

## Family Friendly at SBC – Policies

Incorporating Maternity/Adoption Leave/Pay (Non Teaching & Teaching), Paternity Support Leave/Pay, Shared Parental Leave/Pay, Parental Leave.

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For further details please contact Human Resources (as above).

## Section A

### 1 POLICY STATEMENT

- 1.1 Scottish Borders Council is committed to providing a range of family friendly policies in accordance with national and statutory terms and conditions of service
- 1.2 Scottish Borders Council strives to make working arrangements for staff with family, or staff starting a family, as easy as possible. To this end we have a number of established policies for family situations.

### 2 SCOPE OF THE POLICY

- 2.1 This policy is applicable to all employees and elected members within Scottish Borders Council

### 3 POLICY CONTENT

- 3.1 The policy is made up of a number of sections which include the actual procedure and where applicable, supporting guidance. The sections included are:

- Maternity/Adoption Leave/Pay (non-teaching) Section B
- Maternity/Adoption Leave/Pay (teaching) Section C
- Paternity Support Leave/Pay Section D
- Shared Parental Leave/Pay Section E
- Parental Leave Section F

A brief summary of the content of these sections is included below.

- 3.2 **Maternity/Adoption Leave/Pay (non-teaching) (Section B)**  
This policy and procedure sets out the provisions and rights for staff and elected members who are pregnant and following the birth of their child. This policy also contains details for those who have or are considering adoption. All relevant forms can also be found here.
- 3.3 **Maternity/Adoption Leave/Pay (teaching) (Section C)**  
As above however this policy is only applicable to teaching staff.
- 3.4 **Paternity Support Leave/Pay (Section D)**  
This policy and procedure sets out the provisions and rights for members of staff and elected members whose partner is pregnant, or has been notified for match for adoption and is the secondary adopter.
- 3.5 **Shared Parental Leave/Pay (Section E)**  
Shared parental leave came into effect in April 2015 and allows the mother/primary adopter to share part of their maternity/adoption leave and pay with their partner/secondary adopter/child's father.

### 3.6 **Parental Leave (Section F)**

This policy details the right for staff and elected members who have children to take up to 18 weeks' unpaid leave, until the child's 18th birthday.

### 3.7 **Other useful Family Friendly information includes:**

#### **Scottish Borders Family Information Service**

Scottish Borders Family Information Service provides a wide range of free, impartial information for families in the Scottish Borders. This includes details on Childcare Services such as Toddler Groups, Child Minders, Out of School Care Clubs, Breakfast Clubs and Early Learning and Childcare providers based in schools, private and voluntary nurseries and playgroups. Information can be accessed by searching the Scottish Family Information Service <http://www.scottishfamilies.gov.uk/>

It also signposts to a range of Parent Resources and Groups, Family Support Information, Additional Support Needs Groups, Health and Wellbeing Services, Libraries, Services for Young People and more. Additionally, it provides news, events and information for parents, families and children across the Scottish Borders.

The Scottish Borders Family Information Service is committed to supporting and developing affordable, accessible and good quality childcare and early education.

The service works within the Early Years Development team in Children and Young People's Services within Council HQ and can be contacted either by letter to: Scottish Borders Family Information Service, Children and Young People's Services, Early Years Team, Council Headquarters, Newtown St. Boswells, Melrose TD6 0SA or by phone: 0300 100 1800 or via e-mail: [earlyyearsteamed@scotborders.gcsx.gov.uk](mailto:earlyyearsteamed@scotborders.gcsx.gov.uk)

Further free, impartial information for families, regarding the service, can also be found at: [www.scottishfamilies.gov.uk](http://www.scottishfamilies.gov.uk) followed by selecting the Local Authority required e.g. Scottish Borders, then the appropriate section.

#### **Childcare Vouchers & Help with Childcare Costs** **Childcare Vouchers**

A Childcare Voucher scheme is currently available to qualifying employees and elected members. In order to qualify, they must have joined the scheme prior to 4 October 2018 and taken a

voucher in the previous 12 months. For further information please contact Computershare Voucher Services direct, on their free phone helpline 03450021111 or by visiting [www.computersharevoucherservices.com](http://www.computersharevoucherservices.com).

#### **Tax-Free Childcare**

Employees and elected members not registered for Childcare Vouchers, may wish to consider the Tax-Free Childcare (TFC) scheme, introduced by the Government in April 2018. For further information please visit the government website [www.childcarechoices.gov.uk](http://www.childcarechoices.gov.uk)

### **4 OTHER ASSOCIATED POLICIES**

- 4.1 This policy should also be read in conjunction with the Equality, Diversity & Human Rights Policy, Flexible Working Practices and Procedure Policy, Special Leave Policy and Parental Bereavement Leave Policy.

### **5 POLICY REVIEW**

- 5.1 This Policy will be reviewed in accordance with the Council's HR Policy Review programme or as required by legislative requirements in order that the Policy remains relevant and fit for purpose. As a minimum an equalities impact assessment will be carried out every two years.

### **6 FURTHER INFORMATION**

- 6.1 If you have any enquiries please contact [HR Shared Services](#) at Council HQ on 01835 825052/3.
- 6.2 Further information can also be found at [www.gov.uk](http://www.gov.uk) or [www.acas.org.uk](http://www.acas.org.uk)

## Section B

### MATERNITY/ADOPTION LEAVE/PAY (Non Teaching Staff)

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## DEFINITIONS:

**Adoption** refers to the placement for adoption of a child or children under the age of 18 when the adoption application is made, except where the child is already part of the family unit: e.g. a step-parent adopting a child without going through the placement procedure.

**Childbirth** is the birth of a child, from the 24th week of pregnancy; whether living or stillborn.

**Expected Week of Childbirth (EWC)** refers to the period of seven days beginning with midnight between Saturday/Sunday, in which the childbirth is expected to take place.

**Maternity Pay Period** is the period of Maternity Leave (up to a maximum of the first 39 weeks) during which the employee may receive maternity payments (subject to certain conditions).

**Nominated primary adopter** (hereafter referred to as the primary adopter) is the person who will undertake the main care of the child whether a sole adopter or one member of a couple who are adopting together.

**Nominated carer** is a person nominated by the mother or primary adopter to assist in the care of the child and to provide support to the mother or primary adopter at or around the time of the birth or adoption

**Notification week** is the week in which the adopter is notified of being matched with a child for adoption. Or, where a child is adopted from overseas, the week in which the child enters the UK.

**Partner** is the husband or partner of the expectant mother, but not necessarily the baby's father. This also includes the partner of the primary adopter.

**Shared Parental Leave/Pay** is a type of leave/pay that is available to parents. It is also available to parents of adopted children..

**Week of Childbirth** is the week beginning with midnight between Saturday/Sunday in which the baby is born.

## 1 MATERNITY LEAVE

- 1.1 All employees and elected members, regardless of their length of service or the hours they work, will be entitled to take up to 52 weeks Maternity Leave which is made up of 26 weeks Ordinary Maternity Leave immediately followed by 26 weeks Additional Maternity Leave. Maternity Leave can begin on any day of the week but not earlier than the 11<sup>th</sup> week before the Expected Week of Childbirth, unless childbirth has already taken place prior to this. In this case Maternity Leave would commence on the day following childbirth. Employees must take a minimum of 2 weeks following childbirth (or four weeks if manual workers).
- 1.2 During Maternity Leave, the contract of employment continues (unless it comes to an end for some other reason, e.g. end of a temporary contract) and employees are entitled to the benefits of their normal terms and conditions of employment except for pay. For entitlement to Maternity Pay please see section 3 on Maternity Pay Entitlement.

## 2 QUALIFYING CONDITIONS

- 2.1 In accordance with the National Conditions of Service, Maternity Leave will be granted if the employee meets the following conditions:
- she has completed an Application for Maternity Leave form (please see form on page 21) and submitted it to HRSS by the end of the 15<sup>th</sup> week before the Expected Week of Childbirth. The form includes confirmation of:
    - pregnancy
    - the week in which the baby is expected to be born (EWC); **and**
    - the date she wishes Maternity Leave to start.
    - she has provided HRSS with a MatB1 maternity certificate from a registered medical practitioner or midwife stating the EWC as soon as possible.
  - she ceases to work because of pregnancy or childbirth

Elected members should follow the same process.

## 3 MATERNITY PAY ENTITLEMENT

- 3.1 **Employees with less than 26 weeks' Continuous Service** (up to and into the 15<sup>th</sup> week before the EWC) are not entitled to Statutory Maternity Pay, but can claim Maternity Allowance from Jobcentre Plus (Department for Work and Pensions), who will assess the eligibility of the claim. HRSS will return the MatB1 Maternity Certificate to the employee, along with form SMP1 which advises on how to make the claim.

There is also no entitlement to Occupational Maternity Pay.

- 3.2 **Employees with 26 weeks' or more continuous service** (up to and into the 15<sup>th</sup> week before the EWC) **and** whose average weekly earnings are equal to, or more than, the National Insurance lower earnings limit are entitled to Statutory Maternity Pay (current limit can be found on [www.gov.uk](http://www.gov.uk) or by contacting HRSS).
- 3.3 Employees whose average weekly earnings are less than the National Insurance lower earnings limit are not entitled to Statutory Maternity Pay, but can claim Maternity Allowance (see Section 3.1).
- 3.4 Elected members are not entitled to Statutory Maternity Pay or Maternity Allowance.

Employees and elected members with 26 weeks or more continuous service (up to and into the 15<sup>th</sup> week before the EWC), are entitled to Occupational Maternity Pay. There is no lower earnings limit applicable.

- 3.5 Provided employees/ elected members satisfy the above conditions, they will be entitled to receive:

- Weeks 1 – 6: 9/10ths of a week's contractual pay (offset against any payments made by way of Statutory Maternity Pay or Maternity Allowance, where eligible).
- Weeks 7 – 18: Subsequent 12 weeks at half of a week's contractual pay (see note below) **plus** Statutory Maternity Pay (current SMP rate can be found on [www.gov.uk](http://www.gov.uk)) or Maternity Allowance where eligible. (Where half pay and Statutory Maternity Pay/Maternity Allowance combined exceeds full pay, payment of half pay will be reduced to cap the total at full pay each week).

Although not entitled to Statutory Maternity Pay or Maternity Allowance elected members will receive a payment equivalent to half a week's pay plus SMP.

- Weeks 19 – 39: Where eligible to Statutory Maternity Pay, employees will be entitled to a further 21 weeks paid at either Statutory Maternity Pay Standard Rate or 90% of average Nable earnings, whichever is the lower.

Although not entitled to Statutory Maternity Pay elected members will receive an equivalent payment.

- Weeks 40 – 52: Unpaid

**Note:** Where employees/ elected members have stated that they do not intend to return to work, or only remain in post for

less than three months on return from their maternity leave, they will be required to repay the 12 weeks at half pay (or any proportion they have received thereof), less tax, etc.

Employees/ elected members can opt **not** to receive the 12 weeks at half pay during the Maternity Leave period. However, this would then be paid in full along with their first salary when they subsequently return to work following Maternity Leave and remain in post for at least three months.

### 3.6 **Maternity Allowance received**

Employees who receive Maternity Allowance (in place of Statutory Maternity Pay) during their period of Maternity Leave must inform HRSS, so that any adjustments in respect of Occupational Maternity Pay can be made. Any correspondence from Jobcentre Plus regarding this allowance must also be forwarded to HRSS timeously (copies will be taken should the employee require the return of the original documentation).

## 4 **RETURNING FROM MATERNITY LEAVE**

- 4.1 Employees **must not** return to work within two weeks of the actual date of childbirth (or four weeks if manual workers).

This does not apply to elected members.

- 4.2 Employees have the right to return to the job in which they were employed under their contract of employment (except in the case of redundancy), and on terms and conditions not less favourable than those which would have been applicable had they not been absent on Maternity Leave.

- 4.3 Employees **must** discuss their return date with their line manager. Employees who wish to return at the end of the 52 week Maternity Leave period do not have to provide formal notice. However, where employees wish to return earlier, they **must** provide a minimum of 8 weeks' notice in writing to their line manager, who in turn must inform HRSS. Should the employee then decide to further change her return date she must give at least 8 weeks' notice in writing. All of the above applies unless another agreement is reached with their line manager.

Elected members must notify the Clerk to the Council of their return date.

