

# CHIEF EXECUTIVES OFFICE

## REPORT OF HEAD OF HUMAN RESOURCES – S.REES

### SECTION A – MATTERS FOR DECISION

#### WARDS AFFECTED: All

#### Shared Parental Leave Scheme

##### 1. Purpose of Report

The purpose of this report is to provide Members with an update on new Regulations which came into force on 1<sup>st</sup> December 2014 around Shared Parental Leave and for Members to approve the inclusion of a Shared Parental Leave Scheme to be included into the Council's Maternity Scheme.

##### 2. Background

The Shared Parental Leave Scheme has been developed in conjunction with an all-Wales task and finish group co-ordinated by the WLGA. The Scheme has also been approved by the Trade Unions at the Local Government Services Forum.

##### 3. Introduction

Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date.

It is designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a pot of leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

##### 4. Key Elements of the Scheme

The options to use the new Shared Parental Leave rights will apply for parents who meet the eligibility criteria, where a baby is due to

be born on or after 5th April 2015, or for children who are placed for adoption on or after that date. The authority could start to receive notices of eligibility and the intention to take Shared Parental Leave from qualifying employees from January 2015.

To qualify, the mother or adopter must be entitled to, and have given notice to curtail their, maternity or adoption entitlements and must share the main responsibility for caring for the child with the child's father or their partner. For a parent to be eligible to take Shared Parental Leave they must be an employee and they must pass the continuity of employment test. In turn, the other parent in the family must meet the employment and earnings test.

- Employed mothers will continue to be entitled to 52 weeks of Maternity Leave and 39 weeks of statutory maternity pay or maternity allowance.
- Shared Parental Leave may be taken at any time within the period which begins on the date the child is born/date of the placement and ends 52 weeks after that date.
- If they choose to do so, an eligible mother can end her maternity leave early and, with her partner or the child's father, opt for Shared Parental Leave instead of Maternity Leave. If they both meet the qualifying requirements, they will need to decide how they want to divide their Shared Parental Leave and Pay entitlement.
- Paid Paternity Leave of two weeks will continue to be available to fathers and a mother's or adopter's partner, however Additional Paternity Leave will be removed (Shared Parental Leave will replace it).
- Adopters will have the same rights as other parents to Shared Parental leave and pay.

## 5. **Recommendation**

It is **RECOMMENDED** that the inclusion of the Shared Parental Leave Scheme into the Maternity Scheme be **APPROVED**.

## **FOR DECISION**

## 6. **List of Background Papers**

None

7. **Officer Contact**

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8. **Appendix**

Maternity Scheme (Incorporating the Maternity Support Leave/Paternity Leave Scheme and Shared Parental Leave Scheme)

# **MATERNITY**

## **SCHEME**

**(Incorporating the Maternity Support  
Leave/Paternity Leave Scheme and the  
Shared Parental Leave Scheme)**

**Revised March 2015**

## MATERNITY SCHEME

### Section Contents

<b>Section A – Maternity Leave and Maternity Pay</b> .....	7
1. Introduction.....	7
2. Employees covered by this Policy .....	7
3. Accessibility.....	7
4. General Principles .....	7
5. Ante-Natal Care .....	7
6. Obligations on the Employee.....	8
7. The Authority’s Letter of Response.....	8
8. Maternity Leave Entitlement .....	8
9. Maternity Pay.....	9
10. Definition of a Week’s Pay.....	10
11. Commencement of Occupational Maternity Pay.....	10
12. Contact Whilst on Maternity Leave .....	10
13. Right to Return to Work .....	11
14. Notification of birth and of return to work .....	11
15. Work Life Balance Schemes and Leave Arrangements .....	11
16. Sickness, Annual Leave & Bank Holidays .....	12
17. Pension Contributions.....	13
18. Entitlements of women who suffer a miscarriage or stillbirth.....	13
19. Health and Safety .....	14
<b>Section B – Maternity Support Leave/ Paternity Leave and Statutory Paternity Pay</b> .....	15
20. Statutory Paternity Pay/Paternity Leave .....	15
21. Maternity Support Leave .....	17
22. Eligibility .....	17
23. Relationship between Statutory Maternity Support Leave/ Paternity Leave and Statutory Paternity Pay.....	17
<b>Section C – Shared Parental Leave</b> .....	19
24. Introduction.....	19
25. Shared Parental Leave Pay (ShPP) .....	19
26. Eligibility Criteria .....	19

27.	Shared Parental Leave Options .....	20
28.	Shared Parental Leave Conditions .....	20
29.	Notice of Entitlement and Intention.....	21
30.	Pattern of Shared Parental Leave .....	21
31.	Varying a Period of Leave .....	22
32.	Shared Parental Leave - Keeping In Touch Days (SPLIT Days) .....	23
33.	Terms and Conditions During SPL.....	23
34.	Pension Contributions.....	23
35.	Annual Leave and Bank Holidays .....	23
36.	Salary Sacrifice .....	23
37.	Redundancy.....	23
38.	Returning to Work from SPL.....	24
39.	Protection from Detriment and Dismissal.....	24
40.	Fraudulent Claims .....	24
	<b>Appendix A - Notification Of Maternity Leave .....</b>	<b>25</b>
	<b>Appendix B – Draft Model Letter For Employees To Acknowledge Notification Of Maternity Leave.....</b>	<b>27</b>
	<b>Appendix C – Payment Arrangements For Keeping In Touch (Kit) Days .....</b>	<b>29</b>
	<b>Appendix D – Notification Of Intention To Return To Work Following Maternity Leave .....</b>	<b>30</b>
	<b>Appendix E – Pregnancy Risk Assessment.....</b>	<b>32</b>
	<b>Appendix F – Application For Statutory Paternity Pay/Paternity Leave And/Or Maternity Support Leave .....</b>	<b>33</b>
	<b>Appendix G – Application For Shared Parental Leave/Pay .....</b>	<b>36</b>

## **Section A – Maternity Leave and Maternity Pay**

*(This maternity scheme applies to women who's expected week of childbirth (EWC) is on or after 1<sup>st</sup> April, 2007)*

### **1. Introduction**

The purpose of this Scheme is to support and provide time off work for new and expectant mothers. It is recognised that women may require maternity leave to enable them to rest during the later stages of pregnancy and to enable new mothers to spend time with their babies in the first few important months of life.

