



Northallerton Town Council

**Adopted 16/10/17**  
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**MATERNITY, PATERNITY, ADOPTION AND SHARED PARENTAL LEAVE POLICY AND PROCEDURE**

**1.0 Introduction**

Northallerton Town Council recognises and abides by the current legislation regarding Maternity, Paternity, Adoption and Parental leave (Work and Families Act 2006). In the event that an eligible employee is seeking to take any of the aforementioned leave they should, at the earliest opportunity, discuss their plans with the Town Clerk.

The Maternity, Adoption, Shared Parental and Paternity Procedures apply to all employees of Northallerton Town Council.

**1.1 Types of Leave**

<p>Maternity Leave</p>	<p>Provided the employee complies with notification procedures they will be entitled to 26 weeks’ Ordinary Maternity and 26 weeks’ Additional Maternity, regardless of her length of service. The total of 52 weeks is the maternity leave period and must be taken consecutively.</p>
<p>Adoption Leave</p>	<p>Provided the employee complies with notification procedures they will be entitled to 26 weeks’ Ordinary Adoption Leave and 26 weeks’ Additional Adoption Leave, regardless of her length of service. Occupational and / or statutory pay applies dependant on service. The total of 52 weeks is the Adoption leave period and must be taken consecutively.</p> <p>Pre-Adoption: Employees who are going through the adoption process can apply for up to 5 days paid per year (pro rata for part time staff) to attend appointments in preparation for the adoption – Subject to agreement with Town Clerk.</p>
<p>Compulsory Maternity Leave</p>	<p>The employee does not have to take her full entitlement to maternity leave. However, they must take a minimum of two weeks of leave from the date of childbirth and may be required to have up to four weeks compulsory on grounds of health and safety.</p>
<p>Paternity Leave</p>	<p>This is a statutory benefit available to all Northallerton Town Council employees. Paternity leave is either one week or two consecutive weeks’</p>



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	paid (SPP) leave to be taken within eight weeks of the birth or adoption of a child.
Maternity Support Leave	This is an occupational benefit and applies to all employees. Maternity support leave is one week's paid leave, pro rata for part time workers, normally taken at or around the time of the birth or adoption of a child.
Shared Parental Leave	Employees who meet the eligibility criteria will be able to share a 'pot' of leave to be taken in the first year following birth/adoption of a child.

## 2.0 Maternity Leave

The following definitions are used in this policy:

- "Expected week of childbirth" (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth;
- "Qualifying week" means the fifteenth week before the expected week of childbirth

### 2.1 Ordinary and Additional Maternity Leave

All women, regardless of their length of service, are entitled to 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML) providing a right to one year's maternity leave in total.

Maternity leave shall commence no earlier than 11 weeks before the EWC or from the time of childbirth if that is earlier. From the beginning of the fourth week before the EWC, a woman's maternity leave is triggered if the employee is absent because of her pregnancy, e.g. due to a pregnancy-related illness or fatigue.

### 2.2 Antenatal care

All pregnant employees are entitled to reasonable time off with pay for antenatal care antenatal care made on the advice of a registered medical practitioner, which may include relaxation classes and parent-craft classes. Except for the first appointment, employees should show the employer, if they ask an appointment card or other documents showing that an appointment has been made. An expectant father or partner of a pregnant woman has the right to take time off work to go to 2 antenatal appointments.



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### **2.3 Health and Safety**

On receipt of written notification from an employee that they are pregnant, the Town Clerk should carry out a risk assessment. The employee and the Town Clerk should be fully informed of any risks identified. The Town Clerk and the employee have an on-going responsibility to monitor any potential risks that may be present.

### **2.4 Notification Requirements**

An employee shall notify the Town Clerk in writing at least 28 days before her absence begins or as soon as is reasonably practical:

- That they are pregnant;
- Of the EWC, providing the form MATB1 as supplied by a registered medical practitioner; and
- The date on which the employee intends to start her maternity leave.

An employee can change her notified start date as long as they give 28 days' notice or as soon as is reasonably practical.

### **2.5 Stopping maternity leave and converting to shared parental leave (SPL)**

An eligible employee can opt into SPL at any point before their return, as long as there is some untaken maternity leave to share. Employees must give the Town Clerk notification of their entitlement and intention to take SPL **at least** eight weeks before the SPL can begin.

### **2.6 Maternity Pay**

#### **2.6.1 Who qualifies for statutory maternity pay?**

If an employee who has continuously been employed by Northallerton Town Council for 26 weeks by the 15th week before the EWC (and average earnings are at least the lower limit for N.I. contributions), the employee will be entitled to SMP i.e. six weeks at 9/10ths (90%) of their normal pay and 33 weeks lower rate of SMP, paid at the lower of 90% of average weekly earnings. The payment of SMP is for 39 weeks.