### **Other Circumstances**

- 4.4 Where an employee has terminated her employment due to pregnancy or childbirth, but the child dies during the period of Maternity Leave, she should notify her line manager in writing, as soon as is reasonably practical. She will be entitled to return to work where a suitable vacancy exists. There is no right to return to the same post at the same grade and salary as applied immediately

prior to the termination of employment. In these circumstances the employee must give at least eight weeks' notice in writing of her intention to return to work.

Where an elected member had decided not to resume their position due to pregnancy or childbirth, but the child dies during the period of Maternity Leave she should notify the Clerk to the Council as soon as is reasonably practical.

## **5 ADOPTION LEAVE**

5.1 Adoption Leave is available to all employees and elected members who are adopting a child on their own or for **one** member of a couple who are adopting together. The couple can decide who will take the Adoption Leave. The primary adopter, regardless of their length of service or the hours they work, will be entitled to take up to 52 weeks Adoption Leave (26 weeks Ordinary Adoption Leave and 26 Weeks Additional Adoptive Leave). The other member of the couple, or the partner of the primary adopter, *may* be entitled to Paternity Leave and pay/Shared Paternity Leave and pay.

5.2 Adoption Leave, for employees and elected members who are adopting a child from within the UK, may begin their leave from the date of placement of the child, or a fixed date up to 14 days before the expected date of placement.

Adoption leave, for employees and elected members who are adopting a child from overseas, may begin their leave from when the child enters the UK or within 28 days of that date.

Employees and elected members who wish to change the date on which his/her Adoption Leave starts, but must give the Council 28 days written notice, where reasonably practical.

5.3 During Adoption Leave, the contract of employment continues (unless it comes to an end for some other reason, e.g. end of a temporary contract) and employees are entitled to the benefits of their normal terms and conditions of employment, except for pay. For entitlement to Adoption Pay, please see section 7 on Adoption Pay Entitlement.

5.4 Employees and elected members undertaking a surrogacy arrangement may also be eligible for statutory adoption leave and/or pay, please contact HRSS for further information.

## **6 QUALIFYING CONDITIONS – Adopting a child from within the UK**

6.1 In accordance with the National Conditions of Service, Adoption Leave will be granted if the primary adopter meets the following conditions:

- has completed an Application for Adoption Leave form (see form on page 22) and submitted it to HRSS at least seven

days before the placement. The form includes confirmation of:

- the date of the expected placement
- the date on which Adoption Leave is to start
- has provided HRSS with the original matching certificate from the Adoption Agency (copies will be taken should the employee require the return of the original certificate).

Elected members should follow the same process.

## **7 QUALIFYING CONDITIONS – Adopting a child from overseas**

7.1 In accordance with the National Conditions of Service, Adoption Leave will be granted if the primary adopter meets the following conditions:

- has completed an Application for Overseas Adoption form (see form on page 24) and submitted it to HRSS at least seven days before the child enters the UK to live with the primary adopter. The form includes confirmation of:
  - the date on which official notification was received confirming a UK authority has, or is prepared to issue a certificate confirming the primary adopter's eligibility to adopt from abroad and has been assessed and approved as being a suitable adoptive parent (Certificate of Eligibility).
  - the date on which the child is expected to enter/has entered the UK (notification of this must be given to the Council within 28 days of the child's entry) and must be supported by official written evidence (passport stamp, visa etc.).
  - the date on which the adoption leave is to start, which can be when the child enters the UK or within 28 days of this date.

Please note that Statutory Adoption Leave and Pay cannot start before the child enters the UK.

Elected members should follow the same process.

## **8 ADOPTION PAY ENTITLEMENT**

8.1 **Primary Adopters with less than 26 weeks' Continuous Service**  
UK Adoptions by the beginning of the week, in which they have been notified of being matched with a child for adoption.  
Overseas Adoptions by the beginning of the week in which they received their official notification of their eligibility and approval of being a suitable adoptive parent.

There is no entitlement to either Statutory Adoption Pay or Occupational Adoption Pay. HRSS will provide you with a SAP1 form explaining why you are not entitled to SAP.

## 8.2 **Employees with 26 weeks' or more continuous service**

8.2.1 UK Adoptions by the beginning of the week, in which they have been notified of being matched with a child for adoption.

8.2.2 Overseas Adoptions by the beginning of the week in which they received their official notification of their eligibility and approval of being a suitable adoptive parent

**and** whose average weekly earnings are equal to, or more than, the National Insurance lower earnings limit

are entitled to Statutory Adoption Pay (current limit can be found on [www.gov.uk](http://www.gov.uk) or by contacting HRSS).

8.3 Employees whose average weekly earnings are less than the National Insurance lower earnings limit are not entitled to Statutory Adoption Pay.

8.4 Employees/ elected members with 26 weeks or more continuous service (see 8.2 for details) are entitled to Occupational Adoption Pay. There is no lower earnings limit applicable.

8.5 Provided employees satisfy the above conditions, they will be entitled to receive:

- Weeks 1 – 6: 9/10ths of a week's contractual pay (offset against any payments made by way of Statutory Adoption Pay, where eligible).  
Although not entitled to Statutory Adoption Pay elected members will receive an equivalent payment.
- Weeks 7 – 18: Subsequent 12 weeks at half of a week's contractual pay (see note below) **plus** Statutory Adoption Pay (current SAP rate can be found on [www.gov.uk](http://www.gov.uk)) where eligible. (Where half pay and Statutory Adoption Pay combined exceeds full pay, payment of half pay will be reduced to cap the total at full pay each week).  
Although not entitled to Statutory Adoption Pay elected members will receive an equivalent payment.
- Weeks 19 – 39: Where eligible to Statutory Adoption Pay, employees will be entitled to a further 21 weeks paid at either Statutory Adoption Pay Standard Rate or 90% of average National Insurance liable earnings, whichever is the lower.  
Although not entitled to Statutory Adoption Pay elected members will receive an equivalent payment.
- Weeks 40 – 52: Unpaid

**Note:** Where employees/ elected members have stated that they do not intend to return to work, or only remain in post for less than three months on return from their adoption leave, they will be required to repay the 12 weeks at half pay (or any proportion they have received thereof), less tax, etc.

Employees/ elected members can opt **not** to receive the 12 weeks at half pay during the Maternity Leave period. However, this would then be paid in full along with their first salary when they subsequently return to work following Maternity Leave and remain in post for at least three months.

## 9 RETURNING FROM ADOPTION LEAVE - PRIMARY ADOPTER

- 9.1 Employees have the right to return to the job in which they were employed under their contract of employment and on terms and conditions not less favourable than those which would have been applicable had they not been absent on Adoption Leave.
- 9.2 Employees **must** discuss their return date with their line manager. Employees who wish to return at the end of the 52 week Adoption Leave period do not have to provide formal notice. However, where employees wish to return earlier, they must provide a **minimum of 8 weeks' notice** in writing to their line manager, who in turn must inform HRSS. If the employee then decides to further change their return date they must give at least 8 weeks' notice in writing. All the above applies unless another agreement is reached with the line manager.

Elected members must notify the Clerk to the Council of their return date.

### 9.3 Other Circumstances

Where an employee has terminated his/her employment due to Adoption Leave, but the placement ends for any reason during this period, the employee should notify their line manager in writing as soon as is reasonably practical. He/she will be entitled to return to work where a suitable vacancy exists. There is no right to return to the same post at the same grade and salary as applied immediately prior to the termination of employment. In these circumstances the employee must give at least eight weeks' notice in writing of their intention to return to work.

Elected members must notify the Clerk to the Council accordingly.

## 10 GENERAL INFORMATION

### 10.1 Allowances

Where employees/ elected members are entitled to Occupational Maternity/Adoption Pay, they will continue to receive payments of other allowances (i.e. phone rental and first aid allowance) in line with the entitlement for their contractual pay. This will be 6 weeks at

9/10<sup>th</sup> of the allowance followed by 12 weeks at half of the allowance (or any part of the contractual pay period received thereof).

Should an employee/ elected member have opted to have their 12 weeks at half pay retained, then this option will also apply to their allowance(s). The retained allowance(s) would then be paid along with their first salary payment when they return to work following Maternity/Adoption Leave.

## 10.2 **Annual Leave/Public Holidays**

Employees qualify for their normal paid annual leave entitlement during Maternity/Adoption Leave and to any public holidays which fall in this period.

At the discretion of the line manager any leave due may be:

- Taken before the commencement of Maternity/Adoption Leave; or
- Taken on return from Maternity/Adoption Leave; or
- A combination of the above; or
- Paid where an employee does **not** return to work from Maternity/Adoption Leave.

Where an employee gives written notice to the Council that they do not intend to return to work at the end of the Maternity/Adoption Leave period, the Council will make a payment in lieu of leave accrued.

HRSS must be informed of the agreed arrangements by the appropriate line manager.

**Term Time Only Employees** - Annual leave is calculated and paid on return from Maternity/Adoption Leave, as per the calculation in the Annual Leave Policy.

## 10.3 **Antenatal Care**

Once an employee or elected member has advised the organisation that she is pregnant, she will be entitled to reasonable paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

To be entitled to take time off for antenatal care, the employee or elected member is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee or elected member should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's or elected member's doctor, midwife or health visitor

has advised her to attend, in addition to medical examinations. The employee or elected member should endeavour to give her line manager/ the Clerk to the Council as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

An individual who has a qualifying relationship with the employee or elected member, which includes the employee's or elected member's husband or civil partner or the father of the expected child, is eligible to take unpaid time off to accompany the employee at up to two antenatal appointments.

#### 10.4 **Before Taking Adoption Leave**

Employees must inform their line manager and submit the Adoption Leave Request form to HRSS, no later than 7 days before the placement is due to commence or the date of entry of the child into the UK. Supporting documentation of the matching certificate from the Adoption Agency, or the Certificate of Eligibility from the UK authority is required.

The date Adoption Leave starts can be changed, provided at least 28 days' notice is given (if practicable).

Elected Members must inform the Clerk to the Council and submit the paperwork to HRSS as above.

#### 10.5 **Before Taking Maternity Leave**

Employees must inform their line manager and submit the Application for Maternity Leave form to HRSS no later than the end of the 15<sup>th</sup> week before the week in which the baby is due.

The date Maternity Leave starts can be changed provided at least 28 days' notice is given, (early childbirth being the exception).

Elected Members must inform the Clerk to the Council and submit the paperwork to HRSS as above.

#### **Benefits**

Employees will be entitled to all benefits (non-pay) forming part of their normal terms and conditions of employment (e.g. accrual of holidays, use of cars under the contract hire scheme etc.).

#### **Continuity of Service**

All authorised Maternity/Adoption Leave will be regarded as continuous service except for pension purposes (see below for pension information).

### **Early/ Late Childbirth**

Where the actual date of childbirth is earlier or later than the Expected Date of Childbirth, Maternity Leave and any Maternity Pay are unaffected, provided the baby is born after the Maternity Leave period has commenced.

Where the baby is born before the start of Maternity Leave, the Maternity Leave period and any Maternity Pay shall be triggered automatically on the day after the date of birth. In this event the employee or elected member must notify HRSS of the date of birth in writing, within 21 days of the birth (if reasonably practicable).

### **III Health – Adoption**

If the employee or elected member is absent due to any type of illness prior to the start of Adoption Leave, normal Sick Leave and Sick Pay entitlements apply.

### **III Health – Maternity**

If the Maternity Leave has not yet commenced and the employee or elected member is absent due to a pregnancy related illness, at any time during the four weeks before the start of the Expected Week of Childbirth, the Maternity Leave will be triggered automatically on the day after the first complete day of absence.

If the employee or elected member is absent due to any other type of illness at any time during the four weeks before the start of the Expected Week of Childbirth, normal Sick Leave and Sick Pay entitlements apply.

If the employee or elected member is absent due to any illness (including pregnancy related) prior to the four weeks before the Expected Week of Childbirth, normal Sick Leave and Sick Pay entitlements apply.

### **III Health – Maternity/Adoption Leave**

If the employee or elected member is sick during either of these periods, this shall not be treated as Sick Leave nor will Sick Pay be applicable, as Maternity/Adoption Leave takes precedence.

Employees or elected members who are unable to return to work due to sickness, either after the Maternity/Adoption Leave period has ended or at an earlier date previously notified as the return date, must follow normal sickness absence notification and certification procedures.