### **2. Employees covered by this Policy**

This Scheme applies to all Council employees, other than staff employed by schools operating with fully delegated personnel powers.

### **3. Accessibility**

Any employee who informs her manager or the HR Team of her intention to take maternity leave will be given a copy of the Scheme and advice on the Scheme, as necessary. Alternatively, the scheme is available on the Council's Intranet.

### **4. General Principles**

- 4.1 No employee or potential employee will be treated less favourably because she is pregnant, absent on maternity leave, or for any other reason connected with her pregnancy or maternity.
- 4.2 Maternity rights are complex and protected by law. The Scheme aims to provide new and expectant mothers with full information on what their maternity rights are as employees of Neath Port Talbot County Borough Council.
- 4.3 Civil partnerships attract the same rules and entitlements in terms of paternity/adoption leave and pay as married couples.
- 4.4 Those employees adopting a child/children are advised to refer to the Authority's Adoptive Parents Leave and Pay Scheme.

### **5. Ante-Natal Care**

Any pregnant employee, regardless of length of service or number of hours worked, has the right to reasonable paid time off, during working hours, for antenatal care. Antenatal care covers not just medical examinations but also relaxation and parent-craft classes. An appointment card must be produced, when requested. This entitlement ends once the maternity leave has commenced.

## **6. Obligations on the Employee**

- 6.1 The Scheme is conditional upon the employee continuing to be employed by the Authority (whether or not she is at work) until immediately before the beginning of the eleventh week before the expected week of childbirth. However, if the employment ends after the start of 11th week before the expected week of childbirth, the employee will be entitled to receive Statutory Maternity Pay from the Authority, as long as she satisfies the employment and earnings tests. SMP will be paid from the day following the day on which the employment ended.
- 6.2 For health and safety reasons, the employee is asked to notify her manager of her pregnancy at the earliest opportunity so that he/she can undertake a risk assessment (see paragraph 19 below).
- 6.3 The employee must also inform the HR Team using the enclosed Notification Form (see Appendix A) as soon as is reasonably practicable and no later than the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC). The employee must;
- confirm that she is pregnant and is intending to take maternity leave;
  - confirm the expected week of childbirth by enclosing a certificate of pregnancy (form Mat B1) obtained from her GP or midwife (normally issued 20 weeks before the expected week of childbirth);
  - state the date her maternity leave will begin (which cannot be earlier than the beginning of the 11<sup>th</sup> week before the EWC).
- 6.4 The employee is also required to confirm her intention to return to work with the Authority, if that is what she wishes to do. This decision should be taken when the employee feels confident to do so. Once a decision is taken to return and confirmed in writing, the employee will be entitled the payments specified in section 9 (subject to certain qualification conditions). The employee must not remain at work if certified medically unfit to do so.
- 6.5 The employee may change her mind about the date she intends to commence her maternity leave provided she gives her employer at least 28 days notice prior to the new commencement date.

## **7. The Authority's Letter of Response**

The Authority will write to the employee within 28 days of receiving the Notification Form (see paragraph 6.3 above) stating her expected date of return from maternity leave. The draft model letter to acknowledge notification of maternity leave is set out in Appendix B.

## **8. Maternity Leave Entitlement**

- 8.1 Provided that the employee complies with the notification procedures (see paragraph 6.3 above), all female employees (regardless of length of service)



will be entitled to 26 weeks' Ordinary Maternity Leave (**OML**) and 26 weeks Additional Maternity Leave (**AML**). This is a total entitlement of 52 weeks maternity leave.

Please note: this is your entitlement to Maternity Leave and not Maternity Pay which will be covered in Paragraph 9.

- 8.2 There is a compulsory maternity leave period of two weeks, which must be taken following the birth of the child.

## **9. Maternity Pay**

- 9.1 **Statutory Maternity Pay (SMP)** - To qualify for SMP, an employee must have at least 26 weeks continuous service with her current employer by the 15th week before the expected date of childbirth, and have average weekly earnings at least equal to the "lower earnings contribution" level for National Insurance contributions. (Details of the National Insurance contribution levels can be obtained from the payroll section or your local tax office)

SMP is paid for 39 weeks consisting of:

6 weeks at earnings related rate, i.e. 90% of your average weekly earnings with no upper limit 33 weeks at flat rate SMP or 90% of your average weekly earnings, if this is less. The SMP flat rate is set annually by the Government.

- 9.2 **Occupational Maternity Pay (OMP)** – Employees who have completed one year or more continuous Local Government Service at the beginning of the 11<sup>th</sup> week before expected week of childbirth will be entitled to Occupational Maternity Pay (OMP) as follows:

- **Weeks 1-6:-** For the first 6 weeks the employee will be entitled to 9/10ths of a week's pay. This payment includes Statutory Maternity Pay and will be paid regardless of whether the employee returns to work.
- **Weeks 7-18:-** Provided the employee has given an undertaking to return to work for 3 months\*, for the next 12 weeks the employee will be entitled to half pay in addition to 12 weeks flat rate SMP. (Please note: the total of the half pay plus flat rate SMP must not exceed full pay). Alternatively, the equivalent of 12 weeks of half pay may be evenly spread over 20 weeks (covering weeks 7-26).
- **Weeks 19-39:-** For the next 21 weeks the employee will be paid flat rate Statutory Maternity Pay.

\*Employees who do not return to work for three months will be required to repay the twelve weeks half pay.

- 9.3 **Maternity Allowance** – Those who do not qualify for SMP may be entitled to 39 weeks Maternity Allowance. Upon receipt of the Certificate of Pregnancy (MAT B1) the Authority's Payroll Section will provide the employee with an exclusion form (Form SMP1) which explains how to claim Maternity Allowance from Jobcentre Plus/ the Social Security Office. In order to benefit

from the full maternity allowance period of 39 weeks, it is important that the employee does not delay in submitting her claim.

The rate of Maternity Allowance will be taken into account when calculating the employee's Occupational Maternity Pay. Note: There is an obligation on the employee to both claim and declare her entitlement to Maternity Allowance.

#### **10. Definition of a Week's Pay**

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the past 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

#### **11. Commencement of Occupational Maternity Pay**

Occupational Maternity Pay is linked to Statutory Maternity Pay and may start on any day of the week. Payment will start on the day specified by the employee in her notice, provided she starts her leave on this day.

