

**Swanley Town Council**  
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**PERSONNEL**

**MINUTES**

**Wednesday 19<sup>th</sup> September 2018**

**Present:** Chairman Cllr Dyball, Cllr C Barnes, Cllr T Searles, Cllr Willingale

**Also Present:** Cllr Ball, Cllr J Barnes, Cllr P Darrington, Cllr Horwood, Cllr Morris

**Officers:** CEO Steve Nash,  
Democratic Services Officer Barb Playfoot

**Public Participation**

None

**APOLOGIES FOR ABSENCE**

Cllr L Gaire, Cllr S Gaire, Cllr E Komolafe, Cllr N Scott

**DECLARATIONS OF INTEREST**

None received

**10539 MINUTES OF THE PREVIOUS MEETING**

To approve as correct the Minutes of the Meeting held on Wednesday 21<sup>st</sup> June 2018

**APPROVED**

**10540 SOCIAL MEDIA POLICY**

To approve a new Social Media Policy provided by HR advisers (Report A)

**RESOLVED – Social Media Policy is approved**

**10541 SMOKING POLICY**

To approve a new Smoking Policy provided by HR advisers (Report B)

**RESOLVED – Smoking Policy is approved**

**10542 FAMILY FRIENDLY POLICY**

To approve a new Family Friendly Policy provided by HR advisers (Report C)

**RESOLVED – Family Friendly Policy is approved**

**10543 DATA PROTECTION POLICY**

To approve a new Data Protection Policy provided by HR advisers (Report D)

**RESOLVED – Data Protection Policy is approved**

**EXCLUSION OF PRESS AND PUBLIC**

It is recommended that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 of Part 1 of Schedule 12(A) of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### **10544 RESTRUCTURING NEW RESPONSIBILITIES**

To consider recommendations in the report outlining changes to the structure of the town council and changes in responsibilities of staff (Confidential Report E)

**RECOMMENDATION: That this be taken to Full Council to be held on the 3<sup>rd</sup> October 2018 for a decision**

**DATE OF NEXT MEETING: 20<sup>th</sup> February 2018**

**MEETING CLOSED AT 21.15**

If you would like further information on any of the agenda items, please contact Mr Steve Nash, on 01322 611663 or [snash@swanleytowncouncil.gov.uk](mailto:snash@swanleytowncouncil.gov.uk)

Council Members:

(Chair) Cllr Dyball, (Vice Chair) Cllr Scott, Cllr C Barnes, Cllr Willingale, Cllr Komolafe, Cllr L Gaire, Cllr S Gaire, Cllr T Searles

DRAFT



## **SOCIAL MEDIA POLICY**

### **Introduction**

The growth in social media, particularly social networking sites has created increased opportunity for media communications that have an impact upon the business.

The term “social media” is used to describe dynamic and socially interactive network information and communication technologies, for example Web 2.0 sites, SMS text message and social networking sites such as Facebook, Snapchat, You Tube, LinkedIn, Twitter, blogs, other online journals and diaries, bulletin boards, chatrooms, micro blogging and the posting of videos on You Tube and similar media. Social networking also includes permitting or not removing postings by others where a player or employee can control the content of postings such as on a personal profile or blog.

This policy applies to social networking whilst both on and off duty.

The purpose of these social media guidelines is as follows:

- To encourage good practice
- To protect the business, its staff and clients.
- To clarify where and how existing policies and guidelines apply to social media.
- To promote effective and innovative use of social media as part of the business’s activities.

### **General Guidelines**

All current policies concerning staff apply to the use of social media these include, but are not limited to:

- Human resources: policies, procedures and codes of practice where applicable.
- Guidelines for the use of IT facilities.
- Data protection policies.
- Managing electronic mail and using e-mail wisely.
- Electronic information security policy and best practice in electronic information security.

### **Corporate Brand Guidelines**

1. Staff should take effective precautions when utilising social networking sites to ensure their own personal safety and to protect against identity theft.
2. Staff who engage in social networking should be mindful that their postings, even if done off premises and while off duty, could have an adverse effect on the business’s legitimate business interests, for example the information posted could be the business’s confidential

business information. In addition some people who view this information may consider you as a spokesperson for the business. To reduce the likelihood that your networking will have an adverse effect on the business, staff should observe the following guidelines when social networking.

