



Family Leave Policy

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Introduction

1. Purpose and Scope

This document applies to all employees of Ryedale District Council and covers family leave and pay arrangements. There are some differences in entitlement depending on the conditions of service that apply, which are detailed in the body of the document.

Any documentation (e.g. MATB1, adoption matching certificate, keep in touch notes and forms, etc) must be saved on the employee's file by the Line Manager. Original certificates may be requested by Payroll Services in which case copies should be taken for the file.

Managers are not expected to be experts in family leave and pay arrangements and where there is any uncertainty when applying the policy, managers should seek advice from:

- Policy advice: HR Shared Service Team (HRSST)
- Pay related advice: Employment Support Service (ESS)

2. Guide to Abbreviations

		OAL	Ordinary Adoption Leave
		OAP	Occupational adoption pay
AAL	Additional Adoption Leave	OML	Ordinary maternity leave
AL	Adoption leave	OMP	Occupational maternity pay
AML	Additional maternity leave	PL	Paternity leave
CML	Compulsory maternity leave	SAP	Statutory adoption pay
EWC	Expected week of childbirth	ShPL	Shared parental leave
KIT	Keep in touch	ShPP	Shared parental pay
MA	Maternity allowance	SMP	Statutory maternity pay
ML	Maternity leave	SPLIT	Shared parental leave keep in touch
MP	Maternity pay	SPP	Statutory paternity pay
MSL	Maternity support leave	UPL	Unpaid parental leave

Maternity and Adoption

3. Right to Maternity/Adoption Leave (ML/AL)

You have the right to up to 52 weeks' maternity/adoption leave if you're having a baby or adopting a child and are legally classed as an employee.

You have this right from your first day of starting a job. After the first compulsory 2 weeks leave (in the case of maternity), how many of the remaining 50 weeks you take is up to you.

You get the same amount of maternity leave and pay (i.e. 52 weeks leave etc) even if you have more than one baby, for example twins.

3.1 Entitlement

An employee is entitled to take up to 26 weeks' ordinary maternity leave (OML) or ordinary adoption leave (OAL) and up to 26 weeks' additional maternity leave (AML) or additional adoption leave (AAL), making a total of 52 weeks. This is regardless of the number of hours worked, or length of service. There must be no gap between OML/OAL and AML/AAL.

4. Notification

4.1 Maternity

It is in the interests of the employee to inform the employer of the pregnancy as soon as possible, for reasons of Health and Safety and also to be paid for ante-natal appointments.

Notification should be made in writing (email or letter) no later than the end of the 15th week before the expected week of childbirth (EWC) of the following:

- The fact that you are pregnant;
- Your expected week of childbirth;
- The date on which you wish to start your maternity leave; and
- If eligible, whether you wish to be paid the Occupational Maternity Pay (i.e. will be returning to work after the maternity leave period).

An **original** MAT B1 certificate must be provided, which is a certificate from a healthcare provider (normally Midwife) confirming the expected week of childbirth (EWC). Maternity leave cannot be processed without the original document. This is usually available at around the 24th week of pregnancy. It is advisable to take photocopies as other employers may wish to see a copy if there is an application for paternity or shared parental leave.

The manager will reply to the employee within 28 days of receiving notification, to advise the expected date of return from ML. Unless otherwise agreed, there will be an assumption that the employee will take the full 52 weeks ML.

4.2 Adoption

The employee should tell their manager as soon as they have been approved as the primary adopter so that the manager can plan working arrangements. This may be before the employee has received or needs to submit their documentary evidence.

The manager should respond in writing to acknowledge their initial notification and seek support from HR if necessary.

The employee must inform their manager in writing of their intention to take AL within;

- UK Adoptions: seven days of being notified by their adoption agency that they have been matched with a child for adoption.
- Overseas Adoptions: no later than 28 days after the date they receive the 'official notification', which is normally from the Secretary of State.

This is known as the notification period and they should inform their manager in writing:

- That they are adopting a child
- When the child 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 Statutory Adoption Pay (SAP) to start, if reasonably practicable
- Declare their intention to return to work at the end of the period of AL, to qualify for OAP; and give their manager a 'matching certificate' from their adoption agency as proof of their entitlement to SAP and AL. Employees should ask their adoption agency for this certificate, which will include basic information on matching and expected placement dates.
- Managers will respond in writing using the appropriate template letter within 28 days of receiving the above notification to advise the expected return date from AL. 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 line manager.

5. Health and Safety: Maternity

The Authority has a duty to take care of the health and safety of all employees, which includes undertaking a risk assessment (see Appendix B) to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding. The line manager, along with the employee, should complete a Pregnant Workers Checklist. <https://www.hse.gov.uk/pubns/indg373.htm>

6. Maternity and Adoption Leave

6.1 Starting Maternity/ Adoption leave (ML/AL)

6.1.1 Maternity

Maternity Leave (ML), at the earliest, can begin from the eleventh week before the EWC. ML can start from any day of the week.

If ML has not already started, it will be triggered by the birth of the child, or pregnancy-related sickness, from the beginning of the fourth week before the EWC.

If triggered by the birth of the child, ML will begin on the day that follows the day on which childbirth occurs.