If the baby is born before the maternity leave is due to start, then the first day of maternity leave will be the day following the birth. If the employee is absent from work because of a pregnancy related illness in the 4 weeks before the expected week of childbirth, then the first day of maternity leave will be the day after the first complete day of absence.

#### **12. Contact Whilst on Maternity Leave**

Prior to the employee going on maternity leave, the manager will discuss how contact will be maintained. It is important that the employee is kept informed of all relevant work issues during her maternity leave, such as job vacancies, significant workplace developments and training opportunities.

12.1 Keeping in Touch Days are intended to facilitate a smooth return to work for women returning from maternity leave. Before going on leave, the employee should discuss and agree with her manager, in consultation with her personnel officer, any voluntary arrangements for keeping in touch during the employee's maternity leave. Agreement should be reached on the type of work and payment arrangements (see paragraph 12.3 below). An employee may work for up to 10 KIT days during OML or AML without bringing her leave to an end. An employee may not work during the two weeks of compulsory leave immediately after the birth of her baby.

12.2 The work can be consecutive or not, and can include training and other activities which enable the employee to keep in touch with the workplace. Any such work must be by agreement and neither the employer nor the employee can insist upon it.

12.3 The payment arrangements for KIT days are set out in Appendix C.

### **13. Right to Return to Work**

The employee has the right to return to the job in which she was employed prior to going on maternity leave on terms and conditions not less favourable than those which would have been applicable to her had she not been absent. "Job", for this purpose, means the nature of the work, which she is employed to do and the capacity in which she is so employed.

Where it is not practicable because of a general reorganisation or redundancy for the Authority to permit her to return to work in her original job, the employee must be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances. Redeployment opportunities should be sought from all directorates. The employee will be eligible to be redeployed in accordance with the Authority's procedures for dealing with redeployment.

### **14. Notification of birth and of return to work**

14.1 **General Duty** - The employee must send a written notification of the date of birth to the HR Team as soon as possible following the birth.

14.2 **Return before the end of the Maternity Period** - It will be assumed that an employee will be returning at the end of the full entitlement. If an employee wishes to return earlier than this, they must give notice of 21 days by completing the form at Appendix D

An employee can also change her mind about the date she intends to return where she has already notified an early return date. The notice period for this is the same as stated above.

14.3 **Unable to return because of sickness** - Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

14.4 **Return to Work Early** - Where an employee returns to work early, i.e. before her entitlement to paid maternity leave has expired, the payment of SMP normally ceases from the day she returns to work.

14.5 **Unable to return because of an interruption of work** - Where it is unreasonable to expect the employee to return on the due date because of an interruption of work (whether due to industrial action or some other reason), the employee may return instead when the work resumes.

### **15. Work Life Balance Schemes and Leave Arrangements**

15.1 The Authority has developed a number of schemes to promote and encourage flexible working, as well as leave arrangements that can assist employees with

family commitments and emergencies. The Schemes are briefly summarised below:

**Job Share** – enables 2 people to share the duties and responsibilities of a full time post and share all the associated pay and conditions of service, e.g. all annual leave and bank holidays are divided equally.

**4 Day/Reduced Hours** – enables an employee to reduce her/his working week to, for example, 30 hours over 4 days.

**Term Time Work** – enables an employee to take unpaid leave of absence during some or all of the school holidays.

**Compressed Hours** - enables an employee to compress full time hours into a 4 or 4½ day week or a 9-day fortnight.

15.2 All employees are required to give up to 3 months notice (2 months for Job Share), using the application form from the relevant Scheme. Pregnant employees are therefore advised to start considering their return to work options either prior to, or at an early stage in their maternity leave. Copies of the Schemes are available from HR and the Intranet. Each application will be considered on objective and job related grounds by the employee's Head of Service. Applications will not be granted where it is considered that the efficiency of the service will be adversely affected.

15.3 Leave arrangements, which can assist with family commitments, are set out below:

**Parental Leave** – up to the child's eighth birthday, and subject to one year's continuous service, parents can take up to 13 weeks unpaid leave to look after a child.

**Time Off for Dependants** - an employee may take time off without pay to deal with an unexpected or sudden problem e.g. where a dependent falls ill, or has an accident.

**Domestic Leave** – Under the provisions of the Council's Special Leave Scheme (further details available from HR Resourcing), the employee may apply for up to 5 days unpaid leave to cope with the serious illness of a close relative, i.e. child, spouse, partner or parent.

## 16. **Sickness, Annual Leave & Bank Holidays**

16.1 Paid maternity leave and authorised unpaid maternity leave shall be regarded as service for the purposes of the National Council's Sickness Scheme and the Neath Port Talbot County Borough Council Annual Leave Scheme.

16.2 During the Maternity Leave period, the employee would continue to accrue annual leave and bank holidays in the normal way. An employee must attempt to use outstanding annual leave prior to commencing maternity leave, where it

is not possible, the employee may use leave and bank holiday accrual prior to returning to work.

- 16.3 If a full time employee returns to duty on a reduced hour's basis any holiday accrued under her full time contract during maternity leave will be at the full rate. Her annual leave/bank holiday entitlement, along with her pay and various other terms and conditions of employment will be pro-rata to the number of hours worked with effect from the date she commences the reduced hour's contract.

## **17. Pension Contributions**

- 17.1 During any periods of paid maternity leave (including any period when only Statutory Maternity Pay is paid) the employee will continue to pay pension contributions. These are paid on the actual pay she is receiving, but benefits accrue normally on full pay.

- 17.2 If the employee intends to take unpaid maternity leave, she may wish to purchase Additional Pension Contributions for the period concerned, in accordance with the Local Government Pension Scheme rules i.e. if the purchase of Additional Pension Contributions is made within 30 days of returning to work, the Council will pay the relevant employer's contribution. If a request to purchase Additional Pension Contributions is made outside the 30 days of returning to work, the employee will pay the whole cost of purchasing Additional Pension Contributions.

Further information about purchasing the Additional Pension Contributions as above, can be obtained from the Pensions Section in the City and County of Swansea or by accessing the following website [www.swanseapensionfund.org.uk](http://www.swanseapensionfund.org.uk).