- 2.1. Staff should not engage in social networking by using any of the business's electronic resources or when they are supposed to be working.
  - 2.2. Managers should not send "friend" requests to subordinates at any time while on or off duty.
  - 2.3. Any member of staff may reject a "friend" request from any other member of staff without repercussion.
  - 2.4. All requests for references or recommendations, even those that are received through social networking should be handled strictly in accordance with the business's standard policy for responding to such requests.
3. If the social networking of any member of staff includes any information relating to the business, the following must be adhered to:
- 3.1 It should be made clear to contacts and those who view social media that the views expressed are those of the member of staff alone and do not reflect the views of the business, by stating for example "the views expressed in this post are my own. They have not been reviewed or approved by the business".
  - 3.2 The business's performance, products or services or the products or services of its sponsors, vendors or other businesses must not be discredited or defamed in any way. Customers, clients, business partners and suppliers must not be mentioned without the prior approval of the business's management team.
  - 3.3 Inaccurate, distasteful or defamatory comments are prohibited. In addition, the use of, or the accessing of or the sending of offensive, obscene or indecent material is strictly prohibited.
  - 3.4 The business's logo, trademark or proprietary graphics or any photographs of the business premises or products or those of any other team must not be used at any time.
  - 3.5 Personal or contact information or photographs of any other member of staff or any Director or manager must not be posted or used at any time without permission.
  - 3.6 The business has spent substantial time and resources building its reputation and goodwill. These are valuable and important corporate assets, which need to be enhanced and preserved. Before any member of staff engages in any social networking activity which identifies that member of staff as an employee of the business, or that identifies the business in any way, it should be considered whether the social networking activity is damaging the business's reputation or potentially could damage the business's reputation. If there is any doubt or any uncertainty, the member of staff should refrain from posting any information. Remember, a post lives forever! Staff must think before they type.
  - 3.7 Any complaints about work should be resolved by speaking directly to your respective managers, rather than by posting complaints on the Internet through any method of social media. If any complaints or criticism of the business or other members of staff is posted on any method of social media, any comment that may be defamatory or

damaging to the business or any other employees should be avoided. REMEMBER - Disciplinary action can be taken for this activity.

- 3.8 Social networking sites are prime targets for malware distribution, and third-party applications should never be downloaded.
- 3.9 Any incidences of inappropriate behaviour, information posting, phishing or suspected malware should be reported immediately to the business' Management team.
4. The business reserves the right at all times to continually review the use of social media and may modify its policies should the status of particular social media sites change, for example of charges are introduced or changes made to the way content is used or the terms of use of sites are changed or if a site closes down.
5. The business will in its sole discretion review the social networking activities of any member of its staff. This policy applies even if the social networking activity of any member of staff is anonymous or under a pseudonym. If such networking activity is engaged in, members of staff should be aware that in appropriate circumstances the business will take steps to determine the identity of the individual concerned.
6. The business may request in its sole and absolute discretion that any member of staff should temporarily confine their respective social networking activities to matters unrelated to the business if the business determines that it is necessary or advisable to ensure compliance with regulations or other laws.
7. If clarification is required on any aspect of this policy, members of staff should contact the business's management team. All members of staff should note that failure to comply with any aspect of this policy may lead to disciplinary up to and including termination, and if appropriate the business will pursue all available legal remedies to protect its reputation, produces, logo, trademark or proprietary graphics. The business reserves the right in addition to report any suspected unlawful conduct to the appropriate law enforcement authority.



## Smoking Policy (Inc E Cigarettes)

In accordance with the Health Act 2006, Companies face fines of up to £2500 for failing to enforce the anti-smoking laws, which came into force from 1<sup>st</sup> July 2007.

All enclosed public places and work places in Wales and England are smoke free including company cars/vans, pool and hire cars under the 2006 Health Act.

This legislation made it an offence for those who control or manage smoke free premises to fail to stop people smoking in them.

No smoking signs are displayed and our current handbook and /or statement of terms and conditions covers the company position on smoking.

**E-cigarettes** have now become very popular and have until recently evaded regulation giving users the impression that they are safe to use, available to all, including children and legal to use anywhere.

Please note that the UK Government has decided that Medicines and healthcare regulatory Agency (MHRA) will regulate all nicotine-containing products (NCP's) such as e-cigarettes. These will now be regulated as medicines in a move to make these products safer.

Whilst we acknowledge e-cigarettes are not covered by the health Act 2006, the company has made a decision to ban the use of e-cigarettes in the workplace.

Employees who use e-cigarettes are still free to do so in their own time and outside of the premises on breaks as per the company policy on smoking.