Details of the current rates of Statutory Maternity Pay and Maternity Allowance may be found on the government's website [www.gov.uk](http://www.gov.uk)



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### **2.6.2 What if the employee does not qualify for SMP?**

If the employee does not have 26 weeks continuous Local Government Service prior to the 15th week before the baby is due, they may be eligible for Maternity Allowance paid by the DWP.

If the employee is not entitled to SMP, they will be sent a form SMP1 by Hambleton District Council. The form is to be sent to the DWP along with the MAT B1.

### **2.7 Returning from maternity leave**

Employees who intend to return to work at the end of their full maternity leave entitlement do not have to give any further notification to the Town Clerk.

### **2.8 Returning before the full leave entitlement**

If the employee wants to return before the end of her full leave entitlement of 52 weeks they must tell the Town Clerk at least 28 days before her new intended return date. These notice periods are the minimum required. To help the Town Clerk plan cover employees should give as much notice as possible of any changes to their plans.

If the employee does not give the minimum notice, the Town Clerk may postpone her return until 28 days after the date they informed the Town Clerk that they would like to return early, but not to a date after her maternity leave would have ended.

If the employee does not intend to return at the end of her maternity leave they should give normal contractual notice.

### **2.9 Keeping In Touch**

A woman can do 10 days' work during her maternity leave, in agreement with the Town Clerk, without bringing her maternity leave to an end. Working for part of a day will count as one day. A woman will not lose any SMP (Statutory Maternity Pay) for working up to 10 days. 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.

The Town Clerk will ensure that contact is made with their employees whilst they are on maternity leave. If you do not wish to be contacted, please notify the Town Clerk. Newsletters and any other relevant correspondence will be sent to all employees whilst they are on maternity leave.

### **2.10 Pension**

Local Government Pension Scheme rules dictate that the employer pays pension contributions throughout Ordinary Maternity Leave (OML), whether or not the employee actually receives any



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pay. The employer's contributions will be based on what the employee would have been earning had they been working normally. The employee will also pay contributions but these will be based on the pay that they actually receive. If an employee receives no pay during this period, for example because the employee does not qualify for SMP, they will not have to pay any contributions but the period will still count as service under the scheme.

During Additional Maternity Leave (AML), pension contributions will continue to be made during the period when the employee is receiving SMP but not during any period of unpaid additional maternity leave. The employee can, however, choose to pay contributions for this unpaid period, in which case this period of service will count as pensionable service. The employee's contributions will be based on the pay they received immediately before unpaid leave began. The Council's contributions will be based on notional full pay. If the employee decides to pay their contributions, they must inform the RFO within 30 days of their return from maternity leave or, if the employee does not return, the last day of their employment.

#### **2.11 Continuous Service**

The period of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) will count as continuous service for statutory and contractual purposes.

#### **2.12 Leave during Maternity Leave**

Annual leave continues to accrue during both ordinary and additional maternity leave.

#### **2.13 Bank/Public Holidays**

Bank/public holidays accrue during ordinary maternity leave and additional maternity leave.

#### **Carry Forward of Annual Leave**

Where an employee's maternity leave spans one leave year to the next, with the permission of the Town Clerk the employee can carry over no more than 5 days annual leave, but this must be taken by 31 May of the following leave year.

#### **2.14 Treatment of Leave Where an employee changes their Hours following Maternity Leave**

If an employee changes their hours after taking maternity leave, all leave accrued up to the agreed date when her hours change is calculated based on her original hours and any leave accrued subsequently is calculated on her new hours.



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### **3.0 Adoption Leave**

The right to adoption leave is available to men and women (whether married or single) who adopt a child/children through an approved adoption agency. Where a couple jointly adopts a child/Children, only one of them will be entitled to take adoption leave (the couple can choose which). The other adoptive parent will normally be entitled to take paternity leave or shared parental leave, provided that the employee meets the relevant statutory criteria.

To qualify for Statutory Adoption Leave, you must:

- be an employee
- give the correct notice
- give proof of the adoption or surrogacy - if your employer asks you for it

To get Statutory Adoption Pay you must:

- have worked for your employer continuously for at least 26 weeks by the week you were matched with a child
- earn on average at least £113 a week (before tax)
- give the correct notice
- give proof of the adoption or surrogacy

Only one period of leave can be taken however many children are born or placed for adoption at the same time.