In either of these situations, the employee must notify their manager as soon as reasonably practicable, that they have given birth or that they are absent wholly or partly because of pregnancy related sickness. If they do not do so, they may lose their right to paid ML. Initial notification can be by telephone but this should be followed up in writing as soon as possible.

Even when a baby has been born prematurely, or is sick, the birth parent must notify their employer as soon as reasonably practicable that they have given birth, and provide the date that the baby was born. Sometimes the birth parent is unable to obtain and complete the MAT B1 form before the birth, for example if the baby is born prematurely or the birth parent and /or the baby is sick. This may mean a delay in getting the form signed and sending it to payroll. Therefore, they would not receive Statutory Maternity Pay / Maternity Allowance until the form can be provided. Managers should bear in mind that this is a very stressful time for parents and any communications regarding this or other matters should be approached sensitively and compassionately.

Where an employee holds multiple posts within the organisation, their ML and MP will commence on the same date for all posts based on total earnings for all roles.

6.1.2 Adoption

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 (AL) 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 AL before the actual date of placement they should check the placement is to start as planned.

If the employee has started AL before the placement of the child and they are subsequently notified that the placement will not be made; or, if during the employee's AL the child placed with them is returned to the adoption agency or died; then, the manager will discuss with them sympathetically an appropriate date on which to return to work. Usually in this situation the employee's AL finishes eight

weeks after the end of the week in which the disruption took place, or earlier if their AL was due to finish before this time. The employee should still give 28 days' notice to return to work.

6.2 Changing the Maternity/Adoption Leave start date

If the employee subsequently wants to change the date on which their leave starts, they must give at least 28 days' notice if reasonable practicable. The manager will reply in writing within 28 days to confirm their new expected date of return.

If ML is triggered by childbirth or a pregnancy-related absence the manager will similarly write to confirm the employee's expected date of return.

To avoid potential underpayments, line managers should inform Employment Support Services as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee. The workflow is not linked to the payroll system so ESS needs to be advised separately.

6.3 Stopping maternity/adoption leave and converting to shared parental leave

An eligible employee can opt into Shared Parental Leave (ShPL) at any point (after compulsory maternity leave) before their return, as long as there is some untaken ML/AL to share.

Employees must give their line manager notification of their entitlement and intention to take ShPL **at least** eight weeks before the ShPL can begin.

6.4 Returning from Maternity/Adoption Leave (ML/AL)

Employees who intend to return to work at the end of their full ML/AL entitlement do not have to give any further notification to their manager. An employee is entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them if they had not been on maternity leave. 'Job' for this purpose, means the nature of the work which they are employed to do and the capacity and place in which they are employed.

Where it is not practicable by reason of redundancy to return to work to the job the employee had before their maternity/adoption leave commenced, they must be offered a suitable alternative post, if this is available, which must be on terms and conditions not substantially less favourable than those on which they were originally employed.

Suitable alternative employment may also be offered if exceptional circumstances (other than redundancy e.g. reorganisation), which would have occurred regardless of their absence, necessitate a change in the job in which they were employed prior to their absence. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

6.5. Returning before the full leave entitlement

If the employee wants to return before the end of their full leave entitlement of 52 weeks they must tell their manager at least 8 weeks before the intended return date (whether in the OML/OAL or AML/AAL period). These notice periods are the minimum required by legislation and are as such to enable managers to plan cover.

If the employee does not give the minimum notice, the manager may postpone the employee's return until 8 weeks after the date the manager was informed the employee wished to return early, but not to a date after the employee's full leave entitlement would have ended.

If the employee does not intend to return at the end of their ML/AL they should give normal contractual notice. If OMP/OAP has been received, the employee would be required to pay this element back to the authority.

To avoid potential underpayments line managers should inform payroll as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee.

6.6. Annual Leave

Employees will continue to accrue annual leave during their maternity/adoption leave at the normal rate.

Where possible all leave should be taken in the current leave year by tagging annual leave onto the start and/or end of maternity/adoption leave but a maximum of five days can be carried forward to the following year with line manager's consent and must be taken within three months of the return to work.

For employees not returning to work, annual leave will be calculated up to the last day of employment.

If an employee does not return to work for a period of at least three months after ML/AL, then any leave taken to which the employee was not entitled will be reclaimed.

6.7. Miscarriage, still birth or death of a child (in relation to maternity leave)

Miscarriage can be a frightening, lonely and traumatic experience for all parents. It is often both physically and emotionally painful, with effects that can last for a very long time. Your line manager and the Council will want to support you in the most appropriate way possible. The Council's Health Assured Employee Assistance Programme is also able to provide emotional support via a 24/7 helpline, staffed by BACP (British Association for Counselling and Psychotherapy) qualified counsellors. You can telephone Health Assured on 0800 030 5182.

If the baby is stillborn (i.e. miscarriage occurs) earlier than the 24th week of pregnancy, the employee will not be eligible for Maternity Pay and Maternity Leave. However, if they are unfit to return to work at this time, they will be eligible to take

sick leave, subject to the normal sick pay entitlements. Sickness absence in this instance will be recorded as 'pregnancy-related' and will not count towards sickness absence trigger point.