This document will form part of your Contract of Employment and as such you will be subject to disciplinary procedures if necessary by not complying with this policy.

I hereby confirm I have read and fully understand the information contained herein, relating to the Company's policy on smoking e-cigarettes, which is a formal amendment to my terms and conditions of employment with [[insert Company]].

..... (Name in capitals)

..... (Signed)

..... (Dated)



# SWANLEY TOWN COUNCIL - FAMILY FRIENDLY POLICIES

## Maternity Policy

This policy sets out the statutory rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay.

Swanley Town Council recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is Swanley Town Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant she should clarify the relevant procedures with their Manager to ensure that they are followed correctly.

The following definitions are used in this policy:

"Expected week of childbirth" means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

"Qualifying week" means the 15<sup>th</sup> week before the expected week of childbirth.

### Notification of pregnancy

On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there are health and safety considerations for Swanley Town Council.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform Swanley Town Council in writing of:

- the fact that she is pregnant;
- her expected week of childbirth; and
- the date on which she intends to start her maternity leave.

The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it.

The employee is permitted to bring forward her maternity leave start date, provided that she advises Swanley Town Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises Swanley Town Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Swanley Town Council will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes

her full 52-week entitlement to maternity leave.

### **Time off for antenatal care**

Once an employee has advised Swanley Town Council that she is pregnant, she will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

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

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations.

The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

### **Health and safety**

Swanley Town Council has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding where the work is of a kind that could involve a risk of harm or danger to her health and safety or the health and safety of her baby and the risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace. If applicable, Swanley Town Council will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out her normal job duties, Swanley Town Council will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible for Swanley Town Council to alter the employee's working conditions to remove the risks to her health and there is no suitable alternative work available to offer her on a temporary basis, Swanley Town Council may suspend her from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

### **Sickness absence**

If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory or contractual sick pay (if applicable) in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify Swanley Town Council in writing of this as soon as reasonably practicable.

### **Maternity leave**

All pregnant employees are entitled to take up to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave, making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional maternity leave begins on the day after ordinary maternity leave ends.

Ordinary maternity leave can start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If the employee gives birth before her maternity leave was due to start, she must notify Swanley Town Council in writing of the date of the birth as soon as reasonably practicable.

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child (four weeks in the case of factory workers).

### **Ordinary maternity leave**

During the period of ordinary maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. In particular, any benefits in kind (such as life assurance, private medical insurance, permanent health insurance, private use of a Swanley Town Council car, laptop, mobile phone and gym membership) will continue; contractual annual leave entitlement will continue to accrue; and pension contributions will continue to be made. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave.

Employees are encouraged to take any outstanding annual leave due to them before the commencement of ordinary maternity leave. Employees are reminded that holiday must be taken in the year that it is earned and therefore if the holiday year is due to end during maternity leave, the employee should take the full year's entitlement before starting her maternity leave.

### **Additional maternity leave**

During the period of additional maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Any benefits in kind (such as life assurance, private medical insurance, permanent health insurance, private use of a Swanley Town Council car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.

Salary will be replaced by statutory maternity pay (SMP) for the first 13 weeks of additional maternity leave if the employee is eligible to receive it. The remaining 13 weeks of additional maternity leave are unpaid.

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.

## **Statutory maternity pay**

Statutory maternity pay is payable for up to 39 weeks during maternity leave. An employee is entitled to SMP if:

- she has been continuously employed by Swanley Town Council for at least 26 weeks at the end of the qualifying week and she is still employed during that week;
- her average weekly earnings in the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date are not less than the lower earnings limit for national insurance contributions;
- she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides a MAT B1 form stating her expected week of childbirth; and
- she gives Swanley Town Council proper notification of her pregnancy in accordance with the rules set out above.

For the first six weeks, SMP is paid at the higher rate, which is equivalent to 90% of the employee's average weekly earnings calculated over the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date. For the purpose of calculating average weekly earnings, shift allowances, overtime payments, bonuses and commission are all included.

The standard rate of SMP is paid for the remaining 33 weeks (or less if the employee returns to work sooner). This is paid at a rate set by the Government for the relevant tax year (currently £140.98 (due to increase to £145.18 in April 2018), or 90% of the employee's average weekly earnings calculated over the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date if this is lower than the Government's set weekly rate.

If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether ordinary maternity leave or additional maternity leave), the higher or standard rate of SMP will be recalculated to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively, or that she may qualify for SMP if she did not previously. The employee will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise.

Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Payment of SMP cannot start prior to the 11<sup>th</sup> week before the employee's expected week of childbirth. Statutory maternity pay can start from any day of the week in accordance with the date the employee starts her maternity leave.

Statutory maternity pay is payable whether or not the employee intends to return to work after her maternity leave.

Employees who are not entitled to SMP may be entitled to receive maternity allowance payable directly by the Government. If an employee is not entitled to SMP, Swanley Town Council will provide the employee with an SMP1 form to allow her to pursue a claim for maternity allowance.

## **Contact during maternity leave**

Shortly before an employee's maternity leave starts, Swanley Town Council will discuss the arrangements for her to keep in touch during her leave, should she wish to do so. Swanley Town Council reserves the right in any event to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss the employee's plans for return

to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply to update her on developments at work during her absence.

### **Keeping-in-touch days**

Except during the first two weeks after childbirth (four weeks in the case of factory workers), an employee can agree to work for Swanley Town Council (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

Swanley Town Council has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between Swanley Town Council and the employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for Swanley Town Council. It may also bring maternity leave to an end.

### **Returning to work**

The employee will have been formally advised in writing by Swanley Town Council of the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave. The employee is expected to return on this date, unless she notifies Swanley Town Council otherwise. If she is unable to attend work at the end of her maternity leave due to sickness or injury, Swanley Town Council's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

While the employee is under no obligation to do so, it would assist Swanley Town Council if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.

If the employee wishes to return to work earlier than the expected return date, she must give Swanley Town Council at least eight weeks' notice of her date of early return, preferably in writing. If she fails to do so, Swanley Town Council may postpone her return to such a date as will give Swanley Town Council eight weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, Swanley Town Council may require the employee to return to work for the remainder of the notice period.

### **Rights on and after return to work**

On resuming work after ordinary maternity leave, the employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent.

On resuming work after additional maternity leave, again she is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable for Swanley Town Council to allow the employee to return to the same job, Swanley Town Council may offer the employee suitable alternative work, on terms and conditions that are no less

favourable than would have applied if she had not been absent.

An employee who worked full-time prior to her maternity leave has no automatic right to return to work on a part-time basis or to make other changes to her working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of Swanley Town Council's business. If an employee would like this option to be considered, she should write to her line manager setting out her proposals as soon as possible in advance of her return date, so that there is adequate time for full consideration of the request.

# Paternity Leave Policy

This policy sets out the statutory rights and responsibilities of employees who wish to take paternity leave.

Swanley Town Council recognises that, from time to time, employees may have questions or concerns relating to their paternity rights. It is Swanley Town Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the paternity provisions are complex, employees should clarify the relevant procedures with the HR department to ensure that they are followed.

## **Paternity leave**

The right to paternity leave is set out in The Children and Families Act 2014. This right applies to certain employees and agency workers who are in a “qualifying relationship” with a pregnant woman. Those in a qualifying relationship have the statutory right to take time off to attend antenatal appointments.

Employees and agency workers who are considered to be in a qualifying relationship for the purposes of this statutory right includes:

- A pregnant woman’s husband, partner or civil partner (if she is in a same-sex relationship)
- The father of the child
- The parent of the child; and
- Intended parents in a surrogacy situation who meet specified conditions.
- in the case of a child who is being adopted: the spouse, civil partner or cohabitant of the adopting mother (or sole male adopter of the child) or the spouse chosen by that couple to be the “relevant parent” in circumstances involving joint adoption by a same-sex married couple

Paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take paternity leave where the other adoptive parent has elected to take adoption leave. A separate policy is available in respect of adoption leave. In respect of an adopted child, the employee must have 26 weeks' continuous service by the week in which the child’s adopter is notified of having been matched with the child for adoption.

To qualify for paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child’s mother.

Paternity leave is granted in addition to an employee's normal annual holiday entitlement. Paternity leave must be taken in a single block of one or two weeks within eight weeks of the birth or adoption of the child. If the child is born early, it must be taken from the time of the birth but within eight weeks of the expected date of childbirth. Paternity leave can start either from the date the child is born or placed for adoption or from a chosen number of days or weeks after that date.

## **Notification of paternity leave**

Where an employee wishes to request paternity leave in respect of a birth child, he/she must give his/her line manager 15 weeks' written notice of the date on which his/her partner's baby is due, the length of ordinary paternity leave he/she wishes to take and the date on which he/she

wishes the leave to commence.