### **3.1 Notification Requirements**

The employee must inform the Town Clerk in writing of their intention to take adoption leave within seven days of being notified by their adoption agency that they have been matched with a child for adoption. This is known as the notification period

They should tell the Town Clerk in writing:

- That they are adopting a child/ Children
- When the child/ Children is expected to be placed with them
- When they want their adoption leave to start

In addition they should:

- Give at least 28 days' notice of the date they expect any payments of SAP to start, if reasonably practicable
- Declare their intention to return to work at the end of the period of Adoption Leave, to qualify for occupational adoption pay; and



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- Give the Town Clerk a 'matching certificate' from their adoption agency as proof of their entitlement to SAP and adoption leave. Employees should ask their adoption agency for this certificate, which will include basic information on matching and expected placement dates.

The Town Clerk will respond within 28 days of receiving the above notification to advise the expected return date from adoption leave. This will be based on their full leave entitlement of 52 weeks unless notified otherwise.

Employees going through the adoption process can apply for up to 5 days paid leave per year (pro rata for part time staff). This pre adoption leave can be used in preparation for the adoption – Appointment timing subject to agreement with the Town Clerk.

### **3.2 Starting adoption leave**

Employees can choose to start their leave on any day of the week, either:

- From the date of the child's placement; or
- From a fixed date which can be up to 14 days before the expected date of placement; or
- From a 'fixed point' to be agreed, where a child is being adopted from overseas

If the employee's placement is delayed for any reason and they have already started adoption leave they will not be able to stop it and start again at a later date, unless it becomes a disrupted placement. If the employee plans to start adoption leave before the actual date of placement they should check the placement is to start as planned.

If the employee has started adoption leave before the placement of the child and they are subsequently notified that the placement will not be made; or, if during the employee's adoption leave the child placed with them is returned to the adoption agency or dies; then, the Town Clerk will discuss with them sympathetically an appropriate date on which to return to work. Usually in this situation the employee's adoption leave finishes eight weeks after the end of the week in which the disruption took place, or earlier if their adoption leave was due to finish before this time. The employee should still give 28 days' notice to return to work

### **3.3 Changing the adoption leave start date**

If the employee then wants to change the date on which their leave starts, they must give at least 28 days' notice if

### **3.4 Adoption Pay**

Statutory Adoption Pay is paid for up to 39 weeks. The weekly amount is:

- 90% of your average weekly earnings for the first 6 weeks
- £140.98 or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks



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SAP is payable if the employee has been continuously employed by Northallerton Town Council for 26 weeks by the week in which they are matched with a child for adoption, and has average weekly earnings equal to or above the lower earnings limit.

Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP. Employees who are not entitled to these may be able to access other benefits, and should contact their local Jobcentre Plus, Benefits office, or adoption agency.

SAP ceases if the employee starts working for a new employer after the child has been placed, or if the placement is disrupted.

### **3.5 Leave During Adoption Leave**

#### **3.5.1 Annual Leave**

Annual leave continues to accrue during ordinary adoption leave and additional adoption leave.

#### **3.5.2 Bank/Public Holidays**

Bank/public holidays accrue during ordinary adoption leave (OAL), and additional adoption leave (AAL).

### **3.6 Pension**

Any period of Ordinary Adoption Leave will count as service for the purposes of the Local Government Pension Scheme. During this time the employee will pay pension contributions on any Statutory Adoption Pay (SAP) and/or occupational adoption pay that they are entitled to. The employer will pay contributions based on the employee's notional full pay.

During Additional Adoption Leave pension contributions will continue to be made during the period when the employee is receiving SAP but not during any period of unpaid additional adoption leave. The employee, however, can choose to pay contributions for this unpaid period, in which case this period will count as pensionable service. The employee's contributions will be based on the pay they received immediately before unpaid leave began. The Council's contributions will be based on notional full pay

### **3.7 Returning to Work**

#### **3.7.1 Notification Requirements**

The Town Clerk must assume that an employee will return after 52 weeks. An employee need only notify their employer that they are returning to work if they are going to do so before the end of the adoption leave. Otherwise, the employee simply returns at the end of the adoption leave.





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### 3.7.2 Early Return

If an employee wishes to return early or on a different date than they had previously notified, they must give 8 weeks' notice.

### 4.0 Paternity Leave

If you are a father to be or will share the responsibility with a partner for bringing up a child, you may have the right to Statutory Paternity Leave and Pay. This includes those who are adopting a child.

You could get either one or two weeks. You'll get the same amount of leave if your partner has a multiple birth (e.g. twins).

You must take your leave in one go. A week is the same amount of days that you normally work in a week, e.g. if you only work on Mondays and Tuesdays a week is two days.