If the employee is not the person who has experienced the physical loss (for example this might be a partner) but needs to take time off work following the loss, compassionate or special leave will be considered. Please see the leave policy for more information.

If the baby is stillborn after the start of the 24th week of pregnancy, then the employee will still qualify for full Maternity Pay and Maternity Leave in accordance with criteria as stated above.

If a child dies within the Maternity Leave period, the employee will remain eligible for Maternity Pay and Maternity Leave in the usual way.

Further information on parental bereavement leave is provided at section 18.

6.8 Pregnancy-related sickness absence

If an employee cannot work due to a pregnancy-related illness, they should notify their manager following the usual sickness absence procedure and will receive their usual sick pay. Pregnancy-related absence is recorded separately from other sickness absence and is not counted towards any review or trigger points.

If the employee is off work because of a pregnancy-related illness within 4 weeks of the due date, maternity leave will begin automatically.

6.9 Pregnancy during maternity leave

If an employee falls pregnant again during their maternity leave, they should notify their line manager in accordance with the notification requirements set out previously in this policy. SMP/OMP will be calculated in accordance with the previously set out guidance based on the reference period prior to 15 weeks before the EWC.

An employee who has taken advantage of unpaid additional maternity leave (AML) and then finds that due to a further pregnancy, they will require a further period of maternity leave to commence immediately on expiry of AML, will be entitled to return to work in their original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate at the end of the second period of maternity leave.

The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

7. Maternity Pay (MP) and Adoption Pay (AP)

7.1 Who qualifies for maternity/adoption pay (MP/AP)?

If an employee has completed 26 weeks continuous service with Ryedale District Council or another local authority recognised under the Modification Order, by the

- 15th week before the EWC (maternity)
- week in which they are matched with a child for adoption (adoption)

and average earnings are at least the lower limit for N.I. contributions, they will be entitled to maternity/adoption pay from the organisation.

7.2 Who qualifies for Occupational Maternity/Adoption Pay (OMP/OAP)?

If the employee is eligible to receive SMP/SAP, they will also be entitled to Occupational Maternity/Adoption Pay. It is paid on the understanding that the employee will return to local authority employment for at least 12 weeks (excluding any period of unpaid parental leave).

Alternatively, should you be unsure as to whether you wish to return to work following maternity/adoption leave, the OMP/OAP element can be withheld until the end of the period and the amount paid in full when/if the employee returns to work after ML/AL.

Pay calculations are based on when money is due rather than when it is paid, so the 'half pay plus SMP/SAP must not exceed full pay' refers to the weekly calculation based on week's 7-18 when OMP/OAP is due.

Where an employee has multiple posts the OMP/OAP applies on all of their established posts at the time they are going on ML/AL should they meet the continuous service requirement for OMP/OAP i.e. if they have been with Ryedale District Council in an established post (NOT relief) for more than 12 months then their OMP/OAP will reflect the multiple posts.

Regardless of the date of return, SMP/SAP cannot be paid in part weeks, whereas OMP/OAP would be paid up to the day before the employee returns.

Pay if you're adopting a child from overseas

The requirements are the same as if you're adopting from within the UK, except the employee must have been continuously employed with Ryedale District Council or another local authority recognised under the Modification Order for at least 26 weeks when the employee begins to receive adoption pay. Employees must also sign [form SC6](#) (government website) if they are adopting from overseas with a partner.

This is because, if you're adopting a child from abroad with a partner, you can choose who gets SAP and adoption leave and who gets Statutory Paternity Pay (SPP) and paternity leave.

Whoever chooses to get SAP and adoption leave must fill in the 'Declaration' to confirm that they've chosen to get SAP and adoption leave not SPP and paternity leave.

Whoever chooses to get SPP and paternity leave must fill in the 'Dates for pay and leave' and 'Declaration' on form SC5, 'Statutory Paternity Pay/paternity leave when adopting from abroad' and give this to their employer. Part of this declaration confirms that they've chosen to get SPP and paternity leave not SAP and adoption leave.

7.3 Statutory Maternity/Adoption Pay (those not wishing to return to work following ML/AL)

Week 1 to 6		6 weeks	90% of your average weekly earnings
Week 7 to 39		33 weeks	Statutory maternity/adoption pay or 90% of your average weekly earnings (whichever is the lower)
Week 40 to 52		13 weeks	No pay

7.4 Occupational Maternity/Adoption Pay (those entitled through length of service and wishing to return to work following ML/AL)

Week 1 to 6	6 weeks	Higher rate SMP/SAP – 90% of average earnings
Week 7 to 18	12 weeks	Standard rate SMP/SAP plus half of normal pay
Week 19 to 39	21 weeks	Standard rate SMP/SAP
Week 40 to 52	13 weeks	No pay

7.5 Calculating Statutory Maternity Pay (SMP) and Statutory Adoption Pay (SAP)

SMP is worked out based on the average weekly pay received during the eight week period, 15 weeks before EWC (weeks 17 to 25 of pregnancy).

SAP is worked out based on the average weekly pay during the 8 weeks prior to the matching week (MW).