## **18. Entitlements of women who suffer a miscarriage or stillbirth**

- 18.1 An employee who suffers a miscarriage or still birth in or after 24 weeks of pregnancy would be entitled to Maternity Leave. Therefore, if a woman has a stillbirth in or after 24 weeks or more of a pregnancy, she is entitled to the benefits detailed above exactly as if she has had a living child. This includes the right to paid and unpaid leave of absence, accrual of annual leave etc.

- 18.2 However, in such unfortunate circumstances, it is possible that the employee will wish to return to work when she has recovered. If she has already started her maternity leave she must give the required notice of return (see Paragraph 14.2 above). In any event the employee must take the compulsory two weeks maternity leave following the birth before they can return to work.

- 18.3 If a miscarriage occurs before the twenty-fourth week of pregnancy the employee will not technically have started her maternity leave. In such circumstances the Sickness Scheme will apply and the employee will be required to produce evidence of her incapacity as in other cases of sickness.

## **19. Health and Safety**

- 19.1 The Authority aims to ensure that the health and safety of those employees who are pregnant, those who have recently given birth, and those who are breast feeding are not placed at risk by their work or working environment.
- 19.2 Under the Management of Health and Safety at Work Regulations 1992, employers are required to undertake a risk assessment in consideration of the risks at work to new and expectant mothers.
- 19.3 As soon as notification of the pregnancy is received, the employee's manager will ensure that an adequate and appropriate risk assessment of any processes, working conditions or substances which could affect the health and safety of the new or expectant mother is undertaken. A risk assessment form for this purpose is attached as Appendix E. A copy of the completed risk assessment form will be given to the new or expectant mother.
- 19.4 The manager will ensure that any preventative measures identified during the risk assessment are implemented without delay. Such measures may include the following:
- a temporary alteration in working conditions or hours;
  - the offer of suitable alternative work, which will be on terms and conditions no less favourable than the employee's normal terms and conditions. Employees who refuse to undertake suitable alternative work may be granted unpaid leave;
  - where it is not reasonable for the Authority to comply with (a) and (b) above, then, as a last resort, consideration will be given to suspending the employee on full pay for as long as necessary to avoid the risk. Where suspension continues to the start of the fourth week before the expected week of childbirth, maternity leave and pay will automatically be triggered.
- 19.5 For any new or expectant mother who performs night work and who produces a medical certificate stating that for health and safety reasons she should not continue with night work, the first step will be to consider the provision of suitable alternative work during the day. The procedure set out in paragraphs (b) and (c) above will be followed in such circumstances.
- 19.6 The Occupational Health and Safety Section will answer any queries on health and safety raised by either the manager or the new or expectant mother.

## **Section B – Maternity Support Leave/ Paternity Leave and Statutory Paternity Pay**

*[This paternity scheme applies only to fathers/partners whose baby is due on or after 1<sup>st</sup> April 2007]*

### **20. Statutory Paternity Pay/Paternity Leave**

Employees may be entitled to Statutory Paternity Leave, for which Statutory Paternity Pay (the lower of; the rate set annually by the Government or 90% of average weekly earnings) will be payable, provided they meet the eligibility criteria and conditions set out below.

20.1 Statutory Paternity Pay/Paternity Leave is available to:

- Employees of the Council only
- A biological father
- A partner/husband that is not the baby's biological father
- A female partner in a same sex couple
- A civil partner

The employee must also:

- be continuously employed by the same employer; for (i) twenty-six weeks ending with the fifteenth week before the baby is due and (ii) from the fifteenth week before the baby is due up to the date of birth;
- Be taking time off either to support the mother or care for the new baby. This leave cannot be taken for any other purpose;
- In order to qualify for Statutory Paternity Pay the employee must have average earnings above the "lower earnings contribution" level for National Insurance contributions at the end of the qualifying week.

20.2 The employee can choose to take one or two weeks leave up to 56 days after the date of birth. Leave cannot begin until the birth of the baby. However, regardless of whether the employee chooses to take one or two weeks, the leave must be taken in a single block. The one/two weeks cannot be taken separately. If the baby is born early, the employee can choose to take his/her leave any time between the actual date of birth and 56 days from the first day of the expected week of birth. The employee cannot take odd days off work, but the weeks can start on any day, for example from Tuesday to Monday.

Employees can take only one period of leave even if more than one baby is born as a result of the same pregnancy.

20.3 The employee must discuss his/her leave plans with his/her line manager and tell them the following information no later than the 15th week before the baby is due;

- the expected week of the baby's birth;
- whether they intend to take one or two weeks leave;

- when they wish the leave to start;
- The employee must also inform their line manager when the baby was actually born as soon as is reasonably practical after the birth.



20.4 The employee can change their mind regarding when the leave starts, but must give the Council a minimum 28 days notice of the change. To apply for Statutory Paternity Pay/Paternity Leave and/or Maternity Support Leave, the applicant must supply a signed declaration (see Appendix F) to the HR Resourcing Team.

## **21. Maternity Support Leave**

Maternity support leave provides up to 5 working days with pay to the child's father or the partner (including civil partnership or same sex partner) or nominated carer of an expectant mother at or around the time of the birth. All 'eligible' employees are entitled to maternity support leave regardless of their length of service.

Please note that periods of Maternity Support Leave should be taken prior to Shared Parental Leave – see Section C for Shared Parental Leave.

## **22. Eligibility**

A 'nominated carer' is the person nominated by the mother as the 'primary provider' to assist in the care of the child and to provide support to the mother at or around the time of the birth and will usually, be the child's father or mother's partner.

The purpose of granting Maternity Support Leave is to meet the employee needs of addressing problems or commitments outside work which are likely to have a bearing on the employee's well-being and ability to perform their duties. An employee who is nominated as the 'primary provider' must therefore, be able to demonstrate that the birth will have such an effect.

Employees who anticipate exercising this provision should keep their manager informed of their intentions, and in any event, submit the proposed leave dates at least 5 days before the expected birth date. All arrangements for Maternity Support Leave will need to be agreed between the employee and line manager. It is appreciated that these dates may need to vary depending on actual circumstances. To apply for Statutory Paternity Pay/Paternity Leave and/or Maternity Support Leave, the applicant must supply a signed declaration, along with the expectant mother (see Appendix F) and the declaration endorsed by both the line manager and the Head of Service.