In the case of an adopted child, the employee must give written notice of his/her intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start paternity leave, the length of the intended paternity leave period and the date on which the adopter was notified of having been matched with the child.

If an employee subsequently wishes to change the timing of the ordinary paternity leave, he/she must give 28 days' written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that he/she is entitled to paternity leave and statutory paternity pay.

### **Statutory paternity pay**

Pay during paternity leave will be at a standard rate of £140.98 per week (due to rise to £145.18 in April 2018), or at a rate equivalent to 90% of the employee's average weekly earnings if this figure is less than £140.98 per week. However, employees whose average weekly earnings are below the lower earnings limit for national insurance contributions will not be eligible for statutory paternity pay.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee starts his/her paternity leave.

### **Time off for antenatal care**

Those who qualify for time off only have the right to attend **TWO** unpaid antenatal appointments (not all of them) and they can't take more than 6 ½ hours for each one. The appointment must have been made on the advice of the registered medical practitioner, midwife or nurse. The time allowed for these appointments is unpaid.

To be eligible to take this form of time off, the employee could be the husband or civil partner of the pregnant woman, or could be living with the pregnant woman in an enduring family relationship. In addition, the employee will be eligible for the time off if he is the biological father of the expected child. The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse. Swanley Town Council expects that normally no more than half a day is needed for an antenatal appointment, but the employee's leave includes the time needed to travel to the appointment and any waiting time needed at the appointment, and can be for a maximum of six- and-a-half hours on each occasion.

Employees who would like to make a request for time off to accompany someone at an antenatal appointment should in the first instance contact your line manager.

The employee should endeavour to give his/her line manager as much notice as possible of when he/she needs the time off for the antenatal appointment and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

# Shared parental leave policy

## Introduction to shared parental leave

This policy sets out the rights of employees to shared parental leave and pay. Shared parental leave is a type of leave that is available to parents with babies or children placed for adoption. Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. Swanley Town Council provides a separate policy on shared parental leave for employees who are adopting children.

Shared parental leave should not be confused with parental leave, which is unaffected by shared parental leave. Parental leave is the entitlement to up to 18 weeks' unpaid leave. [Swanley Town Council provides a separate policy on parental leave.]

Swanley Town Council recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is Swanley Town Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, he/she should clarify the relevant procedures with their Manager to ensure that they are followed correctly.

## Definitions under this shared parental leave policy

The following definitions are used in this policy:

"Mother" means the mother or expectant mother of the child.

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

"Expected week of childbirth" means the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.

## Scope of this shared parental leave policy

This policy applies in relation to employees of Swanley Town Council, whether they are the mother or the partner. If it is the mother who is employed by Swanley Town Council, her partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave.

Similarly, if it is the partner who is employed by Swanley Town Council, the mother must (where relevant) submit any notifications to take shared parental leave to her own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

## Amount of shared parental leave available

The amount of shared parental leave to which an individual is entitled will depend on when the mother brings her maternity leave period to an end and the amount of leave that the other parent takes in respect of the child. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case Swanley Town Council is required to accept the request as long as the employee

meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs Swanley Town Council's agreement). A maximum of three requests for leave per pregnancy can normally be made by each parent.

The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail her maternity leave to take shared parental leave until two weeks after the birth and the maximum period that the parents could take as shared parental leave is 50 weeks between them (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

However, the mother's partner can begin a period of shared parental leave at any time from the date of the child's birth (but the partner should bear in mind that he/she is entitled to take up to two weeks' ordinary paternity leave following the birth of his/her child, which he/she will lose if shared parental leave is taken first). The mother and partner must take any shared parental leave within 52 weeks of birth.

### **Eligibility for shared parental leave**

For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

#### **Mother's eligibility for shared parental leave**

The mother is eligible for shared parental leave if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with Swanley Town Council until the week before any period of shared parental leave that she takes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory maternity leave in respect of the child; and
- complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, the partner must:

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

#### **Partner's eligibility for shared parental leave**

The partner is eligible for shared parental leave if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with Swanley Town Council until the week before any period of shared parental leave that he/she takes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold currently £30

for any 13 of those 66 weeks;

- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

### **Notice requirements for shared parental leave**

The notices that the parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:

- a "maternity leave curtailment notice" from the mother setting out when she proposes to end her maternity leave (unless the mother has already returned to work from maternity leave);
- a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting; and
- a "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

The notice periods set out below are the minimum required by law. However, the earlier the employee informs Swanley Town Council of his/her intentions, the more likely it is that Swanley Town Council will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.

Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

### **Mother's notice curtailing maternity leave**

Before the mother or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave (by giving the required eight weeks' notice of her planned return) or provide her employer with a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which maternity leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks after birth;
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her employer; and
- at least one week before what would be the end of the additional maternity leave period.

The mother must provide her maternity leave curtailment notice at the same time she provides either her notice of entitlement and intention or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention.

### **Revocation of maternity leave curtailment notice**

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

notice if:

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

### **Employee's notice of entitlement and intention**

The employee, whether the mother or the partner, must provide Swanley Town Council with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.

If the employee is the mother, the notice of entitlement and intention must set out:

- the mother's name;
- the partner's name;
- the start and end dates of any statutory maternity leave taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
- how much shared parental leave the mother and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's notice of entitlement and intention must include a declaration signed by her that:

- she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information she gives in the notice of entitlement and intention is accurate; and
- she will immediately inform Swanley Town Council if she ceases to care for the child.

In addition, the mother's notice of entitlement and intention must include a declaration signed by her partner:

- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
- declaring that the partner satisfies, or will satisfy, the conditions set out above (see Mother's eligibility for shared parental leave)
- declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
- declaring that the partner consents to the amount of leave that the mother intends to take; and
- declaring that the partner consents to the mother's employer processing the information in the partner's declaration.

If the employee is the partner, the partner's notice of entitlement and intention must set out:

- the partner's name;
- the mother's name;
- the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;

- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner);
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

The partner's notice of entitlement and intention must include a declaration signed by the partner that:

- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information given by the partner in the notice of entitlement and intention is accurate; and
- He/she will immediately inform Swanley Town Council if he/she ceases to care for the child or if the mother informs him/her that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:

- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
- declaring that the mother satisfies, or will satisfy, the conditions set out above (see Partner's eligibility for shared parental leave) and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that the partner intends to take;
- declaring that she will immediately inform the employee if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
- declaring that the mother consents to the partner's employer processing the information in the mother's declaration.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, Swanley Town Council can request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send Swanley Town Council the required information.

### **Variation or cancellation of notice of entitlement and intention**

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides Swanley Town Council with a written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation

to periods where shared parental leave was not to be taken; and

- a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

### **Employee's period of leave notice**

To take a period of shared parental leave, the employee must provide Swanley Town Council with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

### **Variation or cancellation of period of leave notice**

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides his/her employer with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

### **Limit on number of requests for leave**

The employee can provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy, although Swanley Town Council may waive this limit in some circumstances.

### **Continuous period of shared parental leave**

If the employee submits a period of leave notice requesting one continuous period of leave, he/she will be entitled to take that period of leave.

### **Discontinuous periods of shared parental leave**

The employee may submit a period of leave notice requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

If the employee submits a period of leave notice requesting discontinuous periods of leave, Swanley Town Council, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is

entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify Swanley Town Council of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if Swanley Town Council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

### **Amount of shared parental pay available**

Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks or this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

Any statutory shared parental pay due during shared parental leave will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

### **Eligibility for statutory shared parental pay**

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

#### **Mother's eligibility for statutory shared parental pay**

The mother is eligible for statutory shared parental pay if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that she gets;
- has normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay; and
- is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

In addition, for the mother to be eligible for statutory shared parental pay, the partner must:

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

### **Partner's eligibility for statutory shared parental pay**

The partner is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with his/her employer until the week before any period of shared parental pay that he/she gets;
- has normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay.

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

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

### **Rights during shared parental leave**

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue

### **Contact during shared parental leave**

Swanley Town Council reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

An employee can agree to work for Swanley Town Council (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared

parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

Swanley Town Council has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between employees and Swanley Town Council.

### **Returning to work following shared parental leave**

The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for Swanley Town Council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

# Adoption Leave

This policy sets out the rights of employees to statutory adoption leave and pay.

If an employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave from day one of his/her employment.

The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave. The employee's maximum entitlement is thus to take up to 52 weeks' adoption leave.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave subject to their following the correct notification procedures as set out below.

## **Who qualifies for statutory adoption pay and how much will the employee receive?**

Employees who qualify for adoption leave will also qualify for statutory adoption pay provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

## **Timing of adoption leave**

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier.

In order to make administration as easy as possible, the employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

## **Notice requirements**

In order to be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give Swanley Town Council written notification of his/her intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing if Swanley Town Council requests it, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends his/her adoption leave to start.