### **Job Vacancies**

Employees on Maternity/Adoption Leave are advised to regularly check the SBC website, [www.myjobscotland.gov.uk/councils/scottish-borders-council](http://www.myjobscotland.gov.uk/councils/scottish-borders-council), to

ensure they have the opportunity to apply for any vacancies arising whilst they are off work.

### **Keeping In Touch Days**

During Maternity/Adoption Leave the employee may work up to 10 days as “Keeping in Touch Days”, without losing SMP/MA or SAP and without bringing the Maternity/Adoption Leave period to an end.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace. **Any** hours (or part of an hour) worked in a day will count as one of the 10 days allowed. These days do not have to be consecutive, but can only be taken following agreement between the line manager and the employee with regard to both the activity and timing.

A line manager cannot insist that an employee carries out any work and an employee is protected from suffering a detriment or being dismissed for refusing any work offered. Equally, an employee cannot insist on being given any work to do during Maternity/Adoption Leave.

The employee will receive normal pay for any work done, up to a maximum of normal full pay, inclusive of any SMP/MA or SAP received. (Where pay for work done and SMP/MA or SAP combined exceeds full pay, payment for hours worked will be reduced to cap the total at normal full pay each day).

Maternity/Adoption Leave will not be extended due to the fact that an employee has carried out some work during this period.

An employee **cannot** carry out any work during the first two weeks (four weeks for manual workers) following the birth of the child. It is an offence to permit an employee to work during this period, known as the compulsory Maternity Leave period.

Keeping in Touch days should be notified by the line manager to Payroll by email [payroll.salaries@scotborders.gov.uk](mailto:payroll.salaries@scotborders.gov.uk) clearly stating the date(s) in question together with the number of hours worked each day. Emails should cover Keeping in Touch days up to and including the 9<sup>th</sup> of the month and be submitted to Payroll within 3 working days for payment on the last banking day of the month. Claims can be submitted as and when Keeping in Touch days are taken, they need not be stored up and submitted as a single claim. Please note line managers are responsible for ensuring no more than 10 such days are allowed.

#### 10.6 **Miscarriage/Stillbirth**

If an employee or elected member has a miscarriage prior to the 24<sup>th</sup> week of pregnancy she will not be entitled to Maternity Leave or Maternity Pay, but will be entitled to Sick Leave and Sick Pay in accordance with normal notification and certification procedures.

In the event of a stillbirth from the 24<sup>th</sup> week of pregnancy, an employee or elected member retains the right to Maternity Leave and to Maternity Pay in accordance with normal conditions of service.

Employees or elected members in this position are encouraged to contact Human Resources Case Management Team (Tel: 01835 825015; e-mail: [askhr@scotborders.gov.uk](mailto:askhr@scotborders.gov.uk)) for advice on available support.

They can also use the confidential Employee Assistance Programme run by P.A.M. This service is available 24 hours a day 365 days per year. The support provided by P.A.M includes telephone counselling and where appropriate face to face counselling.

P.A.M. can be contacted via (Freephone 0800 882 4102) or by visiting the P.A.M. Assist Website: [www.pamassist.co.uk](http://www.pamassist.co.uk). The log-in details are:

**Username: Borders**  
**Password: Council**

#### 10.7 **Night working**

Employees who are pregnant have the right to be transferred to day work on medical grounds. If the employee considers this to be necessary, she should ask her GP to provide a medical certificate to this effect, which must be forwarded to her line manager.

#### 10.8 **Pension**

During the Maternity/Adoption pay period, pension contributions will continue to be payable. Any period of unpaid Maternity/Adoption Leave will constitute a break in service for pension purposes. On returning to work following Maternity/Adoption Leave, the Pensions Team will contact the employee/ elected member to see whether they wish to pay the shortfall of pension contributions and therefore eliminate the break in service.

Where an employee/ elected member does not return to work following Maternity/Adoption Leave, the Pensions Team will contact them to see whether they wish to pay the shortfall of pension contributions during any period of unpaid Maternity/Adoption Leave.

#### 10.9 **Pre-Adoption Meetings**

The process of selection for becoming adoptive parents involves a number of assessment visits at home, which both prospective parents must attend. The Council will grant reasonable leave to **\*both** prospective adoptive parents to attend such meetings, subject to reasonable notice being given and on production of evidence of the meetings to their line manager(s)/ the Clerk to the Council. \*Primary Adopter up to 5 appointments – paid. Secondary Adopter up to 2 appointments – unpaid.

#### 10.10 **Reasonable Contact**

The line manager and employee are allowed to make reasonable contact during Maternity/Adoption Leave, to discuss such issues as the return to work. This would not constitute ‘work’ and would not therefore count towards the 10 Keeping in Touch days.

Apart from keeping in contact to discuss the return to work, line managers should ensure that an employee is kept informed of other issues, such as significant workplace developments and training opportunities.

#### 10.11 **Redundancy**

If a redundancy situation arises at any stage during an employee’s Maternity/Adoption Leave which means it is not practicable for the employer to continue to employ them under their original contract of employment, they are entitled to be offered (before the contract ends) a suitable alternative vacancy, where available. An employee who has qualified for Statutory Maternity/Adoption Pay will continue to be paid for the full 39 week period even if they are made redundant.

#### 10.12 **Relief/Supply Contract of Employment**

Employees, who hold **only** a Relief/Supply Contract of Employment, **may** be entitled to receive Statutory Maternity/Adoption Pay, providing they satisfy the qualifying conditions. There is no entitlement to Occupational Maternity/Adoption Pay.

#### 10.13 **Resignation**

If an employee has advised that they do not intend to return to work following Maternity/Adoption Leave it will be assumed that they have resigned with effect from the last day for which they received Statutory Maternity/Adoption pay, unless an alternative resignation date is provided in writing. Should an employee have not been entitled to receive Statutory Maternity/Adoption pay, the resignation date would be taken from the date of the letter of resignation.

If an employee has advised that they intend to return to work following Maternity/Adoption Leave and then decide not to return they must resign, giving the normal period of notice in writing as required by their contract of employment.

If an elected member does not intend to return following Maternity/ Adoption Leave they should give notice to the Clerk to the Council.

**10.14 Risk Assessments - Maternity**

Line managers should ensure appropriate risk assessments are conducted during pregnancy, in the immediate period after giving birth and during any period of breastfeeding. Employees are encouraged to discuss any potential health and safety risks in carrying out their normal duties with their line manager. Elected members should discuss these matters with the Clerk to the Council.

**10.15 Termination of Adoption Placement**

Where the Adoption placement ends, for any reason, during Adoption Leave, the employee or elected member must notify the Council as soon as practical. Should the placement end within the first 26 weeks of Adoption Leave the employee or elected member will be entitled to remain absent from work until the end of the 26 week period. Should the placement end after the 26<sup>th</sup> week of Adoption Leave the employee or elected member will be entitled to remain absent on Adoption Leave for up to 8 weeks after the end of the placement or until the end of the Adoption Leave period, whichever is the sooner.

## APPLICATION FOR MATERNITY LEAVE – Non Teaching

To be completed by all pregnant employees and elected members and sent to HRSS by the end of the 15<sup>th</sup> week before the EWC. Before completing this form you should read carefully the information contained in Section 3 of the Maternity Policy, please contact HRSS should you have any queries.

Full Name:	
------------	--

Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No:		Department:	
--------------	--	-------------	--

Line Manager Name:		Line Manager Extension No:	
--------------------	--	----------------------------	--

Line Manager Informed	Yes/No (Please delete as appropriate) If no please do so as soon as possible.
-----------------------	--

1.	Doctor / Midwife's certificate (MatB1) Follow	<input type="checkbox"/> Attached	<input type="checkbox"/> To
----	---	-----------------------------------	-----------------------------

*If not attached, please submit form Mat B1 as soon as possible after the 14<sup>th</sup> week before the Expected Week of Childbirth. Failure to do so could delay your maternity pay arrangements.*

2.	"My expected week of childbirth starts on Sunday"	Date:	/ /
----	---	-------	-----

3.	"I wish to start my Maternity Leave on "	Date:	/ /
----	--	-------	-----

### **OCCUPATIONAL MATERNITY PAY (OMP)**

Should you be entitled to receive 12 weeks at half of a week's contractual pay, you may choose whether or not to receive this payment during your Ordinary Maternity Leave period.

If you choose to receive the payment you will be required to repay the sums received if you do not comply with the undernoted conditions. Please sign below to demonstrate your understanding of this and indicate your preference.

<b>OPTION 1 - OMP</b>	“I wish to receive 12 weeks at half of a week’s contractual pay on my normal pay dates. I understand that if I do not return to work and remain at SBC for at least 3 months after my Maternity Leave, I must repay the full amount received less tax, etc.”.		
Signed:		Date:	/ /

<b>OPTION 2 - OMP</b>	“I do not wish to receive 12 weeks at half of a week’s contractual pay during my Maternity Leave. I understand that if I return to work the sum due will be paid to me in a lump sum. I also understand that if I do not remain at SBC for at least 3 months after my return, I must repay the full amount received.”		
Signed:		Date:	/ /

**SHARED PARENTAL LEAVE**

	Do you intend to take Shared Parental Leave?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
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**APPLICATION FOR ADOPTION LEAVE – Non Teaching  
ADOPTING FROM WITHIN THE UK**

To be completed by all Primary Adopters and sent to HRSS within at least 7 days of being notified by the Adoption Agency that you have been matched with a child for adoption (or as soon as is practicable in the circumstances). Please see section 6.

Full Name:	
------------	--

Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No :		Department:	
---------------	--	-------------	--

Name of Line Manager or Head Teacher:	
---------------------------------------	--

Name of Line Manager or Head Teacher:	
---------------------------------------	--

1.	Adoption Matching Certificate <input type="checkbox"/> Attached
	<input type="checkbox"/> To Follow

*If not attached, please submit as soon as possible. Failure to do so could delay your adoption pay arrangements.*

2.	<p><i>I understand that to be eligible for Adoption Leave &amp; Pay I must:</i></p> <ul style="list-style-type: none"> <li>Have been newly matched with a child by an approved adoption agency and</li> <li>Have worked continuously for SBC/ been an elected member of SBC for 26 weeks beginning with the week in which I have been notified of being matched with a child for Adoption and</li> <li>Begin Adoption Leave from the date of placement or from a fixed date up to 14 days before the expected date of placement.</li> </ul> <p>Signature:..... Date: .....</p>
----	--

3.	“I wish to start my Adoption Leave on”	Date:	/ /
----	--	-------	-----

**OCCUPATIONAL ADOPTION PAY (OAP)**

Should you be entitled to receive 12 weeks at half of a week’s contractual pay, you may choose whether or not to receive this payment during your Ordinary Adoption Leave period.

If you choose to receive the payment you will be required to repay the sums received if you do not comply with the undernoted conditions. Please sign below to demonstrate your understanding of this and indicate your preference.

<b>OPTION 1 – OAP</b>	“I wish to receive 12 weeks at half of a week’s contractual pay on my normal pay dates. I understand that if I do not return to work and remain at SBC for at least 3 months after my Adoption Leave, I must repay the full amount received less tax, etc.”.		
Signed:		Date:	/ /

<b>OPTION 2 – OAP</b>	“I do not wish to receive 12 weeks at half of a week’s contractual pay during my Adoption Leave. I understand that if I return to work the sum due will be paid to me in a lump sum. I also understand that if I do not remain at SBC for at least 3 months after my return, I must repay the full amount received.”		
Signed:		Date:	/ /

**SHARED PARENTAL LEAVE**

	Do you intend to take Shared Parental Leave?		Yes <input type="checkbox"/> No <input type="checkbox"/>
--	--	--	---

**APPLICATION FOR ADOPTION LEAVE – Non Teaching  
ADOPTING FROM OVERSEAS**

To be completed by all Primary Adopters and sent to HRSS within at least 7 days before the child enters the UK to live with you (or as soon as is practicable in the circumstances). Please see section 7.

Full Name:	
------------	--

Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No :		Department:	
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Name of Line Manager or Head Teacher:	
---------------------------------------	--

Name of Line Manager or Head Teacher:	Change to reflect above
---------------------------------------	-------------------------

1.	Certificate of Eligibility and proof of the child’s entry into the UK <input type="checkbox"/> Attached <input type="checkbox"/> To Follow
----	---

*If not attached, please submit as soon as possible. Failure to do so could delay your adoption pay arrangements.*

2.	<p><i>I understand that to be eligible for Adoption Leave &amp; Pay I must:</i></p> <ul style="list-style-type: none"> <li>• Have been confirmed by the UK authority, as being eligible and approved as a suitable adoptive parent and</li> <li>• Have been notified of the date the child is to enter/has entered the UK and</li> <li>• Begin Adoption Leave from the child’s date of entry into the UK or within 28 days of this date.</li> </ul> <p>Signature:..... Date: .....</p>
----	--

3.	“I wish to start my Adoption Leave on”	Date:	/ /
----	--	-------	-----

### OCCUPATIONAL ADOPTION PAY (OAP)

Should you be entitled to receive 12 weeks at half of a week's contractual pay, you may choose whether or not to receive this payment during your Ordinary Adoption Leave period.