## **23. Relationship between Statutory Maternity Support Leave/ Paternity Leave and Statutory Paternity Pay**

Where the employee has an entitlement to both Statutory Paternity Pay/Leave and Maternity Support Leave and wishes to claim more than one weeks leave; he/she must complete all sections of the form set out in Appendix F. The first week will be treated as Maternity Support Leave and the second week will be treated as Statutory Paternity Leave.

Reasonable unpaid time off for antenatal care, such as accompanying the expectant mother to medical examinations and attending parent-craft classes, may be granted to

the father-to-be, partner or nominated carer (see paragraph 20.2 above for the definition of a “nominated carer”). Such unpaid leave will be granted at the discretion of the relevant Head of Service. An appointment card must be produced, when requested.

## **Section C – Shared Parental Leave**

*This applies to any parents who meet the eligibility criteria, where a baby is expected to be born on or after 5<sup>th</sup> April 2015, or for children who are placed for adoption on or after this date.*

### **24. Introduction**

Shared Parental Leave (SPL) allows employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 50 weeks leave should they wish to do so.

The mother or adopter must take at least 2 weeks of maternity leave after the birth of her child or placement following adoption, before the maternity leave can be curtailed.

### **25. Shared Parental Leave Pay (ShPP)**

25.1 To qualify for ShPP, the employee must have at least 26 weeks' continuous service with the current employer on the 15<sup>th</sup> week before the expected week of childbirth.

25.2 To qualify for ShPP, the employee must have average weekly earnings for the eight week period ending with the "relevant week" of not less than the lower earnings limit for national insurance contributions.

25.3 A mother or adopter must take at least 2 weeks of statutory maternity or adoption pay. Therefore, the maximum amount of ShPP which can be created is 37 weeks. This will be reduced by the number of additional weeks statutory maternity/adoption pay or maternity allowance taken by the mother or main adopter. ShPP is a standard weekly rate (or 90% of the employee's normal weekly earnings if this is lower) which is set by the government each tax year. In all cases the statutory notification and information requirements must be followed.

25.4 There is no provision for employees to be paid 90% of earnings for the first 6 weeks of the ShPP period where this is higher than the statutory rate as is the case for statutory maternity/adoption pay.

25.5 If both parents qualify for ShPP they must decide who will receive it or how it will be divided and inform their respective employers.

### **26. Eligibility Criteria**

26.1 To be entitled to SPL, an employee must:

- have at least 26 weeks continuous service with the current employer on the 15<sup>th</sup> week before the expected week of childbirth;

- remain in continuous employment until the week before the first week of the SPL;
- be the mother, biological father of the child or be the husband, partner or civil partner of the child's mother.

26.2 In addition, the other parent must:

- have at least 26 weeks employment(employed or self employed) out of the 66 weeks prior to the relevant week of confinement;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

26.3 If the other parent meets these conditions but does not qualify for SPL themselves, the Council employee may still be entitled to the whole SPL period.

26.4 In all cases the statutory notification and information requirements must be followed.

## **27. Shared Parental Leave Options**

27.1 SPL can:

- start on any day of the week;
- only be taken in complete weeks (e.g. starts on a Tuesday and finishes the following Monday);
- be taken in up to three separate blocks of leave;
- be taken by both parents/partners at the same time as long as the combined leave does not exceed a total of 52 weeks, taking into account the need for the mother/main adopter/intended parents to take a minimum of 2 weeks;
- be taken at separate times by the parents.

27.2 Employees and managers should, where possible, have an informal discussion prior to employees giving formal notification of their intention to take SPL so that statutory (and contractual) entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

## **28. Shared Parental Leave Conditions**

28.1 A parent has the option to choose SPL at any time whilst they are eligible (within a year of the birth/adoption) as long as they can meet the notification requirements of at least eight weeks before the start date.

28.2 Up to three separate notifications can be given for SPL.

28.3 Parents do not have to be working for the same employer to be eligible.

28.4 A mother/main adopter can only share parental leave with **one** other person.

28.5 It should be noted that SPL can only be used by the mother/main adopter after they have either returned to work, or given notice that reduces their maternity/adoption leave, confirming when the maternity/adoption leave will come to an end in the form of a 'maternity curtailment notice'. This Notice is binding and cannot be withdrawn except in the following circumstances:

- If it becomes apparent that neither parent is entitled to SPL or ShPP
- If the curtailment notice was given before the birth and is revoked within 6 weeks of the birth (in this case another curtailment notice can be submitted)
- If the other parent dies

## 29. Notice of Entitlement and Intention

The employee must inform the HR Team on the enclosed notification for (Appendix G) at least 8 weeks prior to commencing SPL. The HR Team will respond to the employee's application within 28 days, confirming the relevant start date and end date.

29.1 The minimum requirements by law are:-

- 'A maternity curtailment notice' (if appropriate)
- Notice of entitlement and intention
- A period of leave notice

29.2 In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. Employees are entitled to submit a maximum of a further two 'periods of leave' notices. Each notice must be given at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

29.3 If the first 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

## 30. Pattern of Shared Parental Leave

SPL can be taken as either a 'continuous' block or multiple 'discontinuous' blocks.

30.1 **Continuous Block** – This is an unbroken period of leave, e.g. for a period of six weeks leave. Eligible employees have a statutory right to take SPL in this way.

If a continuous period of leave is requested in each period of leave notice, an employee will be entitled to take that period of leave and this will be confirmed in writing.

30.2 **Discontinuous Block** – This is a period leave of leave but with breaks in between the leave where the employee returns to work, e.g. 3 weeks leave, followed by a return to work for 6 weeks, followed by another period of leave.

Discontinuous leave can only be taken with the Council's agreement, and once a request for discontinuous leave has been made the request must be discussed by the employee and their line manager within a period of 14 calendar days.

30.3 Managers will discuss requests received with the employee to determine whether the request:

- can be accommodated and the leave approved
- propose an alternative pattern of leave which can be agreed,
- or the request can be refused.

30.4 The manager's decision will be confirmed in writing.

30.5 If no agreement is reached within two weeks of the period of leave notice being submitted, the employee can:

- take the leave requested in one continuous block, beginning on the original start date;
- take a continuous block of leave starting on a new date, as long as the new date is later than the original start date and the council is notified of the new date within five days of the two week period referred to above;
- withdraw the request at any time up to the 15th day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of the three requests allowed

### **31. Varying a Period of Leave**

31.1 An employee can submit a request to vary a period of leave in the following ways:

- vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date;
- vary or cancel the amount of leave requested at least eight weeks before the original start date;
- request that a single period of leave becomes a discontinuous period of leave or vice versa.