If the baby is born before or during the Qualifying Week (the 15th week, Saturday to Sunday, before the week the baby is due) the continuous employment rule is satisfied if they would have completed 26 weeks' continuous employment had it not been for the baby's early birth. The average weekly earnings would then be worked out using the birth date instead of the Qualifying Week.

For employees who are on fixed term contracts who meet the above eligibility but whose contract ceases during the maternity period, SMP will be paid throughout the maternity period, therefore the contract end date and date of end of SMP payments may be different. If the option for shared parental leave is taken up, SMP will cease and be replaced by Shared Parental Pay (ShPP).

The employee **must** tell Ryedale District Council if during their 39-week maternity pay period they:

- Leave the UK including Channel Islands and Isle of Man
- Are in legal custody
- Start work with a different employer (after childbirth)

7.6 What if the employee does not qualify for SMP/SAP?

7.6.1 Maternity

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 (MA) paid by the Department of Work & Pensions (DWP).

If the employee is not entitled to SMP, they will be sent a form SMP1 by Payroll. The form is to be sent to the Department for Work and Pensions along with the MAT B1.

The employee will still be required to notify the employer of the dates of ML as specified.

7.6.2 Adoption

If the employee is not entitled to SAP, they will be sent a form SAP1 explaining why they cannot get Statutory Adoption Pay.

7.7 Employee Benefits

It is important to note that as a salary sacrifice benefit reduces cash pay, the amount of salary that the employee pays National Insurance contributions on is also reduced. Staff who participate in a salary sacrifice scheme will have been informed through the terms and conditions of the scheme of the impact on any allowances including maternity/adoption. Any salary sacrifice applicable for the employee during this eight-week period will reduce entitlement to SMP/SAP.

In addition, employees remain responsible for payments due for the goods or services through salary sacrifice during ML/AL. However, salary deductions cannot be made during periods of SMP/SAP or nil pay and repayment arrangements will have to be set up through a separate agreement.

Further information is available via the [Everybody Benefits page](#). There are some practical considerations for employees to consider and these are set out in the relevant maternity/adoption notification letter.

8. Pension implications of maternity/adoption leave for those in LGPS – buy back

During maternity/adoption leave employees will pay pension contributions calculated on the actual pay they receive. Therefore, during unpaid leave, pension contributions

will be lost. If there is a right to return to work employees also have the option of buying back any pension lost during the period of unpaid leave.

If employees decide to buy back pension 'lost' due to periods of unpaid leave within 30 days of returning to work after the period of leave, then the cost of this would be shared with Ryedale District Council paying two thirds of the cost and the employee paying one third. To find out how much it would cost to buy back pension, employees should contact employment support services on 01609 532190.

For more information see the [North Yorkshire pension fund](#) for accessing your online record.

9. Keeping in touch days (KIT days) – Maternity and Adoption

The regulations allow an employee to undertake up to 10 days' work during ML/AL without bringing their ML/AL to an end. Whilst KIT days are covered by statute, they may only take place by agreement between the employer and the employee. Where a request is made it should not be unreasonably refused. Working for part of a day (even one hour) will count as one KIT day and the employee will be paid for the hours worked at their contractual hourly rate. Payment will be offset against any maternity/adoption pay/allowance paid for that week. The employee will not lose any maternity or adoption related pay for working up to 10 days.

'Work' is defined as any work that is done under their contract of employment and this may include training or any activity undertaken for the purposes of keeping in touch with their workplace. However, Ryedale District Council cannot insist that an employee carries out work and equally the employee cannot insist that they are given work to do during this period under the KIT arrangements.

It should be noted that employees will not be able to carry out any work during the first two weeks following the birth of their child. This period is known as compulsory maternity leave that must be taken at this point.

KIT Forms should be used for recording keeping in touch days and MyView should be used to submit claims for payment for keeping in touch days. It is important to note that once an employee has used up the 10 KIT days if they then work again they will not receive their maternity or adoption benefits for that week; therefore, records must be kept to avoid this happening.

10. Additional employment

If the employee works for another employer during the SMP period but before the baby is born, then SMP will continue to be paid. If the employee works for another employer during the SMP period but after the baby is born, Ryedale District Council will need to check whether the work undertaken for the other employer occurred during the 15th week before the baby was due.

If so, SMP should be paid as usual. If, however, the employee is working for another employer for which they did not work during the 15th week before the baby was due, Ryedale District Council will stop paying SMP from the start of the week that the employee works for the other employer. It is up to the employee to inform Ryedale

District Council that they are working for someone else during their statutory maternity pay period.

If an employee completes work for Ryedale District Council (not on a relief basis) in a different role which was not held prior to commencement of maternity leave this should be treated as a KIT day for that role. e.g. If the employee completes work as a Relief Ryecare Operator whilst on maternity leave they will effectively break their maternity leave and pay periods.

Paternity/Maternity Support Leave

11. Entitlement

If you are a father to be, same sex partner or will share the responsibility with a partner for bringing up a child, you may have the right to statutory paternity/maternity support leave and pay which is a maximum of two weeks. This includes those who are adopting a child. The entitlement is the same regardless of whether your partner has a multiple birth (e.g. twins).

Paternity/Maternity Support Leave will be paid at full pay, providing employees meet the qualifying criteria below.

You must take your leave in one go and this must be in full week blocks of either one or two weeks. 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.