If you choose to receive the payment you will be required to repay the sums received if you do not comply with the undernoted conditions. Please sign below to demonstrate your understanding of this and indicate your preference.

<b>OPTION 1 – OAP</b>	"I wish to receive 12 weeks at half of a week's contractual pay on my normal pay dates. I understand that if I do not return to work and remain at SBC for at least 3 months after my Adoption Leave, I must repay the full amount received less tax, etc."		
Signed:		Date:	/ /

<b>OPTION 2 – OAP</b>	"I do not wish to receive 12 weeks at half of a week's contractual pay during my Adoption Leave. I understand that if I return to work the sum due will be paid to me in a lump sum. I also understand that if I do not remain at SBC for at least 3 months after my return, I must repay the full amount received."		
Signed:		Date:	/ /

### SHARED PARENTAL LEAVE

	Do you intend to take Shared Parental Leave?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	--	--	------------------------------	-----------------------------

## Section C

### MATERNITY/ADOPTION LEAVE/PAY (Teaching Staff)

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**DEFINITIONS:**

**Adoption** refers to the placement for adoption of a child or children under the age of 18 when the adoption application is made, except where the child is already part of the family unit: e.g. a step-parent adopting a child without going through the placement procedure.

**Childbirth** is the birth of a child from the 24th week of pregnancy, whether living or stillborn.

**Childbirth** is the birth of a child from the 24th week of pregnancy, whether living or stillborn.

**Expected Week of Childbirth (EWC)** refers to the period of seven days, beginning with midnight between Saturday/Sunday, in which the childbirth is expected to take place.

**Maternity Pay Period** is the period of Maternity Leave (up to a maximum of the first 39 weeks) during which the employee may receive maternity payments (subject to certain conditions).

**Nominated primary adopter** (hereafter referred to as the primary adopter) is the person who will undertake the main care of the child whether a sole adopter or one member of a couple who are adopting together.

**Nominated carer** is a person nominated by the mother or primary adopter to assist in the care of the child and to provide support to the mother or primary adopter at or around the time of the birth or adoption.

**Notification week** is the week in which the adopter is notified of being matched with a child for adoption. Or, where a child is adopted from overseas, the week in which the child enters the UK

**Partner** is the husband or partner of the expectant mother, but not necessarily the baby's father. This also includes the partner of the primary adopter.

**Shared Parental Leave/Pay** is a type of leave/pay that is available to parents with babies due on or after 5 April 2015. It is also available to parents of adopted children, who were adopted after 5 April 2015.

**Week of Childbirth** is the week beginning with midnight between Saturday/Sunday in which the baby is born.

## 1 MATERNITY LEAVE

- 1.1 All employees, regardless of their length of service or the hours they work, will be entitled to take up to 52 weeks Maternity Leave which is made up of 26 weeks Ordinary Maternity Leave immediately followed by 26 weeks Additional Maternity Leave. Maternity Leave can begin on any day of the week but not earlier than the 11<sup>th</sup> week before the Expected Week of Childbirth, unless childbirth has already taken place prior to this. In this case Maternity Leave would commence on the day following childbirth. Employees must take a minimum of 2 weeks following childbirth.
- 1.2 During Maternity Leave, the contract of employment continues (unless it comes to an end for some other reason, e.g. end of temporary contract) and employees are entitled to the benefits of their normal terms and conditions of employment except for pay. For entitlement to Maternity Pay please see Section 3.

## 2 QUALIFYING CONDITIONS

- 2.1 In accordance with National Conditions of Service, Maternity Leave will be granted if the employee meets the following conditions:
- they have completed an Application for Maternity Leave form and submitted it to HRSS by the end of the 15<sup>th</sup> week before the Expected Week of Childbirth. The form includes confirmation of:
    - pregnancy
    - the week in which the baby is expected to be born (EWC); **and**
    - the date they wish Maternity Leave to start
  - they have provided HRSS with a MatB1 maternity certificate from a registered medical practitioner or midwife stating the EWC, as soon as possible.
  - they cease to work because of pregnancy or childbirth.

## 3 MATERNITY PAY ENTITLEMENT

- 3.1 **Employees with less than 26 weeks' continuous service** (up to and into the 15<sup>th</sup> week before the EWC) are not entitled to Statutory Maternity Pay, but can claim Maternity Allowance from Jobcentre Plus (Department for Work and Pensions), who will assess the eligibility of the claim. HRSS will return the MatB1 Maternity Certificate to the employee, along with form SMP1 which advises on how to make the claim.

There is also no entitlement to Occupational Maternity Pay.

- 3.2 **Employees with 26 weeks or more continuous service** (up to and into the 15<sup>th</sup> week before the EWC) **and** whose average weekly earnings are equal to, or more than, the National Insurance lower earnings limit are entitled to Statutory Maternity Pay (current limit can be found on [www.gov.uk](http://www.gov.uk) or by contacting HRSS).
- 3.3 Employees whose average weekly earnings are less than the National Insurance lower earnings limit are not entitled to Statutory Maternity Pay, but can claim Maternity Allowance (see Section 3.1).
- 3.4 Employees with 26 weeks or more continuous service (up to and into the 15<sup>th</sup> week before the EWC), are entitled to Occupational Maternity Pay. There is no lower earnings limit applicable.
- 3.5 Provided employees satisfy the above conditions, they will be entitled to receive:
- Weeks 1 – 13: Occupational Maternity Pay and Statutory Maternity Pay for the first 13 weeks, when combined will be equivalent to normal salary.
  - Weeks 14 – 39: Where eligible to Statutory Maternity Pay, employees will be entitled to a further 26 weeks paid at either Statutory Maternity Pay Standard Rate or 90% of average NIable earnings, whichever is the lower.
  - Weeks 40 – 52: Unpaid
- 3.6 **Maternity Allowance received**  
Employees who receive Maternity Allowance (in place of Statutory Maternity Pay) during their period of Maternity Leave must inform HRSS, so that any adjustments in respect of Occupational Maternity Pay can be made. Any correspondence from Jobcentre Plus regarding this allowance must also be forwarded to HRSS timeously (copies will be taken if the employee requires the return of the original documentation).
- 4 RETURNING FROM MATERNITY LEAVE**
- 4.1 Employees **must not** return to work within two weeks of the actual date of childbirth.
- 4.2 Employees have the right to return to the job in which they were employed under their contract of employment (except in the case of **redundancy**), and on terms and conditions not less favourable than those which would have been applicable had they not been absent on Maternity Leave.

4.3 Employees must discuss their return date with their line manager. Employees who wish to return at the end of the 52 week Maternity Leave period do not have to provide formal notice. However, where employees wish to return earlier, they must provide a minimum of 28 days' notice in writing. Should the employee then decides to further change her return date she must give at least 28 days' notice in writing. All of the above applies unless another agreement is reached with their line manager.

#### 4.4 **Other Circumstances**

Where an employee has terminated her employment due to pregnancy or childbirth but the child dies during the period of Maternity Leave, she should notify her line manager in writing as soon as is reasonably practical. She will be entitled to return to work where a suitable vacancy exists. There is no right to return to the same post at the same grade and salary as applied immediately prior to the termination of employment. In these circumstances the employee must give 28 days' notice in writing of her intention to return to work.

### 5 **ADOPTION LEAVE**

5.1 Adoption Leave is available to all employees who are adopting a child on their own or for **one** member of a couple who are adopting together. The couple can decide who will take the Adoption Leave. The primary adopter, regardless of their length of service or the hours they work, will be entitled to take up to 52 weeks Adoption Leave (26 weeks Ordinary Adoption Leave immediately followed by 26 weeks Additional Adoption Leave). The other member of the couple, or the partner of the Adopter, may be entitled to Paternity Leave and Pay.

5.2 Adoption Leave, for employees who are adopting a child from within the UK, may begin their leave from the date of placement of the child, or a fixed date up to 14 days before the expected date of placement.

5.3 Adoption leave, for employees who are adopting a child from overseas, may begin their leave from when the child enters the UK or within 28 days of that date.

5.4 Employees who wish to change the date on which his/her Adoption Leave starts, but must give the Council 28 days written notice, where reasonably practical.

5.5 During Adoption Leave, the contract of employment continues (unless it comes to an end for some other reason, e.g. end of a temporary contract) and employees are entitled to the benefits of their normal terms and conditions of employment, except for pay. For entitlement to Adoption Pay, please see section 7 on Adoption Pay Entitlement.

- 5.6 Employees undertaking a surrogacy arrangement may also be eligible for statutory adoption leave and/or pay, please contact HRSS for further information.

## **6 QUALIFYING CONDITIONS – Adopting a child from within the UK**

- 6.1 In accordance with the National Conditions of Service, Adoption Leave will be granted if the primary adopter meets the following conditions:

- has completed an Application for Adoption Leave form (see form on page 40) and submitted it to HRSS at least seven days before the placement. The form includes confirmation of:
  - the date of the expected placement
  - the date on which Adoption Leave is to start
- has provided HRSS with the original matching certificate from the Adoption Agency (copies will be taken should the employee require the return of the original certificate).

## **7 QUALIFYING CONDITIONS – Adopting a child from overseas**

- 7.1 In accordance with the National Conditions of Service, Adoption Leave will be granted if the primary adopter meets the following conditions:

- has completed an Application for Overseas Adoption form (see form on page 41) and submitted it to HRSS at least seven days before the child enters the UK to live with the primary adopter. The form includes confirmation of:
  - the date on which official notification was received confirming a UK authority has, or is prepared to issue a certificate confirming the primary adopter's eligibility to adopt from abroad and has been assessed and approved as being a suitable adoptive parent (Certificate of Eligibility).
  - the date on which the child is expected to enter/has entered the UK (notification of this must be given to the Council within 28 days of the child's entry) and must be supported by official written evidence (passport stamp, visa etc.).
  - the date on which the adoption leave is to start, which can be when the child enters the UK or within 28 days of this date.

Please note that Statutory Adoption Leave and Pay cannot start before the child enters the UK.

## **8 ADOPTION PAY ENTITLEMENT**

- 8.1 **Primary Adopters with less than 26 weeks Continuous Service**

- 8.1.1 UK Adoptions by the beginning of the week, in which they have been notified of being matched with a child for adoption.
- 8.1.2 Overseas Adoptions by the beginning of the week in which they received their official notification of their eligibility and approval of being a suitable adoptive parent.

There is no entitlement to either Statutory Adoption Pay or Occupational Adoption Pay.

## 8.2 **Employees with 26 weeks or more continuous service**

- 8.2.1 UK Adoptions by the beginning of the week, in which they have been notified of being matched with a child for adoption
- 8.2.2 Overseas Adoptions by the beginning of the week in which they received their official notification of their eligibility and approval of being a suitable adoptive parent **and** whose average weekly earnings are equal to, or more than, the National Insurance lower earnings limit are entitled to Statutory Adoption Pay (current limit can be found on [www.gov.uk](http://www.gov.uk) or by contacting HRSS).
- 8.3 Employees whose average weekly earnings are less than the National Insurance lower earnings limit are not entitled to Statutory Adoption Pay.
- 8.4 Employees with 26 weeks or more continuous service (see 8.2 for details) are entitled to Occupational Adoption Pay. There is no lower earnings limit applicable.
- 8.5 Provided employees satisfy the above conditions, they will be entitled to receive:

- Weeks 1 – 13: Occupational Adoption Pay and Statutory Adoption Pay for the first 13 weeks, when combined will be equivalent to normal salary.
- Weeks 14 – 39: Where eligible to Statutory Adoption Pay, employees will be entitled to a further 26 weeks paid at either Statutory Adoption Pay Standard Rate or 90% of average Nlable earnings, whichever is the lower.
- Weeks 40 – 52: Unpaid

## 9 **RETURNING FROM ADOPTION LEAVE – PRIMARY ADOPTER**

- 9.1 Employees have the right to return to the job in which they were employed under their contract of employment (except in the case of redundancy) and on terms and conditions not less favourable than those which would have been applicable had they not been absent on Adoption Leave.
- 9.2 Employees must discuss their return date with their line manager. Employees who wish to return at the end of the 52 week Adoption Leave period do not have to provide formal

notice. However, where employees wish to return earlier, they must provide a minimum of 28 days' notice in writing. Should the employee then decide to further change their return date they must give at least 28 days' notice in writing. All of the above applies unless another agreement is reached with their line manager.