31.2 A variation will count as one of the three period of leave notice requests (see above) unless:

- It is made as a result of the child being born earlier or later than the expected week of childbirth. The usual eight week notice requirement may be modified if the child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child;
- the Council has requested the variation

### **32. Shared Parental Leave - Keeping In Touch Days (SPLIT Days)**

32.1 The Council has the right to ask an employee to attend work on occasional days during the SPL period. These days could be for training, to attend department meetings, or just for keeping in touch, in line with same principle as KIT days for maternity leave.

32.2 There are 20 SPLIT days available during SPL which are in addition to the 10 KIT days available during maternity and adoption leave.  
An employee may work for up to these 20 days without bringing the SPL to an end. Work during SPL will not extend the SPL period. If an employee does work s/he will be paid at the normal rate of pay inclusive of any ShPP entitlements.

32.3 There is no obligation on an employee to work during SPL and there is no obligation on the Council to offer work.

### **33. Terms and Conditions During SPL**

Whilst the employee's contract of employment continues to be in force during the period of SPL they are entitled to receive all their contractual benefits, except for salary.

### **34. Pension Contributions**

During any periods of unpaid SPL, the employee or the Authority will **not** contribute towards pension contributions.

If the employee intends to return to work, he or she can choose to pay contributions for any period of unpaid leave so that the period of absence will count in full for pension purposes. For more information on pension contributions, please contact the Pensions Section.

### **35. Annual Leave and Bank Holidays**

During the SPL period, the employee will continue to accrue annual leave and bank holidays in the normal way. An employee must attempt to use outstanding annual leave prior to commencing SPL. Where this is not possible, the employee may use annual leave and bank holiday accrual prior to returning to work.

### **36. Salary Sacrifice**

Arrangements will be made with the employee to ensure that any salary sacrifice schemes continue during the period of Shared Parental Leave as part of their continuing contractual benefits and in line with similar arrangements for Maternity and Adoption leave.

### **37. Redundancy**

If an employee's post becomes redundant during her/his SPL period, s/he must be treated as any other employee.

### **38. Returning to Work from SPL**

- 38.1 An employee wishing to return early from SPL must notify the Council at least eight weeks before both the original end date and the new end date.
- 38.2 An employee returning to work immediately after a period of SPL which (together with any statutory maternity/adoption leave taken to care for the same child) of **26 weeks or less** will return to the same job.
- 38.3 An employee returning to work immediately after a period of SPL which (together with any statutory maternity/adoption leave taken to care for the same child) of **26 weeks or more** will normally be entitled to return to the same job unless that is not reasonably practicable in which case the employee will return to another job which is suitable and appropriate under the circumstances.
- 38.4 An employee's right to return means that s/he will return on terms and conditions that are no less favorable than those that would have been applied had s/he not been absent. The return will be at the same level of seniority, pension rights and other similar rights.

### **39. Protection from Detriment and Dismissal**

Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take SPL.

### **40. Fraudulent Claims**

The Council can, where there is a suspicion that fraudulent information may have been provided or where the organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Council investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.



**APPENDIX A - NOTIFICATION OF MATERNITY LEAVE**

To be completed and returned to the HR Team and must be received at least 28 days before the date on which Maternity Leave is due to begin.

*Note: You may wish to contact the HR Team for advice on which maternity provisions apply to you, before completing this form.*

**A. FOR COMPLETION BY THE APPLICANT**

Full Name:

.....(Mrs/Miss/Ms)

Post Title:

.....

Employee No: ..... Hours per Week:

.....

Work Location:

.....

In accordance with the Maternity Provisions of the Scheme and Conditions of Service applicable to me, which I have read and understood, I wish to give 28 days' notice that I will be commencing maternity leave from: \_\_/\_\_/\_\_

- Do you intend to return to your post? Yes  No  Undecided
  
- Is your partner sharing the Maternity Leave by requesting to take Additional Paternity Leave? Yes  No  Undecided   
If Yes, from what date: \_\_\_\_\_

*(NB. Payment of 12 weeks half pay is dependant upon your decision to return to work)*

Do you wish to receive 12 weeks half pay; (please delete as appropriate)

(a) during your Maternity Leave (i) weeks 7 – 18\* **or** (b) spread over weeks 7 – 26\*

**OR**

(c) as a lump sum 3 months after your return to work

*(\* I understand that in the event of my not returning to work for a period of at least 3 months, I will be required to refund any occupational maternity pay paid. I understand that, if returning before the end of my full leave entitlement, I must give at least 21 days notice of my intention to return to work.*

A certificate confirming my pregnancy and expected week of confinement is enclosed (MAT B1).

Signed:..... Dated: .....

**B. FOR COMPLETION BY THE EMPLOYEE'S MANAGER**

The above named employee has notified me of her intention to commence maternity leave.

Signed:..... Dated: .....

Designation: .....

**APPENDIX B – DRAFT MODEL LETTER FOR EMPLOYEES TO  
ACKNOWLEDGE NOTIFICATION OF MATERNITY LEAVE**

**Maternity Leave**

Thank you for informing me of your pregnancy and the date that your baby is due. I am writing to you about your maternity leave and pay.

I would advise you that you are entitled to 52 weeks' maternity leave (26 weeks' Ordinary Maternity Leave plus 26 weeks' Additional Maternity Leave). I have noted that you would like to begin your maternity leave on (*insert date*).

If you wish to change this date or your circumstances change, you must notify your Manager who will be responsible for notifying the HR Resourcing Team of these changes, at least 28 days before the new intended start date, or if that is not reasonably practicable, as soon as reasonably practicable.

You have told me that you intend to return to work after the birth of your baby. Therefore, the latest date that you can return to work is at the end of your 52 week entitlement, which is (*insert 52 week date*).

Your Ordinary Maternity Leave will end on \_\_/\_\_/\_\_ and your Additional Maternity Leave will end on \_\_/\_\_/\_\_.

If you intend to return to work before this date (*insert 52 week date above*), you must notify your Manager by completing the proforma at Appendix B, providing 21 days' notice before your new intended return to work date.