Leave cannot start before the birth of the baby and it must end within 56 days of the birth.

You are requested to give as much notice as reasonable practicable of the dates you wish to take paternity/maternity support leave to allow the service to plan, however rough dates in advance are acceptable (e.g. to commence the week after the baby's birth). You must give at least 28 days' notice in writing if you wish to change the dates of your leave.

To qualify for leave and pay, employees must:

- Have or expect to have responsibility for the child's upbringing;
- Be the biological father of the child or the birth parent's husband, civil partner or partner;
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due (or the 'matching week' in the case of adoption).

The definition of 'partner' is quite strict, since it is defined as "someone who lives with the birth parent of the baby in an enduring family relationship but is not an immediate relative."

Employees must also have average weekly earnings at or above the lower earnings limit.

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

A photocopy of the MATB1/Matching Certificate must be provided by the employee.

The notification of maternity, paternity or adoption leave form (available on BOB) must be completed by the manager and forwarded to Employment Support Services for actioning.

12. Leave for antenatal appointments

Entitlement: All pregnant employees are entitled to paid time off to attend antenatal appointments. Time off for antenatal care should be paid at the employee's normal rate of pay. Antenatal care may include relaxation and parent craft classes, as well as medical examinations related to the pregnancy. The entitlement to paid time off for antenatal appointments applies regardless of the employee's length of service.

This paid entitlement is also extended to fathers and partners to attend up to two antenatal appointments. The employer can ask for appointment cards/evidence except for the very first appointment.

13. Miscarriage, still birth or death of a child (in relation to paternity leave)

Employees still qualify for paternity leave and pay if the baby is either:

- Stillborn from 24 weeks of pregnancy
- Born alive at any point in the pregnancy but later dies

Further information on parental bereavement leave is also provided at section 18.

Shared Parental Leave (ShPL) and Pay

14. Shared Parental Leave

ShPL and ShPP 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 birth parent/primary adopter can share the leave with their partner if they're also eligible for ShPL, and choose how much of the leave each of them will take.

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

14.1 Who is eligible for ShPL?

ShPL can only be used by two people. The birth parent/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 birth parent/adopter

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

- Birth parent/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 ShPL.
- 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 EWC/matching date) to have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks.
- The employee must correctly notify their line manager of their entitlement and provide evidence as required.

14.2 What is the entitlement?

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

If the birth parent/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.

If such a birth parent chooses to reduce their statutory maternity pay or maternity allowance period and take fewer than 39 weeks of pay or allowance, then their employed partner could take the untaken weeks as shared parental leave if they are eligible for leave. In this case, the number of weeks of pay or allowance must be deducted from 52 weeks to calculate the number of weeks of shared parental leave that will be available for the partner to take.

14.3 When can ShPL begin?

The birth parent can take ShPL after they have taken the legally required two weeks of ML immediately following the birth of the child. The adopter can take ShPL after taking at least two weeks of AL.

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

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

14.4 Giving notice of the intention to take ShPL

Employees must give at least eight weeks' notice to their employer of their intent to take ShPL. 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 ShPL 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 ShPL 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.

14.5 What information must be provided by the employee?

Employees must provide the line manager with a signed declaration stating:

- That they meet, or will meet the eligibility conditions and are entitled to take ShPL.
- That the information they have given is accurate.
- If they are not the birth parent/adopter they must confirm that they are either the father of the child, or are the spouse, civil partner or partner of the birth parent/adopter.
- That should they cease to be eligible they will immediately inform the organisation.

Ryedale District Council may, within 14 days of the ShPL entitlement notification being given, request:

- The name and business address of the partner's employer (where the partner is self-employed their contact 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.

The organisation reserves the right to investigate further where there is cause to believe that a fraudulent claim has been made. Any investigation would be carried out in accordance with usual Ryedale District process and without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

14.6 Booking ShPL

In addition to notifying the employer of the intention to take ShPL, 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 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.

ShPL 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.

14.7 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 ShPL available to them and the correct notice period has been given.

14.8 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 ShPL, 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.

14.9 Commencing ShPL

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 ShPL not taken by this point will be lost.

14.10 Varying ShPL

Employees are permitted to vary or cancel an agreed and booked period of ShPL provided that they advise their line manager 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.

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.

14.11 What happens on return to work?

Ryedale District Council 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 date 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 be entitled to return to work in their original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

If the employee also takes a period of unpaid 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 ShPL 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 ShPL 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 work in their original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

To avoid potential underpayments, line managers should inform Employment Support Services (ESS) as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee.

14.12 ShPL in touch days (SPLiT days)

Each parent will be entitled to up to 20 keep in touch days, plus the birth parent will also have her entitlement of 10 maternity leave keep in touch days. This work will be paid at the employee's hourly contractual rate.

15. Shared parental pay (ShPP)

15.1 What are the arrangements for pay during ShPL?

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 birth parent/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:

Birth parent/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 their line manager written notice advising of their 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.

- A signed declaration from the employee confirming that the information they have given is accurate, that they 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 £151.20 per week or 90 per cent 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).