### 9.3 **Other Circumstances**

Where an employee has terminated his/her employment due to Adoption Leave but the placement ends for any reason during this period, s/he will be entitled to return to work where a suitable vacancy exists. There is no right to return to the same post at the same grade and salary as applied immediately prior to the termination of employment. In these circumstances the employee must give 28 days' notice in writing of their intention to return to work.

## 10 **GENERAL INFORMATION**

### 10.1 **Annual Leave/Public Holidays**

The school calendar is as follows:

- 190 teaching days
- 5 in-service or development days
- 40 annual leave days (includes Public Holidays)
- Balance school closure days (unpaid)

Employees will continue to accrue their Annual Leave entitlement (0.2051 days accrued per working day in the school session) whilst they are on Maternity/Adoption leave, as per SNCT guidelines. All accrued Annual Leave must be taken on return from Maternity/Adoption Leave.

Employees must discuss the timing of taking all accrued leave with their Line Manager, to ensure that it is taken at a time which is convenient to the school, this may be agreed to be taken on school closure days. Where accrued leave arising from Maternity/Adoption Leave is directed to be taken during days of school closure an additional payment will be made for each day of leave. Accrued leave should be taken in the term in which the return to work takes place or if not practical, in the following term. Calculation of all leave entitlement is pro-rata for part years and part time working where appropriate.

Where an employee gives written notice to the Council that s/he does not intend to return to work at the end of the Maternity/Adoption Leave period, the Council will make a payment in lieu of leave accrued. HRSS must be informed of the agreed arrangements by the employee's line manager.

10.2 **Antenatal Care**

Once an employee has advised the organisation that she is pregnant, she will be entitled to reasonable paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

To be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations. The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

An individual who has a qualifying relationship with the employee, which includes the employee's husband or civil partner or the father of the expected child, is eligible to take unpaid time off to accompany the employee at up to two antenatal appointments. The individual with the qualifying relationship should ask their employer for more details of the right.

10.3 **Before Taking Adoption Leave**

Employees must inform their line manager and submit the Adoption Leave Request form to HRSS, no later than 7 days before the placement is due to commence or the date of entry of the child into the UK. Supporting documentation of the matching certificate from the Adoption Agency, or the Certificate of Eligibility from the UK authority is required.

The date Adoption Leave starts can be changed, provided at least 28 days' notice is given (if practical).

10.4 **Before Taking Maternity Leave**

Employees must inform their line manager and submit the Application for Maternity Leave Form to HRSS no later than the end of the 15<sup>th</sup> week before the week in which the baby is due.

The date Maternity Leave starts can be changed provided at least 28 days' notice is given, (early childbirth being the exception).

- 10.5      **Benefits**  
Employees will be entitled to all benefits (non-pay) forming part of their normal terms and conditions of employment (e.g. accrual of holidays, use of cars under the contract hire scheme, etc.).
- 10.6      **Continuity of Service**  
All authorised Maternity/Adoption Leave will be regarded as continuous service except for pension purposes (see below section on Pension).
- 10.7      **Early/Late Childbirth**  
Where the actual date of childbirth is earlier or later than the Expected Date of Childbirth, Maternity Leave and Maternity Pay are unaffected, provided the baby is born after the Maternity Leave period has commenced.
- Where the baby is born before the start of Maternity Leave, the Maternity Leave period and any Maternity Pay shall be triggered automatically on the day after the date of birth. In this event the employee must notify HRSS of the date of birth in writing within 21 days of the birth (if reasonably practical).
- 10.8      **Ill Health – Adoption**  
If the employee is absent, due to any illness prior to the start of Adoption Leave, then normal Sick Leave and Sick Pay entitlements apply.
- 10.9      **Ill Health – Maternity**  
If the Maternity Leave has not yet commenced and the employee is absent due to a pregnancy related illness, at any time during the four weeks before the start of the Expected Week of Childbirth, the Maternity Leave will be triggered automatically on the day after the first complete day of absence.
- If the employee is absent, due to any other type of illness at any time during the four weeks before the start of the Expected Week of Childbirth, normal Sick Leave and Sick Pay entitlements apply.
- If the employee is absent due to any illness (including pregnancy related) prior to the four weeks before the Expected Week of Childbirth, normal Sick Leave and Sick Pay entitlements apply.
- 10.10     **Ill Health – Maternity/Adoption Leave**  
If the employee is sick during either of these periods, this shall not be treated as Sick Leave nor will Sick Pay be applicable, as Maternity/Adoption Pay takes precedence.

Employees who are unable to return to work due to sickness, either after the Maternity/Adoption Leave period has ended or at an earlier date previously notified as the return date, must follow normal sickness absence notification and certification procedures.

10.11 **Job Vacancies**

Employees on Maternity/Adoption Leave are advised to regularly check the SBC website, [www.myjobscotland.gov.uk/councils/scottish-borders-council](http://www.myjobscotland.gov.uk/councils/scottish-borders-council), to ensure they have the opportunity to apply for any vacancies arising whilst they are off work.

10.12 **Keeping In Touch Days**

During Maternity/Adoption Leave the employee may work for up to 10 days as “Keeping in Touch Days”, without losing SMP/MA or SAP and without bringing the Maternity/Adoption Leave period to an end.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace. **Any** hours (or part of an hour) worked in a day will count as one of the 10 days allowed. These days do not have to be consecutive, but can only be taken following agreement between the line manager and the employee with regard to both the activity and timing.

A line manager cannot insist that an employee carries out any work and an employee is protected from suffering a detriment or being dismissed for refusing any work offered. Equally, an employee cannot insist on being given any work to do during Maternity/Adoption Leave.

The employee will receive normal pay for any work done, up to a maximum of normal full pay, inclusive of any SMP/MA or SAP received. (Where pay for work done and SMP/MA or SAP combined exceeds full pay, payment for hours worked will be reduced to cap the total at full pay each day).

Maternity/Adoption Leave will not be extended due to the fact that an employee has carried out some work during this period.

An employee cannot carry out any work during the first two weeks following the birth of the child. It is an offence to permit an employee to work during this period, known as compulsory Maternity Leave period.

Keeping in Touch days should be notified by the line manager to Payroll by email [payroll.salaries@scotborders.gov.uk](mailto:payroll.salaries@scotborders.gov.uk) clearly

stating the date(s) in question together with the number of hours worked each day. Emails should cover Keeping in Touch days up to and including the 9<sup>th</sup> of the month and be submitted to Payroll within 3 working days for payment on the last banking day of the month. Claims can be submitted as and when Keeping in Touch days are taken, they need not be stored up and submitted as a single claim. Please note line managers are responsible for ensuring no more than 10 such days are allowed.

#### 10.13 **Miscarriage/Stillbirth**

If an employee has a miscarriage prior to the 24<sup>th</sup> week of pregnancy she will not be entitled to Maternity Leave or Maternity Pay, but will be entitled to Sick Leave and Sick Pay in accordance with normal notification and certification procedures.

In the event of a stillbirth from the 24<sup>th</sup> week of pregnancy an employee retains the right to Maternity Leave and to Maternity Pay in accordance with normal conditions.

Employees in this position are encouraged to contact Human Resources (Tel: 01835 825015; e-mail: [askhr@scotborders.gov.uk](mailto:askhr@scotborders.gov.uk)) for advice on available support.

They can also use the confidential Employee Assistance Programme run by P.A.M. This service is available 24 hours a day 365 days per year. The support provided by P.A.M includes telephone counselling and where appropriate face to face counselling.

P.A.M. can be contacted via (Freephone 0800 882 4102) or by visiting the P.A.M. Assist Website: [www.pamassist.co.uk](http://www.pamassist.co.uk). The log- in details are:

**Username: Borders**

**Password: Council**

#### 10.14 **Pension**

During the Maternity/Adoption pay period, pension contributions will continue to be payable. Any period of unpaid Maternity/Adoption leave will constitute a break in service for pension purposes. Prior to going on Maternity/Adoption Leave, employees should contact the Scottish Public Pensions Agency at 7 Tweedside Park, Tweedbank, Galashiels TD1 3TE, telephone no 01896 – 893060 [www.sppa.gov.uk](http://www.sppa.gov.uk) - if they wish to make a provision for the period of break in service.

- 10.15      **Personal Incremental Credit**  
Maternity/Adoption Leave shall count in full as credited service in the determination of scale placing in accordance with the salary placement regulations.
- 10.16      **Pre-adoption Meetings**  
The process of selection for becoming adoptive parents involves a number of assessment visits at home, which both prospective parents must attend. The Council will grant reasonable leave to **\*both** prospective adoptive parents to attend such meetings, subject to reasonable notice being given and on production of evidence of the meetings to their line manager(s). \*Primary Adopter up to 5 appointments – paid. Secondary Adopter up to 2 appointments – unpaid.
- 10.17      **Reasonable Contact**  
The line manager and employee are allowed to make reasonable contact during Maternity/Adoption Leave, in order to discuss such issues as the return to work. This would not constitute ‘work’ and would not therefore count towards the 10 Keeping in Touch days.
- Apart from keeping in contact to discuss the return to work, line managers should ensure that an employee is kept informed of other issues, such as significant workplace developments and training opportunities.
- 10.18      **Redundancy**  
If a redundancy situation arises at any stage during an employee’s Maternity/Adoption Leave which means it is not practical for the employer to continue to employ them under their original contract of employment, they are entitled to be offered (before the contract ends) a suitable alternative vacancy, where available. An employee who has qualified for Statutory Maternity/Adoption Pay will continue to be paid for the full 39 week period even if they are made redundant.
- 10.19      **Supply Contract of Employment**  
Employees, who hold **only** a Supply Contract of Employment, **may** be entitled to receive Statutory Maternity/Adoption Pay, providing they satisfy the qualifying conditions. There is no entitlement to Occupational Maternity/Adoption Pay.
- 10.20      **Resignation**  
If an employee has advised that they do not intend to return to work following Maternity/Adoption Leave it will be assumed that they have resigned with effect from the last day for which they received Statutory Maternity/Adoption pay unless an alternative resignation date has been provided in writing. Should an employee have not been entitled to receive Statutory Maternity/Adoption pay, the

resignation date would be taken from the date of the letter of resignation.

If an employee has advised that they intend to return to work following Maternity/Adoption Leave and then decide not to return they must resign, giving the normal period of notice in writing as required by their contract of employment.

10.21 **Risk Assessments - Maternity**

Line managers should ensure appropriate risk assessments are conducted during pregnancy, in the immediate period after giving birth and during any period of breastfeeding. Employees are encouraged to discuss any potential health and safety risks in carrying out their normal duties with their line manager

10.22 **Termination of Adoption Placement**

Where the Adoption placement ends, for any reason, during Adoption Leave, the employee must notify the Council as soon as practical. Should the placement end within the first 26 weeks of Adoption Leave the employee will be entitled to remain absent from work until the end of the 26 week period. Should the placement end after the 26<sup>th</sup> week of Adoption Leave the employee will be entitled to remain absent on Adoption Leave for up to 8 weeks after the end of the placement or until the end of the Adoption Leave period, whichever is the sooner.

## Application for Maternity Leave - Teaching

To be completed by all pregnant employees and sent to HRSS by the end of the 15<sup>th</sup> week before the EWC. Before completing this form you should read carefully the information contained in Section 3 of the Maternity Policy, please contact HRSS should you have any queries.