The employee is permitted to bring forward his/her adoption leave start date, provided that he/she advises Swanley Town Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone his/her adoption leave start date, provided that he/she advises Swanley Town Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The employee must also, if Swanley Town Council requests it, provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

Any failure to give proper notice of an intention to start adoption leave will be regarded as a disciplinary offence, leading potentially to disciplinary sanctions for misconduct if appropriate.

Within 28 days of receiving the employee's notice of intention to take adoption leave, Swanley Town Council will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

## **Time off to attend adoption appointments**

Employees who are adopting a child are entitled to take time off to attend adoption appointments.

An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments. Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments. The other can elect to take unpaid time off to attend up to two adoption appointments.

The purpose of the appointment is to enable the employee [and his/her partner] to have contact with the child (for example, to bond with him/her before the placement) and for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).

The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.

Swanley Town Council will ask the individual for proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

In addition, if the employee is adopting jointly, Swanley Town Council will ask the individual to sign a declaration, to be submitted alongside the documentary evidence, confirming that he/she has elected to exercise his/her right to take time off to attend an adoption appointment. Swanley Town Council will ask for the declaration on the first occasion on which the individual asks for time off to attend an adoption appointment.

### **Rights during adoption leave**

During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. Salary/wages will be replaced by statutory adoption pay if the employee is eligible for it.

This means that, while sums payable by way of wages or salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid.

Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

### **Contact during adoption leave**

Swanley Town Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

### **Keeping-in-touch days**

Employees can agree to work for Swanley Town Council (or to attend training) for up to 10 days during their adoption leave without that work bringing their adoption leave to an end and without loss of a week's statutory adoption pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

Swanley Town Council has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and Swanley Town Council.

### **Returning to work after adoption leave**

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that he/she gives the appropriate notification. Alternatively, the employee may take his/her full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, he/she must give at least eight weeks' notice in writing to Swanley Town Council of the date on which he/she intends to return.

The employee has the right to resume working in the same job if returning to work from ordinary adoption leave. If the employee returns to work after a period of additional adoption leave, he/she is entitled to return either to the same job, or if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption

leave period.

If the employee decides during adoption leave that he/she does not wish to return to work, he/she should give written notice of resignation to Swanley Town Council as soon as possible and in accordance with the terms of his/her contract of employment.

### **Transfer of adoption leave shared parental leave**

Shared parental leave enables adopter to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case Swanley Town Council is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs Swanley Town Council's agreement).

To be able to take shared parental leave, an employee and his/her partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the adopter curtailing his or her adoption leave.

Employees can refer to Swanley Town Council's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the adopter's adoption leave can be curtailed. Swanley Town Council's policy on shared parental leave sets out the notice periods with which employees must comply and what evidence they must provide to Swanley Town Council. The policy also contains more details on employees' entitlement to statutory shared parental pay/Swanley Town Council's shared parental pay scheme. The adopter and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

# Shared Parental Leave – Adoption

This policy sets out the rights of employees adopting a child to shared parental leave and pay. Shared parental leave is a type of leave that is available to employees having a child placed for adoption with them (or in the case of an adoption from overseas, having a child they are adopting enter Great Britain). Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date. Swanley Town Council provides a separate policy on shared parental leave for parents in a birth situation.

Shared parental leave should not be confused with parental leave, which is unaffected by shared parental leave. Parental leave is the entitlement to up to 18 weeks' unpaid leave. Swanley Town Council provides a separate policy on parental leave.

Swanley Town Council recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is Swanley Town Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, he/she should clarify the relevant procedures with [name of individual/the HR department] to ensure that they are followed correctly.

## Definitions under this shared parental leave policy

The following definitions are used in this policy:

"Adopter" means the person with whom the child is, or is expected to be, placed for adoption, or, in a case where two people have been matched jointly, whoever has elected to be the child's adopter for the purposes of adoption leave.

"Partner" means the person who is married to, or the civil partner or the partner of, the adopter at the date on which the child is placed for adoption (for adoptions from overseas, at the date on which the child enters Great Britain). This includes someone, of either sex, who lives with the adopter and the child in an enduring family relationship but who is not the adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

"Matched for adoption" means an adoption agency deciding that a person would be a suitable adoptive parent for a child either individually or jointly with another person. A person is notified of having been "matched for adoption" with a child on the date on which the person receives notification of the adoption agency's decision.