16. Unpaid parental leave

Eligibility

Eligibility	Entitlement
Each child	18 weeks up to the child’s 18 th birthday.
Each adopted child	18 weeks up to the child’s 18 th birthday.
Each child in receipt of disability living allowance	18 weeks up to the child’s 18 th birthday.

Eligibility

Employees qualify if all of these apply:

- they’ve worked within the organisation for more than a year
- they’re named on the child’s birth or adoption certificate or they have or expect to have [parental responsibility](#)
- they’re not self-employed or a ‘worker’, eg an agency worker or contractor
- they’re not a foster parent (unless they’ve secured parental responsibility through the courts)
- the child is under 18

Employers can ask for proof (like a birth certificate) as long as it’s reasonable to do so, eg they can’t ask for proof each time an employee requests leave.

Arrangements

Eligible employees can take unpaid parental leave to look after their child’s welfare. This may include but is not limited to in order to spend more time with your children, look at new schools, settle children into new childcare arrangements or spend more time with the family such as visiting grandparents.

Leave should be taken in blocks or multiples of one week (except for parents of children in receipt of disability living allowance, where leave can be taken in periods of one day or more), with a maximum four weeks leave in any year. A year is based on the birth date of the child. Employees should give 21 days’ notice of their request to take leave.

Managers can postpone when this leave is taken up to a maximum six months for business reasons, except for requests to take leave immediately after a child is born or placed for adoption.

Where qualifying employees wish to take leave to begin on the date on which the child is born or adopted, a minimum of 28 days' notice is required before the beginning of the expected week of childbirth and should specify the duration of the period of leave to be taken.

If the leave is not to be taken immediately after the birth or adoption of a child, then the employer may postpone it if they consider that the 'operation of its business would be unduly disrupted' if the employee took leave during that period. The employer must agree with the employee to allow the same length of leave to begin no later than six months after the commencement of the postponed period.

Any period of unpaid parental leave not exceeding four weeks that is taken within a period of shared parental leave will not count towards the 26-week period, which is the time at which employees are entitled to return to the same job they left.

17. Surrogacy

Surrogates are the legal birth parent of any child they carry, unless they sign a parental order after they give birth transferring their right to the intended parents. The person who gives birth is always treated as the legal birth parent and has the right to keep the child, even if they're not genetically related.

Surrogacy contracts aren't enforced by UK law, even if a contract has been signed with the intended parents and they've paid for any expenses.

The child's legal father or 'second parent' is the surrogate's husband or civil partner unless legal rights are transferred to someone else or the surrogate's husband/civil partner didn't give permission to their wife/partner.

Every pregnant employee has the right to 52 weeks' maternity leave and to return to their job after this. What a birth parent does after the child is born has no impact on their right to maternity leave.

18. Parental Bereavement Leave and Pay

Parental bereavement leave is time off to deal with the death of a child, if they die under the age of 18 or are stillborn after 24 weeks' pregnancy.

Eligible parents have a right to 2 weeks':

- Statutory Parental Bereavement Leave, if they're an employee
- Statutory Parental Bereavement Pay, if they're an employee or worker

This right applies to the:

- biological parent

- adoptive parent, if the child was living with them
- person who lived with the child and had responsibility for them, for at least 4 weeks before they died
- 'intended parent' – due to become the legal parent through surrogacy
- partner of the child's parent, if they live with the child and the child's parent in an enduring family relationship

Parental Bereavement Leave

Parents have a right to take Statutory Parental Bereavement Leave if:

- they're classed as an employee
- their child dies under the age of 18 or is stillborn after 24 weeks' pregnancy
- Employees have this right from the day they start their job.

Statutory Parental Bereavement Leave can be taken in the 56 weeks following their child's death.

If more than 1 child dies, the employee is entitled to 2 weeks' Statutory Parental Bereavement Leave for each child.

Anyone classed as a worker is not entitled to Statutory Parental Bereavement Leave. But they might be entitled to 2 weeks' Statutory Parental Bereavement Pay for time they take off.

Taking Statutory Parental Bereavement Leave

An employee can choose to take either 1 or 2 weeks' leave.

If an employee takes 2 weeks, this can be taken in one go, or as 2 separate weeks. For example, they could take 1 week immediately after the death, and take the other week later on.

The leave must end within 56 weeks of the child's death. The date of the child's death is the first day of the 56 weeks.

Giving notice to take leave

An employee must tell their employer (give 'notice') to use Statutory Parental Bereavement Leave.

To give notice, the employee must tell their employer:

- when they want the leave to start
- whether they want to take 1 or 2 weeks leave
- the date their child died

This notice does not have to be in writing.

The rules for giving notice depend on how long it's been since their child died.

Taking leave in the first 8 weeks

If it's within 8 weeks (56 days) of their child dying, an employee can start their leave as soon as they give notice.

They must tell their employer before they start their leave. This can be on the first day of leave as long it's before they're due to start work. For example, if they've started work and give notice to start their leave straight away, Statutory Parental Bereavement Leave must start the following day.

They can also cancel the leave, as long as they tell their employer before their leave starts. This can be on the day their leave is due to start, as long it's before they're usually due to start work. Any cancelled leave can be taken later by giving notice again.