Full Name:	
------------	--

Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No :		School / Location :	
---------------	--	---------------------	--

Name of Head Teacher or Line Manager :	
--	--

Name of Line Manager or Head Teacher:	
---------------------------------------	--

1.	Doctor / Midwife's certificate (MatB1) Follow	<input type="checkbox"/> Attached	<input type="checkbox"/> To
----	---	-----------------------------------	-----------------------------

*If not attached, please submit form MatB1 as soon as possible after the 14<sup>th</sup> week before the Expected Week of Childbirth. Failure to do so could delay your maternity pay arrangements.*

2.	"My expected week of childbirth starts on Sunday"	Date:	/ /
----	---	-------	-----

3.	"I wish to start my Maternity Leave on "	Date:	/ /
----	--	-------	-----

4	Signature		Date:	/ /
---	-----------	--	-------	-----

### SHARED PARENTAL LEAVE

Do you intend to take Shared Parental Leave?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	--	------------------------------	-----------------------------

## APPLICATION FOR ADOPTION LEAVE – Teaching ADOPTING FROM WITHIN THE UK

To be completed by all nominated Adopters and sent to HRSS within at least 7 days of being notified by the Adoption Agency that you have been matched with a child for adoption (or as soon as is practicable in the circumstances). Please see section 6.

Full Name:	
------------	--

Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No :		School / Location :	
---------------	--	---------------------	--

Name of Head Teacher or Line Manager :	
--	--

Name of Line Manager or Head Teacher:	
---------------------------------------	--

1.	Adoption Matching Certificate <span style="float: right;"><input type="checkbox"/> Attached</span>
	<input type="checkbox"/> To Follow

*If not attached, please submit as soon as possible. Failure to do so could delay your adoption pay arrangements.*

2.	<p><i>I understand that to be eligible for Adoption Leave &amp; Pay I must:</i></p> <ul style="list-style-type: none"> <li>Have been newly matched with a child by an approved adoption agency and</li> <li>Have worked continuously for SBC for 26 weeks beginning with the week in which I have been notified of being matched with a child for Adoption and</li> <li>Begin Adoption Leave from the date of placement or from a fixed date up to 14 days before the expected date of placement.</li> </ul> <p>Signature:..... Date: .....</p>
----	---

3.	“I wish to start my Adoption Leave on ”	Date:	/ /
----	---	-------	-----

**SHARED PARENTAL LEAVE**

	Do you intend to take Shared Parental Leave?		Yes <input type="checkbox"/> No <input type="checkbox"/>
--	--	--	---



3.	“I wish to start my Adoption Leave on”	Date:	/ /
----	--	-------	-----

**SHARED PARENTAL LEAVE**

	Do you intend to take Shared Parental Leave?		Yes <input type="checkbox"/> No <input type="checkbox"/>
--	--	--	---

## Section D

### PATERNITY SUPPORT LEAVE/PAY

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#### **DEFINITIONS:**

**Adoption** refers to the placement for adoption of a child or children under the age of 18 when the adoption application is made, except where the child is already part of the family unit: e.g. a step-parent adopting a child without going through the placement procedure

**Childbirth** is the birth of a child, from the 24th week of pregnancy; whether living or stillborn.

**Expected Week of Childbirth (EWC)** refers to the period of seven days beginning with midnight between Saturday/Sunday, in which the childbirth is expected to take place.

**Nominated primary adopter** (hereafter referred to as the primary adopter) is the person who will undertake the main care of the child whether a sole adopter or one member of a couple who are adopting together.

**Nominated carer** is the person nominated by the mother or primary adopter to assist in the care of the child and to provide support to the mother or primary adopter at or around the time of the birth or adoption.

**Notification week** is the week in which the adopter is notified of being matched with a child for adoption. Or, where a child is adopted from overseas, the week in which the child enters the UK.

**Ordinary Paternity Support Leave** refers to the initial 1 week (5 days FTE) leave on full pay for the child's father, husband or partner of the mother (or primary adopter).

**Ordinary Statutory Paternity Leave/Pay (OSPP)** refers to the second consecutive week of leave for which the employee may receive Statutory Paternity Pay only (subject to certain conditions).

**Partner** is the husband or partner of the expectant mother, but not necessarily the baby's father. This also includes the partner of the primary adopter.

**Shared Parental Leave/Pay** is a type of leave/pay that is available to parents. It is also available to parents of adopted children.

## 1 ORDINARY PATERNITY SUPPORT LEAVE

1.1 All employees and elected members, regardless of their length of service or the hours they work, will be entitled to take up to 1 week (full time equivalent) Paternity Support Leave, if they and their partner are:

- having a baby
- adopting a child or
- having a baby through a surrogacy arrangement

1.2 Normal pay will be paid to the child's father/partner or secondary adopter at or around the time of birth or placement for adoption.

1.3 Employees/ elected members will need to take their paternity leave within 56 days of the actual date of birth of the child/ placement of the child. Paternity leave cannot start until the birth of the baby/ placement of the child.

## 2 ORDINARY STATUTORY PATERNITY LEAVE/PAY (OSPP)

2.1 Fathers or partners of an expectant mother or primary adopter who have at least 26 weeks' continuous service at the end of the 15<sup>th</sup> week before the baby is due or in the case of adoption the matching week, or the entry of the child into the UK are entitled to an additional 1 week (full time equivalent) Statutory Paternity Leave. Should the employee qualify and opt to take this week, it is paid at Statutory Paternity Pay only, (current SPP rate can be found at [www.gov.uk](http://www.gov.uk)) or 90% of their average weekly earnings – whichever is the lower. Please see qualifying conditions.

Elected members with 26 weeks' service will receive an equivalent payment.

### 3 QUALIFYING CONDITIONS

3.1 Eligibility for receipt of Statutory Paternity Leave and Pay, employees must:

- have at least 26 weeks continuous service by the end of the 15<sup>th</sup> week before the expected week of childbirth or by the end of the week they were matched with a child (UK adoptions)/ the date of entry of the child into the UK (Overseas adoptions).
- be employed/ an elected member up to the date the child is born (or placed with the adopter)
- must provide official proof of adoption to qualify for paternity pay – e.g. matching certificate or certificate of eligibility.
- earn at least the National Insurance Lower Earnings Limit in the 8 week relevant period.
- give the correct notice – please see below
- be taking time off to look after the child
- be responsible for the child's upbringing.

3.2 If OSPP is refused, HRSS will send form OSPP1 for the employee/ elected member to complete and forward to HM Revenues & Customs.

### 4 TIMING OF LEAVE

4.1 There can only be one period of leave. Where an employee or elected member elects to take both the Paternity Support Leave and Statutory Paternity Leave these weeks **must** be consecutive. The leave can start on any day of the week (on or following the child's birth), but must be taken within 56 days of the actual birth or placement date of the child. If the child is born early, the leave must be taken within the period from the actual date of the birth up to 56 days after the expected week of birth.

### 5 NOTICE PERIOD

5.1 Employees wishing to take Paternity Support Leave and/or Statutory Paternity Leave must inform their line manager, where reasonably possible, no later than the 15<sup>th</sup> week before the expected week of childbirth or in the case of adoption within seven days of the adopter being notified of the placement date of the child/the date of entry of the child into the UK.

Elected members must inform the Clerk to the Council as above.

5.2 This should be done by completing the Paternity Support Leave Request Form (please see form on page 46) and forwarding it to

HRSS, once approval has been given by the employee's line manager/ Clerk to the Council.

- 5.3 Employees should ensure that line management are aware of the approximate dates that leave is likely to be required, in order that the absence can be anticipated as far as possible. While managers will make every effort to accommodate requests for leave, failure to give adequate notice may mean that cover cannot be immediately arranged, and that consequently leave cannot be granted at the requested time.
- 5.4 Should the employee/ elected member wish to amend the commencement date of the Paternity Support Leave and/or Statutory Paternity Leave, 28 days' notice should be given where possible to their line manager/ the Clerk to the Council. This change should also be communicated to HRSS.
- 5.5 If the child is born early, the employee/ elected member is still eligible for Statutory Paternity Leave should they have continuous service of 26 weeks by the expected week of childbirth.

## 6 GENERAL INFORMATION

### 6.1 Antenatal Appointments

An employee or elected member is eligible to take unpaid time off to accompany their partner to attend 2 appointments, if they are the baby's father, expectant mother's spouse or civil partner, in a long term relationship with the expectant mother, or the intended parent (in a surrogacy arrangement).

### 6.2 Pre-Adoption Meetings

The process of selection for becoming adoptive parents involves a number of assessment visits at home, which both prospective parents must attend. The Council will grant reasonable leave to **\*both\*** prospective adoptive parents to attend such meetings, subject to reasonable notice being given and on production of evidence of the meetings to their line manager(s)/ the Clerk to the Council. \*Primary Adopter up to 5 appointments – paid. Secondary Adopter up to 2 appointments – unpaid.

### 6.3 Rights during leave

An employee is entitled to the benefits of all their terms and conditions of employment except those relating to pay.

### 6.4 Sickness during Paternity leave

If an employee is sick during this period, this shall not be treated as Sick Leave nor will Sick Pay be applicable, as Paternity Leave takes precedence.

### 6.5 Special Circumstances

When more than one baby is born from a single pregnancy or more than one child adopted at the same time, no additional leave will be granted.

Employees and elected members will still qualify for both types of leave should the baby be stillborn from 24 weeks of pregnancy or born alive at any point in the pregnancy but later dies.

**PATERNITY SUPPORT & STATUTORY PATERNITY LEAVE  
REQUEST FORM**

**PERSONAL DETAILS (Please use block capitals)**

**Full Name**

.....

**Employee Number**.....

**National Insurance Number**.....

**Job Title**.....

I declare that:

I am the partner of the expectant mother/primary adopter

**or**

I am the nominated carer and will take time off work to support the mother/primary adopter and/or assist in the care of the child

**Date of expected week of childbirth / expected placement of child / expected date of arrival of the child into the UK**

**OR**

**If the child has already been born/placed please detail the actual date of birth/placement:**

.....

**The date I wish to start my Paternity Leave is:**

.....

*Please tick the appropriate boxes:*

**PATERNITY SUPPORT LEAVE**

I am applying for **Paternity Support Leave** 1 week (5 days FTE *paid at full pay*):

**STATUTORY PATERNITY LEAVE/PAY**

I will have more than 26 weeks continuous service with SBC/ as an elected member at the end of the 15<sup>th</sup> week before the EWC/end of the matching week before placement/date of arrival of the child into the UK and am also applying for **Statutory Paternity Leave** additional 1 week (5 days FTE *paid at OSPP rate*):

**I understand that any leave must be taken consecutively.**

Signature ..... Date .....

*NOW PASS THIS APPLICATION FORM TO YOUR LINE MANAGER/ THE CLERK TO THE COUNCIL FOR APPROVAL*

Signed (*Line Manager*).....

Date.....

Name (*Please print*).....

Position.....

*I understand that payments will be processed based on the commencement date noted above by the employee. In the event of being notified of any change to this date, I confirm that I will advise HRSS immediately.*

**Please ensure a copy of this completed form is sent immediately to HRSS, Old School Building, Newtown St Boswells.**

**PAYROLL USE ONLY**

**Statutory Paternity Pay**

1. Does the employee satisfy the 26 weeks service rule?

**YES – Go to 2**

NO – Issue form OSPP1 – Date issued (if applicable)

Initials

2. Are average Nable earnings above LEL?

**YES – Go to 3**

NO – Issue form OSPP1 – Date issued (if applicable)

Initials

3. Are 90% of average Nable earnings equal to or more than current OSPP rate?

**YES – Pay OSPP at current applicable rate**

NO – Pay OSPP of 90% of average earnings per week

## Section E

### SHARED PARENTAL LEAVE/PAY

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#### DEFINITIONS:

**Adoption** refers to the placement for adoption of a child or children under the age of 18 when the adoption application is made, except where the child is already part of the family unit: e.g. a step-parent adopting a child without going through the placement procedure.

**Continuous Leave** is a period of leave that is taken in one block, e.g. four weeks' leave.

**Discontinuous Leave** is a period of leave that is arranged around weeks where the employee or elected member will return to work e.g. an arrangement where an employee will work every other week for a period of three months.

**Expected Week of Childbirth (EWC)** refers to the period of seven days beginning with midnight between Saturday/Sunday, in which the childbirth is expected to take place.

**Notification week** is the week in which the adopter is notified of being matched with a child for adoption. Or, where a child is adopted from overseas, the week in which the child enters the UK.

**Partner** is the father of the child or adoptive child, or the person who, at the date of the child's birth/placement of child, is married to, the civil partner of, or the partner of the mother/primary adopter. This includes someone, of either sex, who lives with the mother and child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

**Shared Parental Leave (SPL)** is a type of leave, up to 52 weeks, that is available to parents.

**SPLIT day:** Shared Parental Leave in Touch Day.

**Statutory Shared Parental Pay (ShPP)** is available for eligible parents to share between them while on shared parental leave.