To qualify for paternity leave and pay employees must:

- Have or expect to have responsibility for a newly born or adopted child's upbringing. The employee may be the biological father of the child, the mother's husband, the father, partner or the adoptive parent who is not the primary carer
- Have worked continuously for 26 weeks by the 15<sup>th</sup> week before the baby is born, or by the week the child's adopter is notified of having been matched with a child
- Have average weekly earnings at or above the lower earnings limit
- Provide a copy of either the MAT B1 form or the adoption matching certificate.

Employees can start their leave from:

- The date of the child's birth or date of placement for adoption; or
- A chosen number of days or weeks after the date of the child's birth or date of placement for adoption; or
- Another chosen date

Paternity leave can start on any day of the week but must be completed:

- Within 56 days of the actual birth date of the child; or
- Within 56 days of the child's placement for adoption; or
- If the child arrives early, between the actual birth date and 56 days after the EWC.

Only one period of leave can be taken however many children are born or placed for adoption at the same time.



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Employees choose to be paid SPP for either one or two consecutive weeks, but not odd days. Employees need to complete a SPP self-certificate form.

Statutory Paternity Pay (SPP) is the same as SMP, or 90% of average weekly earnings, whichever is less.

Maternity support leave (MSL)

	MSL	Paternity	Payment
Biological father	Yes	Yes	One week pay, one week SPP*
Husband or Partner of primary carer	Yes	Yes	One week pay, one week SPP*
Secondary adoptive parent	Yes	Yes	One week pay, one week SPP*
A relative with close caring relationship (e.g. parent)	Yes	No	One week pay
Someone else with a caring relationship to the primary carer and/or child**	Yes	No	One week pay

**5.0 Shared parental leave (SPL)**

Shared parental leave and shared parental pay is available to employees who are expecting a baby or adoption placement, from the date of the baby’s birth or the adoption of a child, subject to eligibility. The leave must be taken before the child’s first birthday or one year from the adoption date. The mother/primary adopter can share the leave with their partner if they’re also eligible for SPL, and choose how much of the leave each of them will take.

Employees are encouraged to discuss their potential plans regarding SPL at the earliest opportunity, to enable the organisation to support them effectively.

**5.1 Who is eligible for leave?**

SPL can only be used by two people: -



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The mother/adopter and

One of the following - the father of the child (in the case of birth) or the spouse, civil partner or partner of the child's mother/adopter.

Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

Mother/adopter must be/have been entitled to statutory maternity/adoption leave or have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity /adoption allowances.

The employee must still be working for the organisation at the start of each period of SPL.

The employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks service at the end of the 15th week before the EWC/matching date.

The employee's partner must meet the 'employment and earnings test' requiring them (in the 66 weeks leading up to the EWC/matching date) to have worked for at least 26 weeks and earned an average of at least £30 a week (this is correct as of 2017 but may change annually) in any 13 of those weeks.

The employee must correctly notify the Town Clerk of their entitlement and provide evidence as required.

## **5.2 What is the entitlement?**

The number of weeks available is calculated using the mother/adopter's entitlement to maternity/adoption leave, which allows up to 52 weeks leave. The mother/adopter can reduce this entitlement; they and/or their partner can opt in to the SPL system and take any remaining weeks as SPL.

If the mother/adopter is not entitled to maternity/adoption leave, but is entitled to SMP, SAP or MA they must reduce their entitlement to less than 39 weeks.

## **5.3 When can SPL begin?**

The mother can take SPL after they have taken the legally required two weeks of maternity leave immediately following the birth of the child.

The adopter can take SPL after taking at least two weeks of adoption leave.

The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements.

If a mother/adopter gives notice to curtail their maternity/adoption entitlement then the partner can take leave while the mother/adopter is still using their maternity/adoption allowance.

## **5.4 Notification Requirements**



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Employees must give at least eight weeks' notice to their employer of their intent to take SPL. This notice must be in writing, and include:

The name of the employee

The name of the other parent

The start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available

The date on which the child is expected to be born, and the actual date of birth, or in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the adoption placement date

The amount of SPL the employee and their partner each intend to take

A non-binding indication of when the employee expects to take the leave

Variation is only permitted by mutual consent of both parents, and leave already booked can only be varied with eight weeks' notice of the change.

#### **5.5 What information must be provided by the employee?**

Employees must provide the Town Clerk with a signed declaration stating:

That they meet, or will meet the eligibility conditions and are entitled to take SPL.

That the information they have given is accurate.

If they are not the mother/adopter they must confirm that they are either the father of the child, or are the spouse, civil partner or partner of the mother/adopter.

That should they cease to be eligible they will immediately inform the organisation.

