Impact Assessment (EIA) completed - Please note EIAs are required for <u>all</u> new, changed or withdrawn policies and services.</b></p>	<p>No (Include further detail below)</p> <p>If yes, please provide a hyperlink to the location of the completed EIA or who it would be available from in the box below.</p> <p>If no, please provide reasons why an EIA was not considered to be required in the box below.</p>
	<p>The EQIA will be undertaken as part of the development of the Pregnancy and Loss Policy.</p>
	<p>Legal implications / impact</p>
<p>Resource (Capital/Revenue £/Workforce) implications / Impact</p>	<p>There are no specific legal implications related to the activity outlined in this report.</p>
<p>Link to Strategic Well-being Objectives</p>	<p>There is no direct impact on resources as a result of the activity outlined in this report.</p>
	<p>Co-create with staff and partners a learning and growing culture</p>

## 5. RECOMMENDATION

- 5.1 The People and Culture Committee is asked to **NOTE** the rationale for the Health Board developing a Pregnancy and Loss Policy.
- 5.2 The People and Culture Committee is asked to **NOTE** the final Pregnancy and Loss Policy will be presented to the Board for approval on the 25 November 2021.