## 1. SHARED PARENTAL LEAVE

- 1.1 Shared Parental Leave (SPL) enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child.
- 1.2 SPL enables parents to commit to ending their maternity/adoption leave and pay at a future date, and to share the untaken balance of leave and pay with their partner, or to return to work early from maternity/adoption leave and opt in to SPL and ShPP at a later date.
- 1.3 This policy applies to all employees and elected members, whether they are the mother or the partner. If it is the mother who is employed by or an elected member of SBC, her partner must submit any notifications to take SPL set out in this policy to his/her own employer, which may have its own SPL policy in place if he/she wants to take a period of SPL.
- 1.4 If it is the partner that is employed by or an elected member of SBC, the mother must submit any notifications to take SPL to her own employer. The mother and partner should ensure that they are each liaising with their own employer to ensure that requests for SPL are handled as smoothly as possible.

## 2. AMOUNT OF SHARED PARENTAL LEAVE

- 2.1 The amount of SPL will depend on when the parent brings her maternity/adoption leave period to an end and the amount of leave that the other parent takes in respect of the child. SPL must be taken in blocks of at least four weeks, it is up to the parents how they share the parental leave – they can take it in turns or take time off together, provided no more than 52 weeks of maternity/adoption/shared parental leave are taken in total.

The employee can request to take SPL in one continuous block, this will be accepted as long as the employee meets the eligibility and notice requirements. A maximum of three requests for leave per pregnancy can normally be made by each parent; this will need to be agreed by each individual department/section.

- 2.2 The first two weeks following birth are the compulsory maternity leave period for employees (or four weeks for manual workers) and are reserved for the mother who cannot curtail her maternity leave to take SPL until two weeks after the birth. The partner, however, can begin a period of SPL at any time from the date of the child's birth. All pregnant employees/ elected members are entitled to 52 weeks' maternity leave, a mother can create up to 50 weeks' shared parental leave and up to 37 weeks' statutory shared parental pay for her and/or her partner to take.

## 3. QUALIFYING CONDITIONS

- 3.1 **The mother (SBC employee/ elected member) is eligible for SPL if she:**

- has at least 26 weeks' continuous service up to the end of the 15<sup>th</sup> week before the expected week of childbirth and remains in SBC employment or as an elected member until the week before any period of SPL that she takes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory maternity leave in respect of the child or Maternity Leave as an elected member as detailed in this policy; and
- complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

In addition, the **partner** of the mother **must:**

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;

- have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks; and
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

3.2 **The partner (SBC employee/ elected member) is eligible for SPL if he/she:**

- has at least 26 weeks' continuous service up to the end of the 15<sup>th</sup> week before the expected week of childbirth and remains in SBC employment or as an elected member until the week before any period of shared parental leave that he/she takes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the **partner** to be eligible for SPL, the mother **must:**

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks; and
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity/adoption leave, statutory maternity/adoption pay or maternity/adoption allowance in respect of the child; and
- complies with the relevant maternity/adoption leave or pay curtailment requirements (or have returned to work before the end of statutory maternity/adoption leave).

**4. ADOPTION AND SURROGACY**

4.1 Shared parental leave also applies to parents who are adopting a child due to be placed on or after 5 April 2015 via an adoption agency. In order for adoptive parents to take SPL in respect of a child they must meet similar eligibility criteria as described above, and be entitled to Statutory Adoption Leave or Adoption Leave as an elected member as detailed in this policy.. Parents must provide a similar notice of entitlement to their employers, however, the notice **must** also confirm:

- the date the parents were notified as having been matched with the child;
  - the date the child is expected to be placed with the parents; and
  - a declaration which includes the parents' national insurance numbers and consent to the amount of time the other parent intends to take.
- 4.2 Evidence of eligibility in this case will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.
- 4.3 Adopters are also required to take 2 weeks of adoption pay before the adoption pay period can be curtailed, but this does not have to be after the child is placed for adoption (adoption leave and pay can start up to 14 days before the child is placed for adoption).
- 4.4 For surrogacy arrangements, if the intended parents have applied, or intend to apply, for a 'parental order' then, subject to meeting qualifying conditions, the nominated 'primary' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto SPL.
- 5. NOTICE REQUIREMENTS FOR SHARED PARENTAL LEAVE**
- 5.1 You must give at least 8 weeks' notice of any leave you wish to take, only if the child is born more than 8 weeks early can this notice period be reduced.
- 5.2 If you or your partner wishes to take SPL and/or ShPP, you must end your maternity/adoption leave and/or pay early in order to create SPL and/or ShPP.
- 5.3 Employees/ elected members are advised that, if they have already decided the pattern of SPL that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.
- 5.4 If you give notice to book a single block of leave, your line manager/ Clerk to the Council cannot refuse your request and you are entitled to take the leave on the day requested.
- 5.5 However, if you book a period of discontinuous leave in one booking notice your request may be refused. If this is the case there is a two week discussion period, starting on the date that you give the booking notice. Your line manager/ the Clerk to the Council can ask for changes to a discontinuous pattern of SPL where it would be difficult to accommodate. If no agreement is reached you may wish to take the number of leave weeks in your

booking notice in a single continuous block starting on any date you choose (as long as it is at least 8 weeks away). You must inform your line manager/ the Clerk to the Council within five days after the end of the two weeks' discussion period of this date.

5.6 If one parent's employer has not agreed a pattern of discontinuous leave, both parents may wish to withdraw the booking notice.

5.7 **Withdrawal of Notice**

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to SPL or ShPP and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

When notice is withdrawn the employee will revert back to maternity leave.

**6. STATUTORY SHARED PARENTAL PAY (ShPP)**

6.1 ShPP is available for eligible parents to share between them while on SPL. The number of weeks available will depend on how much Statutory Maternity/Adoption Pay or maternity allowance the mother has already been paid when her maternity/adoption leave or pay period ends or how much paid leave has been taken by an elected member.

6.2 A total of 39 weeks' statutory maternity/adoption pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks (or four weeks for manual workers), this would leave 37 weeks' ShPP that could be shared with her partner. It is up to the parents as to who is paid the ShPP and how it is apportioned between them.

An elected member has a total of 39 weeks available.

6.3 Where a mother or primary adopter takes the full 39 weeks of statutory maternity or adoption pay or maternity allowance, or an elected member takes 39 weeks' paid leave, then there is no untaken pay or allowance and no statutory shared parental pay can be created.

**ONLY APPLICABLE TO TEACHERS**

A mother who would otherwise qualify for occupational maternity pay in accordance with SNCT guidelines will be entitled to the same allowance as maternity pay allowance, subject to:

- The first two weeks of OMP is not transferable
- The entitlement to 11 weeks' OMP and SMP equal to the mother's normal pay is not transferable

6.4 **The mother (SBC employee/ elected member) is eligible for ShPP if she:**

- has at least 26 weeks' continuous service up to the end of the 15<sup>th</sup> week before the expected week of childbirth/adoption and remains in SBC employment or as an elected member until the week before any period of ShPP that she gets;
- has normal weekly earnings for a period of eight weeks up to the end of the 15<sup>th</sup> week before the expected week of childbirth/adoption of at least the lower earnings limit for national insurance contribution purposes
- has, at the date of the child's birth/adoption matching date, the main responsibility, apart from the partner, for the care of the child
- is absent from work and intends to care for the child during each week in which she receives ShPP; and
- is entitled to Statutory Maternity/Adoption Pay in respect of the child, and the maternity/adoption pay period has been reduced as required or if an elected member is entitled to paid Maternity/ Adoption Leave.

6.5 In addition, for the mother to be eligible for ShPP, the **partner must:**

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth/adoption;
- have, at the date of the child's birth/adoption matching date, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity/adoption allowance threshold (currently £30) for any 13 of those 66 weeks.

6.6 **The partner (SBC employee/ elected member) is eligible for ShPP if he/she:**

- has at least 26 weeks' continuous service up to the end of the 15<sup>th</sup> week before the expected week of childbirth/adoption and remains in SBC employment or

as an elected member until the week before any period of ShPP that he/she gets;

- has normal weekly earnings for eight weeks up to the end of the 15<sup>th</sup> week before the expected week of childbirth/adoption of at least the lower earnings limit for national insurance contributions purposes;
- has, at the date of the child's birth/adoption matching date, the main responsibility, apart from the mother, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives ShPP.

6.7 In addition, for the partner to be eligible, the **mother must:**

- has been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth/adoption;
- have average weekly earnings of at least the maternity/adoption allowance threshold (currently £30) for any 13 of those 66 weeks;
- have, at the date of the child's birth/adoption matching date, the main responsibility, apart from the partner, for the care of the child; and
- be entitled to Statutory Maternity/Adoption Pay or maternity/adoption allowance in respect of the child, and the maternity/adoption pay period or maternity/adoption allowance period has been reduced as required.

## 7. GENERAL INFORMATION

### 7.1 Job Vacancies

Employees on SPL are advised to regularly check the SBC website, [www.myjobscotland.gov.uk/councils/scottish-borders-council](http://www.myjobscotland.gov.uk/councils/scottish-borders-council), to ensure they have the opportunity to apply for any vacancies arising whilst they are away from work.

### 7.2 Reasonable Contact

The line manager and employee are allowed to make reasonable contact during SPL, to discuss such issues as the return to work. Line managers should also ensure that an employee is kept informed of other issues, such as significant workplace developments and training opportunities.

### 7.3 Returning to work following Shared Parental Leave

Employees have the right to return to the same job when returning to work from SPL, when the total period of SPL, Statutory Maternity/Adoption/Paternity Leave is 26 weeks or less.

If the total period of SPL, Statutory Maternity/Adoption/Paternity Leave is more than 26 weeks, the employee has the right to

return to the same job unless it is not reasonably practical. In these circumstances, the employee has the right to return to another job that is suitable and appropriate for him/her.

7.4 **Rights during Shared Parental Leave**

All terms and conditions of the employee's contract, except normal pay, will continue. Salary will be replaced by ShPP if the employee/ elected member is eligible for it. All other benefits will remain in place, for example, holiday entitlement will continue to accrue and pension contributions will continue to be paid during any period when the employee/ elected member is receiving ShPP but not during any period of unpaid SPL.

7.5 **Shared Parental Leave in Touch Days (SPLIT)**

Parents taking SPL can each work up to 20 SPLIT days without bringing the SPL to an end. These are in addition to the 10 Keeping in Touch days already available for parents on statutory maternity/adoption leave.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace. A line manager cannot insist that an employee carries out any work during their SPL. Equally, an employee cannot insist on being given any work to do during SPL. An employee will be paid the equivalent of their normal pay for time worked on a SPLIT day which will be inclusive of ShPP.

## APPLICATION FOR SHARED PARENTAL LEAVE

### Notice of Entitlement and Intention to take Shared Parental Leave – MOTHER/PRIMARY ADOPTER

Please contact HRSS should you have any queries.

Full Name:	
------------	--

Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No:		Department:	
--------------	--	-------------	--

Line Manager Name:		Line Manager Extension No:	
--------------------	--	----------------------------	--

Line Manager Name:	Amend as others
--------------------	-----------------

1	"I wish to start my Maternity/Adoption Leave on "	Date:	/ /
2.	"I wish to end my Maternity/Adoption Leave on"	Date:	/ /
3	"My expected week of childbirth/adoption starts on Sunday"	Date:	/ /
4	Date of Birth/Placement of Child	Date:	/ /

<b>1</b>	<b>Shared Parental Leave (SPL)</b>
1	The total amount of SPL my partner and I have available is: .....
2	I intend to take the following number of weeks' SPL: .....
3	My partner intends to take the following number of weeks' SPL: .....
4	I intend to take SPL on the following dates (please include the start and end dates for each period of leave):  .....

<b>Statutory Shared Parental Pay (ShPP)</b> if applicable	
1	The total amount of ShPP my partner and I have available is: .....
2	I intend to take the following number of weeks' ShPP: .....
3	My partner intends to take the following number of weeks' ShPP: .....
4	I intend to take ShPP on the following dates: .....
<b>Notes:</b> The start date of the first period of SPL that you wish to take must be at least eight weeks after you have provided this notice. SPL must be taken in blocks of at least four weeks.	