Your Manager should notify the Finance and Corporate Services (Exchequer Section) of your intended date of return. If you fail to give this notice, your return can be delayed until 28 days from the date you informed your Manager that you would like to return early.

Should you not be able to return to work on the intended date, you should notify your Manager who will inform the Finance and Corporate Services (Exchequer Section) that you have not been able to return.

Following the month your maternity leave commences, you will be issued with a schedule from the Payroll Officer, which will show an estimate of what your pay will be each month, during your maternity leave.

If you intend to take unpaid maternity leave, you may wish to purchase Additional Pension Contributions for the period concerned, in accordance with the Local Government Pension Scheme rules i.e. if the purchase of Additional Pension Contributions is made within 30 days of returning to work, the Council will pay the relevant employer's contribution.

If you make a request to purchase Additional Pension Contributions outside the 30 days of returning to work, you will pay the whole cost of purchasing Additional Pensions Contributions.

If you wish to purchase the Additional Pension Contributions as above, please telephone the Pensions Section in the City and County of Swansea on 01792 636000 or you may access the following website [www.swanseapensionfund.org.uk](http://www.swanseapensionfund.org.uk) for further information.

Before you commence your maternity leave, I would encourage you to discuss your annual leave entitlement with your Manager.

You may wish to make arrangements with your Manager, should you wish to keep in touch during your maternity leave and to plan for your return to work.

Should you require any information regarding job vacancies within the Authority whilst you are on Maternity Leave, please visit [www.npt.gov.uk](http://www.npt.gov.uk) and refer to the “Current Vacancies” link. If you do not have access to the internet, please inform us and we can arrange to send a copy of the job vacancy bulletin to you.

Should you wish to return to work on a different work pattern, you should send the request to your Manager, by completing the application form from the relevant ‘Work Life Balance’ policy.

I am happy to discuss the above and any other aspects of your maternity entitlements.

May I take this opportunity to wish you and your family well over the forthcoming months.

Yours sincerely

**HR Resourcing Team**

**COPY: PR / Manager**

## **APPENDIX C – PAYMENT ARRANGEMENTS FOR KEEPING IN TOUCH (KIT) DAYS**

An employee can do up to 10 days work during her maternity leave without bringing the maternity leave to an end or losing any SMP. Working for part of a day will count as one day. Maternity leave will not be extended due to the fact that the employee has carried out work during this period.

An employee will lose her SMP for any week in which she does any further work beyond the 10 day limit.

The payment arrangements for any work undertaken by an employee as a KIT day is a matter for agreement between the employee and employer, using the options below. An employee will continue to receive her SMP (and occupational maternity pay – OMP) for the week in which she works, however, in most cases the employee should be paid for any work carried out under the contract. Issues to take into account will include the nature of the work and its duration. It is open to an employer to offset the SMP and/or OMP for the period worked against any pay due. These matters should be discussed and clearly agreed before any work is undertaken.

There are a number of options for the payment arrangements for KIT days (However, payment for KIT days should not exceed full pay), for example;

- Employees paid normal rate of maternity pay for KIT days worked during OMP however when KIT days are worked during the unpaid period of leave employees to be compensated according to their normal contractual hourly rate of pay.
- Employees paid normal rate of maternity pay for KIT days but TOIL could be offered to compensate for any hours worked.
- If maternity pay has reduced to half plus SMP the pay to be increased up to the normal rate when a KIT day is used.

**APPENDIX D – NOTIFICATION OF INTENTION TO RETURN TO WORK  
FOLLOWING MATERNITY LEAVE**

**PART A** - To be completed and returned to your Manager. This form must be received at least 21 days before the date on which you intend to return to work.

**A. FOR COMPLETION BY THE APPLICANT**

Full Name:

.....(Mrs/Miss/Ms)

Post Title:

.....

Employee No:

.....

Work Location:

.....

In accordance with the Maternity Provisions of the Scheme and Conditions of Service applicable to me, which I have read and understood, I wish to give 21 days' notice that I intend to return to work on: \_\_/\_\_/\_\_

Is your partner undertaking Additional Paternity Leave on your return? Yes.  No

Should I be unable to return to work on this date, I understand that it is my responsibility to notify my Manager of any changes to my circumstances.

Signed:..... Dated: .....

\*Should you wish to change your work pattern on your return, please complete the application form from the relevant Work Life Balance Scheme, which should be forwarded to your Manager who will forward to the HR Team.

**B. FOR COMPLETION BY THE EMPLOYEE'S MANAGER**

Parts A and B to be forwarded to the Payroll section.

The above named employee has notified me of her intention to return to work on the above date.

I understand that should any changes occur and the individual is unable to return to work on the intended date, I will notify you of these changes.

Name:.....

.....

Signed:..... Dated:

.....

Designation:

.....

School:.....

.....

## APPENDIX E – PREGNANCY RISK ASSESSMENT

*(Confidential)*

The risk assessment form is available to download on the Health & Safety Section of the NPT Intranet Site

<http://intranet.neath-porttalbot.gov.uk/healthandsafety/downloads/documents/Pregnancy%20Risk%20Assessment%20CF1504.doc>



**APPENDIX F – APPLICATION FOR STATUTORY PATERNITY  
PAY/PATERNITY LEAVE AND/OR MATERNITY SUPPORT LEAVE**

*(All employees must complete section A and then complete either section B or C, the applicant's manager must sign section D and the Head of Service must complete section E and then return to the HR Team.)*

**A. YOUR DATES FOR PAY AND LEAVE**

The baby is due on \_\_\_\_/\_\_\_\_/\_\_\_\_

And, if the baby has been born, please enter the actual date of birth \_\_\_\_/\_\_\_\_/\_\_\_\_

I would like my SPP and/or paternity leave and/or Maternity Support Leave to start on  
\_\_\_\_/\_\_\_\_/\_\_\_\_

I want to be away from work for one/two\* weeks (\*delete as appropriate)

Surname \_\_\_\_\_

First Name(s) \_\_\_\_\_

National Insurance (NI) Number \_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_ Payroll Number  
\_\_\_\_\_

**B. STATUTORY PATERNITY PAY/LEAVE – YOUR DECLARATION**

(i) I declare that I am; *(please delete as appropriate)*

The baby's biological father, **or** the partner/husband of the mother, **or** living with the mother in an enduring family relationship, but am not an immediate relative **or** the civil partner of the mother

(ii) I also declare that;

I have responsibility for the child's upbringing and I will take time off work to support the mother or care for the child.