Northallerton Town Council may, within 14 days of the SPL entitlement notification being given, request:

The name and business address of the partner's employer (where the partner is no longer employer or is self-employed their contract details must be given instead).

In the case of biological parents, a copy of the child's birth certificate (or where one has not been issued, a declaration as to the time and place of birth).

In the case of an adopted child, documentary evidence of the name and the address of the adoption agency, the date of the matching notification and the date which the child is expected to be placed for adoption.



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## **5.6 Booking SPL**

In addition to notifying the employer of the intention to take SPL, the employee must also give notice to take the leave. In many cases, this will be done at the same time. The correct notification must be given at least eight weeks before the date on which they wish to start the leave and (if applicable) receive Shared Parental Pay (Shpp).

Employees have the right to submit no more than three notifications specifying leave periods they are intending to take. Each notification may contain either:

A single period of weeks of leave or

Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

NB: SPL can only be taken in complete weeks, but it may begin on any day of the week.

A response will be provided to the employee no later than the 14th day after the leave request was made and will be responded to in writing.

## **5.7 Continuous leave notifications**

A notification can be for a period of continuous leave which means a notification of a number of weeks taken in an unbroken period of leave e.g. six weeks in a row. Employees can take a continuous block of leave so long as it does not exceed the total number of weeks of SPL available to them and the correct notice period has been given.

## **5.8 Discontinuous leave notifications**

A single notification may contain a request for two or more periods of discontinuous leave, which means asking for a set number of weeks over a period, with breaks in between, e.g. employee takes six weeks of SPL, and then works every other week for a period of three months.

It is not a statutory right to have periods of discontinuous leave. All requests will be carefully considered, weighing up the potential benefits to the employee and to the organisation against any adverse effects to the service.

If a notification request for discontinuous leave is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block. If the option of a single continuous block is taken, the employee has until the 19th day from the original date of notification to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a leave date the leave will begin on the date specified in the original notification.



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### **5.9 Commencing SPL**

It will generally commence on the employee's chosen start date. However, if the baby arrives early the leave can start and notice be given as soon as practically possible. It must end no later than one year after the birth/placement of the child. Any SPL not taken by this point will be lost.

### **5.10 Varying SPL**

Employees are permitted to vary or cancel an agreed and booked period of SPL provided that they advise the Town Clerk in writing at least eight weeks before the start of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

NB: Variation/cancellation notifications will usually count as a new notification, thus reducing the employee's right to book/vary leave by one. Exceptions to this will be changes due to early births, or as a result of the organisation requesting the change and it being agreed by the employee. Any variation will be confirmed in writing by the organisation.

What are the arrangements for pay during SPL?

Eligible employees may be entitled to take up to 37 weeks Shared Parental Pay (ShPP) while taking SPL. The amount available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

Mother/adopter must be/have been entitled to statutory maternity/adoption pay/maternity allowance, and must have reduced their maternity/adoption pay/maternity allowance pay period.

The employee must intend to care for the child during the week in which ShPP is payable.

The employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the due date/matching date are not less than the lower earnings limit in force for national insurance contributions.

The employee must remain in continuous employment until the first week of ShPP has begun.

The employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give the Town Clerk written notice advising of their entitlement to ShPP – if possible this should be included as part of the notice of entitlement to take SPL.

In addition, any notice that advises of entitlement for ShPP must include:

The start and end dates of any maternity/adoption pay or maternity allowance.

The total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP.



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A signed declaration from the employee confirming that the information they have given is accurate, that they will meet or will meet, the criteria for ShPP and that they will immediately inform the organisation should they cease to be eligible.

ShPP is paid at is paid at the rate of £140.98 (2017) per week or 90% of an employee's average weekly earnings, whichever is lower (the rate of pay will be set by the Government for each relevant tax year).

#### **5.11 Returning to work Following Shared Parental Leave**

The organisation will have confirmed the return date in writing to the employee, and the employee will be expected to return to work on the next working day after this date, unless they notify the organisation otherwise.

If the employee has been off for no more than 26 weeks they will be eligible to return to the same job.

If the employee has been off for more than 26 weeks they will return to the same job unless this is not possible, then the employee will be entitled to return to a role which is suitable and has no less favourable terms and conditions.

If the employee also takes a period of unpaid parental leave of four weeks or less this will have no effect on their right to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

If the employee takes a period of unpaid parental leave of 5 weeks, even if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job unless this is not possible, then the employee will be entitled to return to a role which is suitable and has no less favourable terms and conditions.

#### **5.12 SPL in touch days (SPLIT days)**

Each parent will be entitled to up to 20 keep in touch days, plus the mother will also have her entitlement of 10 maternity leave keep in touch days.