<b>DECLARATION (SBC employee)</b>	(please tick as applicable) I have 26 weeks' continuous service up to the end of the 15 <sup>th</sup> week before the expected week of childbirth/place of child: <input type="checkbox"/>		
	At the date of the child's birth/placement I will have the main responsibility, apart from my partner, for the care of the child: <input type="checkbox"/>		
	I am entitled to Statutory Maternity Leave (or if an elected member paid Maternity Leave under the SBC policy.): <input type="checkbox"/>		
	<b>I confirm I satisfy the above criteria and that the information I have provided is accurate. I will comply with SBC's Shared Parental Leave notice and evidence requirements and immediately inform SBC if I cease to care for the child.</b>		
Signed:		Date:	/ /
Print Name:			

**DECLARATION TO BE COMPLETED BY THE MOTHER'S PARTNER**

Full Name:			
Home Address:			
	Post Code:	National Insurance Number	

Current Employers Address & contact details	
---	--

<b>DECLARATION</b>	<p>(please tick as applicable)</p> <p>I have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth/placement of child:</p> <p><input type="checkbox"/></p> <p>I have average weekly earnings of at least £30 for any 13 of those 66 weeks: <input type="checkbox"/></p> <p>At the date of the child's birth/placement I will have the main responsibility, apart from the mother, for the care of the child: _____ :</p> <p><input type="checkbox"/></p> <p>I am the father of the child, or am married to, the civil partner, or the partner of the mother:</p> <p><input type="checkbox"/></p> <p>I consent to the amount of SPL that the mother intends to take: <input type="checkbox"/></p> <p>I consent to SBC processing the information provided in this form: <input type="checkbox"/></p> <p><b>I confirm I satisfy the above criteria and that the information I have provided is accurate.</b></p> <p><b>I will comply with SBC's Shared Parental Leave notice and evidence requirements and immediately inform SBC if I cease to care for the child.</b></p>		
Signed:		Date:	/ /
Print Name:			

	<p><b>Notes:</b> Within 14 days of receiving this notice of entitlement/intention, SBC may request:</p> <ul style="list-style-type: none"> <li>• Copy of the child's birth certificate within 14 days of the birth – if the birth certificate has not been issued after this period, a signed declaration stating the date and location of the child's birth</li> </ul>
--	---

**APPLICATION FOR SHARED PARENTAL LEAVE**

**Notice of Entitlement and Intention to take Shared Parental Leave – PARTNER**

Please contact HRSS should you have any queries.

Full Name:	
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Home Address:			
	Post Code:	Home Email:	

Home Tel No:		Work Tel No:	
--------------	--	--------------	--

Employee No:		Department:	
--------------	--	-------------	--

Line Manager Name:		Line Manager Extension No:	
--------------------	--	----------------------------	--

Line Manager Name: amend as per others	
--	--

1	The mother/primary adopter's name is:	Name:	.....
2.	The mother/primary adopter's maternity/adoption leave is due to start on:	Date:	/ /
3	The mother/primary adopter's maternity/adoption leave is due to end on:	Date:	/ /
4	Date of Birth/Placement of Child:	Date:	/ /
5	The mother/primary adopter is expected to receive the following periods of statutory maternity pay/maternity allowance/statutory adoption pay:	Date from:	/ /
		Date to:	/ /

<b>Shared Parental Leave (SPL)</b>	
1	The total amount of SPL the mother/primary adopter and I have available is: .....
2	I intend to take the following number of weeks' SPL: .....
3	The mother/primary adopter intends to take the following number of weeks' SPL: .....
4	I intend to take SPL on the following dates (please include the start and end dates for each period of leave): .....

<b>Statutory Shared Parental Pay (ShPP) if applicable</b>	
1	The total amount of ShPP the mother/primary adopter and I have available is: .....
2	I intend to take the following number of weeks' ShPP: .....
3	The mother/primary adopter intends to take the following number of weeks' ShPP: .....
4	I intend to take ShPP on the following dates: .....
Notes: The start date of the first period of SPL that you wish to take must be at least eight weeks after you have provided this notice. SPL must be taken in blocks of at least four weeks.	

<b>DECLARATION (SBC employee)</b>	(please tick as applicable) I have 26 weeks' continuous service up to the end of the 15 <sup>th</sup> week before the expected week of childbirth/placement of child: <input type="checkbox"/>		
	At the date of the child's birth/placement I will have the main responsibility, apart from the mother/primary adopter, for the care of the child: <input type="checkbox"/>		
<b>I confirm I satisfy the above criteria and that the information I have provided is accurate. I will comply with SBC's Shared Parental Leave notice and evidence requirements and immediately inform SBC if I cease to care for the child.</b>			
Signed:		Date:	/ /
Print Name:			

**DECLARATION TO BE COMPLETED BY THE MOTHER/PRIMARY ADOPTER**

Full Name:	
------------	--

Home Address:			
	Post Code:	National Insurance Number	
Current employers address & contact details			

<b>DECLARATION</b>	<p>(please tick as applicable)</p> <p>I have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth/placement of child:</p> <p><input type="checkbox"/></p> <p>I have average weekly earnings of at least £30 for any 13 of those 66 weeks: <input type="checkbox"/></p> <p>At the date of the child's birth/placement I will have the main responsibility, apart from my partner, for the care of the child: _____ :</p> <p><input type="checkbox"/></p> <p>I am entitled to statutory maternity/adoption leave, statutory maternity/adoption pay, maternity allowance in respect of the child:</p> <p><input type="checkbox"/></p> <p>I have curtailed my maternity/adoption leave/returned to work before the end of my statutory maternity/adoption leave period:</p> <p><input type="checkbox"/></p> <p>I consent to the amount of SPL that my partner intends to take: <input type="checkbox"/></p> <p>I consent to SBC processing the information provided in this form: <input type="checkbox"/></p> <p><b>I confirm I satisfy the above criteria and that the information I have provided is accurate.</b></p> <p><b>I will comply with SBC's Shared Parental Leave notice and evidence requirements and immediately inform SBC if I cease to care for the child.</b></p>
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Signed:		Date:	/ /	

Print Name:			
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**Notes:** Within 14 days of receiving this notice of entitlement/intention, SBC may request:

- Copy of the child's birth certificate within 14 days of the birth – if the birth certificate has not been issued after this period, a signed declaration stating the date and location of the child's birth.
- Copy of official adoption documentation.

## Section F

### PARENTAL LEAVE

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#### DEFINITIONS:

**Adoption** refers to the placement for adoption of a child or children under the age of 18 when the adoption application is made, except where the child is already part of the family unit: e.g. a step-parent adopting a child without going through the placement procedure.

**Childbirth** is the birth of a child, from the 24th week of pregnancy; whether living or stillborn.

**A Disabled Child** Section 6(1) of the Equality Act 2010 defines a disability as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

**Expected Week of Childbirth (EWC)** refers to the period of seven days beginning with midnight between Saturday/Sunday, in which the childbirth is expected to take place.

**Nominated primary adopter** (hereafter referred to as the primary adopter) is the person who will undertake the main care of the child whether a sole adopter or one member of a couple who are adopting together.

**Nominated carer** is the person nominated by the mother or primary adopter to assist in the care of the child and to provide support to the mother or primary adopter at or around the time of the birth or adoption

**Notification week** is the week in which the adopter is notified of being matched with a child for adoption. Or, where a child is adopted from overseas, the week in which the child enters the UK.

**Partner** is the husband or partner of the expectant mother, but not necessarily the baby's father. This also includes partners of adoptive parents.

**Paternity Support Leave/Pay** provides a child's father, partner or nominated carer up to 10 days paid leave around the time of the child's birth/placement of child.

**Shared Parental Leave/Pay** is a type of leave/pay that is available to parents. It is also available to parents of adopted children.

## 1. PARENTAL LEAVE

1.1 Under the Employment Relations Act 1999 Parental Leave is the right to take time off work to look after a child or make arrangements for the child's welfare. This right is in addition to any contractual annual leave, maternity/adoption or special leave entitlements including paternity support leave.

## 2. WHO CAN TAKE PARENTAL LEAVE

2.1 The right applies to both mothers and partners and the provisions apply equally to both parties.

2.2 An employee or elected member will have the right to Parental Leave if they have one year's continuous service with Scottish Borders Council as an employee or elected member and:

- is the parent (named on the birth certificate) of a child under 18 years old.
- has adopted a child under the age of 18; or
- has acquired formal parental responsibility for a child who is under 18 years old.

## 3. ENTITLEMENTS

- 3.1
- Parental Leave is unpaid.
  - Employees are entitled to 18 weeks' leave (pro rata for part-time workers) for each child, which can be taken up until the child's 18<sup>th</sup> birthday.
  - The minimum leave period will be for one week. If an employee elects to take leave for a period of less than one

week, this will count as one week's leave. Parents of a disabled child have the flexibility to take leave a day at a time or longer if they wish.

- In all cases, a maximum of four weeks' Parental Leave in a year can be taken in respect of an individual child.
- Parental Leave is for each child so, for example, if twins are born each parent would be entitled to four weeks per year and up to 18 weeks leave for each child.
- At the end of Parental Leave an employee is guaranteed the right to return to the same job as before, or if that is not practicable, a similar job which has the same or better status, terms and conditions as their substantive post. However where the leave taken is for a period of four weeks or less, the employee is entitled to return to the same job.

#### **4. NOTICE REQUIREMENT**

4.1 An employee's line manager or the Clerk to the Council in the case of elected members must receive at least 21 days' notice (see form on page 66) of an employee's intention to utilise their entitlement to Parental Leave. This notice should specify the dates that the leave will begin and end.

4.2 In the case of fathers wishing to take leave immediately after the time of a child's birth, notice must specify the Expected Week of Childbirth (EWC) and the duration of the anticipated leave. This must be given 21 days before the EWC. Similar provision would apply for those employees or elected members adopting children, however in rare cases where this is not possible, an adoptive parent should give the notice as soon as is reasonably practicable.

#### **5. POSTPONEMENT OF LEAVE**

5.1 Except where the Parental Leave is to be taken at the time of childbirth or adoption, Scottish Borders Council may postpone the leave period for up to six months if the operation of the service would be 'particularly disrupted' by the employee taking leave at the proposed time.

5.2 Where a postponement is required the employee's line manager must provide written notice of the postponement stating the reason(s) and revised dates when the leave could be taken. This notice should be given no later than seven days after the employee gives notice to take the leave.

5.3 If a postponement results in the leave being taken after the employee's child has reached 18 years old the employee still has the right to their entitlement.

**6. RECORD KEEPING**

- 6.1 Any time off for Parental Leave should be recorded on the employee's annual leave card. The employee's line manager or the Clerk to the Council for an elected member must inform HRSS (parental leave request form on page 82) as soon as possible as the period of time off would be unpaid.
- 6.2 When an employee changes jobs, Scottish Borders Council are free to make enquires of a previous employer or seek a declaration from the employee about how much Parental Leave he or she has taken previously.

**7. EVIDENCE TO SUPPORT ANY REQUEST**

- 7.1 Scottish Borders Council may seek evidence to confirm that the employee or elected member is the parent or the person who is legally responsible for the child. Evidence might take the form of information contained in the child's birth certificate, official adoption documentation, or in the case of a disabled child, the award of disabled living allowance for the child.

**8. ABUSE OF ENTITLEMENT**

Abuse of this entitlement would be a serious disciplinary matter and will result in the Head of Department or nominated officer taking appropriate disciplinary action.

**PARENTAL LEAVE REQUEST FORM****PERSONAL DETAILS (Please use block capitals)**Full Name  
.....*Employee Number*..... *National Insurance Number*.....*Job Title*.....*Start Date*.....**I declare that:**

- I have one year's continuous service with Scottish Borders Council as an employee or elected member.
- I am the parent (named on the birth certificate) of a child under 18 years old/or
  - I am the parent of an adopted child under the age of 18; or
  - I have formal parental responsibility for a child who is under 18 years old.

Signature: ..... Date:  
.....

Parental Leave Dates requested: .....

(18 weeks in total can be taken up to the child's 18<sup>th</sup> birthday)**NOW PASS THIS APPLICATION TO YOUR LINE MANAGER/ THE CLERK TO  
THE COUNCIL FOR APPROVAL****Approved: Yes/No** (please delete as necessary)Signed (*Line Manager*).....

Date.....

Name (*Please print*).....

Position.....

*If approved I confirm that I will advise the Payroll Section immediately.*

**Please ensure a copy of this completed form is sent immediately to the  
Payroll Section  
Council Headquarters, Newtown St Boswells.**