Taking leave after the first 8 weeks

If leave will be taken more than 8 weeks (56 days) since their child died, the employee must give their employer 1 week's notice:

- to take the leave
- if they want to cancel the leave

Any cancelled leave can be taken later by giving notice again.

Parental Bereavement Pay

Employees and workers are entitled to 2 weeks' Statutory Parental Bereavement Pay if:

- their child dies under the age of 18 or is stillborn after 24 weeks' of pregnancy
- they were employed when their child died
- they'd worked for their employer for at least 26 weeks, on the Saturday before the child's death
- they earn on average at least £120 per week, before tax

Supporting Employees

Your line manager and the Council will want to support you in the most appropriate way possible. The Council's Health Assured Employee Assistance Programme is also able to provide emotional support via a 24/7 helpline, staffed by BACP (British Association for Counselling and Psychotherapy) qualified counsellors. You can telephone Health Assured on 0800 030 5182.

Guidance for Line Managers

Before an employee commences ML/AL

The employee's line manager must complete the notification of maternity paternity or adoption leave form (available on BOB) and forward to Employment Support Services as soon as the employee is known to be entitled to SMP/SAP and/or OMP/OAP.

The employee's line manager must write to the employee within 28 days of receiving notification, stating the expected date of return from ML/AL. This will be based on the full entitlement to 52 weeks ML/AL.

Maternity: If ML has been triggered by childbirth or pregnancy-related absence the line manager will likewise confirm the expected date of return.

Health and safety risk assessment

Maternity: Line managers should undertake the relevant risk assessments (Appendix 2) as soon as they are informed about the employee's pregnancy.

Advice on health and safety issues is contained in HSE guidance: <https://www.hse.gov.uk/pubns/indg373.htm>. Advice and guidance is also available from health and wellbeing services.

Where a significant risk has been identified that could damage the health or safety of a new or expectant birth parent or their unborn child, Ryedale District Council will take any protective or preventative measures required to eliminate it. If this would not avoid the risk, the following steps are carried out in the following order:

1. If it is reasonable to do so, alter working conditions or hours of work;
2. If the risk cannot be avoided in this way, employees should be offered suitable alternative employment. Suitable alternative employment means work which is both suitable in relation to the employee and appropriate for her to do in the circumstances and on existing or no less favourable terms and conditions;
3. If no suitable alternative work is available, the employee is 'suspended'. This means they are entitled to paid leave or, where suitable alternative work is available but refused by her, unpaid leave;

An employee can be suspended in this way at any time starting from when they become pregnant until either;

- The date on which they have notified their maternity leave starts;
- The start of the fourth week before the EWC if the above date has not been notified.

Should suspension occur after the fourth week before the EWC this will automatically trigger the start of maternity leave. Suspension on health and

safety grounds can also occur during any period from the end of the employee's maternity leave up until the sixth month from the date of childbirth (later if breastfeeding goes beyond this date).

Night workers: A new or expectant birth parent who works nights and provides a medical certificate showing that their health and safety is at risk if they continue with night work should be offered suitable alternative employment. Where that is not possible they will be given paid leave. This protective measure operates from when Ryedale District Council is aware that the employee is pregnant until the later or six months after the date of childbirth, or miscarriage where this occurs, or until breastfeeding stops.

During maternity leave – line manager contact with the employee

The line manager will make 'reasonable contact' with the employee whilst on maternity leave. This would normally be to discuss return arrangements or to discuss work-related training that may be available or to inform the employee of any changes in the workplace that may affect them. Methods and regularity of contact should be agreed before maternity leave commences.

During maternity leave – employee detriment and dismissal

An employee who is pregnant or on maternity leave is protected from detrimental treatment (being treated unfairly or less favourably due to an act, or deliberate failure to act by the employer) or dismissal because they:

- Have given birth to a child;
- Have taken, or seeks to take, ordinary and additional maternity leave;
- Have taken, or seeks to take, any of the benefits of ordinary maternity leave;
- Have been suspended from work on maternity health and safety grounds;
- Are being made redundant during their maternity leave and have not been offered any available suitable alternative employment.

Protection includes any detrimental treatment or dismissal after the employee failed to return to work following ordinary or additional maternity leave where either:

- The employee's manager did not notify them in accordance with the statutory duties or otherwise of the date on which their maternity leave would end and the employee reasonably believed that their maternity leave had not ended;
- The employee's manager gave them less than 28 days' notice of the date their maternity leave would end and it was not reasonably practicable for the employee to return on that date.

Employees can claim unfair dismissal regardless of length of service if related to pregnancy or maternity leave. An employee dismissed at any time during pregnancy or maternity leave is entitled to written reasons for dismissal (whether requested or not). Ryedale District Council can dismiss employees for reasons unrelated to pregnancy, such as conduct, and any such employee must have two year's continuous service to claim unfair dismissal at an employment tribunal.

APPENDIX A

To avoid potential underpayments line managers should inform Employment Support Services (ESS) as soon as possible (and ideally before the payroll deadline) once a return to work date has been agreed with the employee.