Signed \_\_\_\_\_ Date \_\_\_\_\_

**C. MATERNITY SUPPORT LEAVE – YOUR DECLARATION  
FOR COMPLETION BY THE APPLICANT**

Relationship to Expectant Mother

.....

Date of any Previous Application

.....

I am applying for up to 5 days' Maternity Support Leave and declare that I am the nominated carer and am 'eligible' to carry out the role of 'primary' provider in accordance with the provisions of Neath Port Talbot County Borough Council's Maternity Scheme and declare all details I have provided are true and correct.

Signed: ..... Dated: .....

Print Name: .....

**FOR COMPLETION BY THE EXPECTANT MOTHER**

Full Name of Mother

.....

Name of Nominated Carer (Applicant)

.....

Relationship of Carer to you

.....

I declare that the above mentioned person is my nominated carer and meet the provisions of Neath Port Talbot Council's Maternity Scheme.

Signed: ..... Dated: .....

Print Name: .....

**D. TO BE COMPLETED BY THE APPLICANT'S MANAGER**

Manager Name: .....

Signature of Manager: .....

Dated: .....

To the best of my knowledge, I declare that the applicant meets the definition of a 'nominated' carer and is eligible for Maternity Support Leave in accordance with Neath Port Talbot's County Borough Council's Maternity Scheme.

If approved by the manager

**E. TO BE COMPLETED BY THE HEAD OF SERVICE**

**\*\* Please delete as appropriate**

\*\* I am satisfied that the applicant can be granted up to 5 days' Maternity Support Leave, in accordance with Neath Port Talbot Council's maternity Scheme.

\*\* This application for Maternity Support Leave is not approved as the provisions of Neath Port Talbot Council's Maternity Scheme are not satisfied

Name of Head of Service .....

Signature of Head of Service.....

Dated.....

**APPENDIX G – APPLICATION FOR SHARED PARENTAL LEAVE/PAY**

*To be completed and returned to the HR Team. This form must be received at least 28 days before the date on which the Shared Parental Leave is due to begin.*

**A. FOR COMPLETION BY THE APPLICANT**

Full Name: .....  
(Mr/Mrs/Miss/Ms)  
Post ..... Title:  
.....  
Employee No.: ..... Hours per Week:  
.....  
Work ..... Location:  
.....

The baby is due on \_\_/\_\_/\_\_ or;  
If the baby has been born, please enter the actual date of birth \_\_/\_\_/\_\_.or;  
Date of placement for adoption \_\_/\_\_/\_\_.

End date of mother/main adopter/intended parents’ maternity/adoption leave  
\_\_/\_\_/\_\_.

**B. SHARED PARENTAL LEAVE DETAILS**

The total amount of Shared Parental Leave available is 50 weeks. The mother or main adopter must take at least 2 weeks of maternity or adoption leave after the birth of her child or placement following adoption, before the maternity leave can be curtailed. .

Total number of weeks SPL available \_\_\_\_\_ weeks.

In accordance with the Maternity Leave Scheme which is applicable to me, which I have read and understood, I wish to give 8 weeks notice that I will be commencing Shared Parental Leave from \_\_/\_\_/\_\_ for a duration of \_\_\_\_\_ weeks.  
*(n.b. you must submit a formal period of leave notice for each period of SPL you wish to request).*

Number of weeks SPL the other parent intend to take \_\_\_\_\_ weeks.

**C. SHARED PARENTAL PAY (ShPP) DETAILS**

A mother or adopter must take at least 2 weeks of statutory maternity or adoption pay. Therefore, the maximum amount of ShPP which can be created is 37 weeks. This will be reduced by the number of additional weeks statutory maternity/adoption pay or maternity allowance taken by the mother or main adopter.

Total number of weeks ShPP available \_\_\_\_\_ weeks.

Total number of weeks ShPP intending to claim \_\_\_\_\_ weeks.

Total number of weeks ShPP the other parent intends to claim \_\_\_\_\_ weeks.

I am applying for Shared Parental Pay from \_\_\_/\_\_\_/\_\_\_ (start date) to \_\_\_/\_\_\_/\_\_\_ (end date).

**D. EMPLOYEE NOTICE OF CURTAILMENT OF MATERNITY/ ADOPTION LEAVE**

Please complete this section if you are the employee named in this notice and you are the mother or main adopter or intended parent.

You must give at least eight weeks notice of your curtailment date. If you are entitled to maternity leave the curtailment date must be at least two weeks after the birth of your child.

I wish my maternity leave to end on \_\_\_/\_\_\_/\_\_\_.

**E. EMPLOYEE DECLARATION**

I confirm that I meet the following conditions:

I am the mother, father or main adopter or intended parent of the child, or the partner of the mother or main adopter

I have (or share with the other parent) the main responsibility for the care of the child and am taking SPL in order to care for the child

I have at least 26 weeks continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the relevant week)

I intend to be in continuous employment until the week before any SPL is taken

If I am claiming shared parental pay I have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week

If you are the mother or main adopter or intended parent:

I have submitted a curtailment of maternity/adoption/surrogacy leave notice by completing Section 4 above

Signed: .....

Dated: .....

**F. DECLARATION OF OTHER PARENT**

Full Name: ..... (Mr/Mrs/Miss/Ms)

Address: .....

.....

NI Number: .....

I confirm that I meet the following conditions:

I have at least 26 weeks employment (employed or self employed) out of the 66 weeks prior to the 15th week before the expected date of birth or at the week in which the main adopter was notified as having been matched for adoption with the child (known as the relevant week)

I have average weekly earnings of at least £30 during at least 13 weeks of the 66 weeks prior to the relevant week

I agree to inform your employee immediately if I cease to meet the two conditions above

I consent to your employee taking SLP and ShPP as set out in Sections C and D above

If you are the mother/main adopter/intended parent:

I have curtailed my maternity leave and pay/adoption/surrogacy leave and pay/maternity allowance or will have done so by the time your employee starts SPL.

I consent to you processing the information contained within the declaration.

Signed: .....

Dated: .....