MATERNITY RISK ASSESSMENT TEMPLATE FOR NEW OR EXPECTANT BIRTH PARENTS

Expectant or new birth parent risk assessment for:		Reference:	
Name:	[Name of employee]	Contact number:	
Job role: (including typical tasks)		Department / location:	
Expected date of delivery: (expectant birth parent)		Actual date of birth: (new birth parents only)	
Manager completing assessment:		Initial assessment date:	
Any health / wellbeing issues:			

Risk assessment for an expectant or new birth parent: Hazards and controls

Significant Hazard	Perceived Nature of Risk	Generic Control Measures	Residual Risk Low/Medium/High	Additional Control Measures	Managers Comments
Display Screen Equipment	Increased susceptibility to musculoskeletal disorders and deep vein thrombosis (DVT)	DSE assessment to be undertaken if not already in place. Workstation should provide adequate adjustment to allow for increase in abdominal size. Advice on posture to prevent musculoskeletal problems. Adjust working practices to avoid continuous sitting at workstation (risk of DVT)		Review DSE assessment as pregnancy progresses	
Slips, Trips & Falls	Increased risk of injury due to physical change and or hormonal changes	Maintain high standards of housekeeping in work area. Individual may have difficulty negotiating stairs during later stages of pregnancy			
Lifting and Carrying Loads	Musculoskeletal injury Weakening of the skeletal structure	Reduce amount of physical work associated with task. Physical tasks become more difficult to achieve as pregnancy progresses Carrying heavy loads to be avoided			
Welfare	Access to toilets to protect against risk of infection and kidney disease	Provision of easy access to toilet facilities and more frequent breaks from work activity. Consideration should be given to providing access to quiet area where the individual can rest as necessary.		Agree provision of suitable rest facility as necessary	
Fatigue	Fatigue from prolonged standing or physical activity	Avoid long periods of time standing. Task modified to provide seating or more frequent rest periods.			

APPENDIX B

		Aspects of the work may need to be modified as physical capability will be reduced as a result of pregnancy			
Work Related Stress	Individual vulnerable to stress due to hormonal, psychological and physiological changes during pregnancy	Monitoring and reduction of risks in relation to work demands, relationships with colleagues / manager and requirements of the role.			
Temperature / Humidity	Lower tolerance to heat and humidity resulting in discomfort/faint	Temperature of the working environment to be suitably controlled. Individual may require access to fresh air for periods during the working day. Individual to have ready access to fresh drinking water		Provision of equipment to provide local heating / cooling as necessary	
Out of Hours Working	Long working hours or shift work patterns can affect the health of pregnant women.	Allowance made for tiredness and nausea at early stages of pregnancy. Consult with occupational health and individual on modification to working hours/avoidance of night work			
Personal Safety	Violence or fear of violence can increase	If there is a perceived risk of violence or threat of violence / abuse consideration needs to be given to modifying the role to reduce the risk to the individual and or make provision for staff to be available should support be required			

Access / Egress	Mobility may be impaired during later stages of pregnancy	Seek to modify the individuals work task to avoid walking significant distances or traversing flights of steps.		PEEP ¹ assessment should be completed with health and safety team	
Working at Height	Loss of agility and or balance	Modify task to avoid aspects of working at height			
Travel Health	Increased medical risk from business travel. Poor posture / prolonged sitting increase risk of deep vein thrombosis (DVT) Risk from infectious diseases in some countries	<u>UK Travel</u> Travel arrangements should include adequate provision for rest breaks during the journey. Travel times chosen to reduce levels of fatigue. Carry out regular stretching exercises on flights. Drink sufficient fluids. The use of graded compression stockings. Loose-fitting clothing to avoid constriction of veins.			
		<u>International Travel</u> Health risks to be further assessed with advice from a medical practitioner / occupational health. Travel to be scheduled to avoid restrictions imposed by airlines on pregnant women (typically past 32 weeks). Carry out regular stretching exercises on flights. Drink sufficient fluids.			

¹ Personal Emergency Evacuation Plan

		The use of graded compression stockings. Loose-fitting clothing to avoid constriction of veins.			
Biological or	Exposure to certain biologicals e.g. bacteria, viruses, moulds, fungi.	New or Expectant birth parent must not be exposed to biological agents. Consider alternative tasks to working environment where exposure is recognized			
Chemical	Exposure to certain Chemicals; dust, fumes, gas vapour, mist, liquids solids, fibres	New or Expectant birth parent must not be exposed to chemical agents. Consider alternative tasks to working environment where exposure is recognized.			

Risk assessment for an expectant or new birth parent: Further actions required

Risk assessment for an expectant or new birth parent: Risk Assessment Review

APPENDIX B

Action to be taken to further reduce risk	Person responsible for completing action	Target completion date (Prioritized on risk)		Action closure	
		Date	Priority	Signature	Date
Review DSE assessment as pregnancy progresses	DSE Assessor				
Agree provision of suitable rest facility if necessary	Manager of work area				
Provision of equipment to provide local heating / cooling if necessary	Manager of work area / E&FM				
Additional procedures for lone working / working off site	Manager of work area				
PEEP assessment form to complete	Safety Adviser for the work area				
Seek advice from medical practitioner / Occupational Health before making International travel arrangements	Manager of work area				

	Date	Employee signature	Manager signature
Initial risk assessment completed:			
Proposed date for next assessment:			
Assessment reviewed on:			