"Placed for adoption" means placed for adoption under UK adoption laws, including placement with a local authority foster parent who is also a prospective adopter ("foster to adopt").

"Official notification" means written notification, issued by or on behalf of the relevant central authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of a child from overseas, or that it has issued a certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt, and has been assessed and approved as being a suitable adoptive parent.

## Scope of this shared parental leave policy

This policy applies in relation to employees of Swanley Town Council, whether they are the adopter or the partner. If it is the adopter who is employed by Swanley Town Council, his/her partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave.

Similarly, if it is the partner who is employed by Swanley Town Council, the adopter must (where relevant) submit any notifications to his/her own employer.

The adopter and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

### **Amount of shared parental leave available**

The amount of shared parental leave to which an individual is entitled will depend on when the adopter brings his/her leave period to an end and the amount of leave that the other adoptive parent takes in respect of the child. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case Swanley Town Council is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs Swanley Town Council's agreement). A maximum of three requests for leave per adoption placement regardless of the number of children who are placed as part of that placement can normally be made by each adoptive parent.

The employee can begin a period of shared parental leave at any time from the date on which the child is placed for adoption (for adoptions from overseas, at any time from the date on which the child enters Great Britain) or, where more than one child is placed for adoption through a single placement, the date of placement of the first child (for adoptions from overseas, at any time from the date on which the first child enters Great Britain). However, employees should bear in mind that the adopter's partner will lose his/her entitlement to take up to two weeks' paternity leave following the adoption of his/her child if shared parental leave is taken first. The employee must take any shared parental leave within 52 weeks of the date on which the child is placed for adoption (for adoptions from overseas, within 52 weeks of the date on which the child enters Great Britain).

### **Eligibility for shared parental leave**

For employees to be eligible to take shared parental leave, both adoptive parents must meet certain eligibility requirements.

#### **Adopter's eligibility for shared parental leave**

The adopter is eligible for shared parental leave if he/she:

- has at least 26 weeks' continuous employment by the end of the week in which the adopter is notified of having been matched for adoption with the child or by the end of the week in which he/she receives official notification in relation to an adoption from overseas and remains in continuous employment with Swanley Town Council until the week before any period of shared parental leave that he/she takes;
- has, at the date on which the child is placed for adoption or enters Great Britain if the child is being adopted from overseas, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory adoption leave in respect of the child; and
- complies with the relevant adoption leave curtailment requirements or has returned to work before the end of statutory adoption leave, and shared parental leave notice and evidence requirements.

In addition, for the adopter to be eligible for shared parental leave, the partner must:

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the week in which the adopter is notified of having been matched for adoption with the child or the week in which the child enters Great Britain in relation to an adoption from overseas;
- have average weekly earnings of at least the maternity allowance threshold currently £30 for any 13 of those 66 weeks; and
- have, at the date on which the child is placed for adoption (or enters Great Britain if the child is being adopted from overseas), the main responsibility, apart from the adopter, for the care of the child.

#### **Partner's eligibility for shared parental leave**

The partner is eligible for shared parental leave if he/she:

- has at least 26 weeks' continuous employment by the end of the week in which the adopter is notified of having been matched for adoption with the child or by the end of the week in which he/she receives official notification in relation to an adoption from overseas and remains in continuous employment with Swanley Town Council until the week before any period of shared parental leave that he/she takes;
- has, at the date on which the child is placed for adoption or enters Great Britain if the child is being adopted from overseas, the main responsibility, apart from the adopter, for the care of the child; and
- complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, the adopter must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the week in which the adopter is notified of having been matched for adoption with the child or the week in which the child enters Great Britain in relation to an adoption from overseas;
- have average weekly earnings of at least the maternity allowance threshold currently £30 for any 13 of those 66 weeks;
- have, at the date on which the child is placed for adoption or enters Great Britain if the child is being adopted from overseas, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory adoption leave or statutory adoption pay in respect of the child; and
- comply with the relevant adoption leave or pay curtailment requirements, or have returned to work before the end of statutory adoption leave.

### **Notice requirements for shared parental leave**

The notices that the adoptive parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:

- an "adoption leave curtailment notice" from the adopter setting out when he/she proposes to end his/her adoption leave (unless the adopter has already returned to work from adoption leave);
- a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting; and
- a "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

The notice periods set out below are the minimum required by law. However, the earlier the employee informs Swanley Town Council of his/her intentions, the more likely it is that Swanley Town Council will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.

Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the adopter could provide an adoption leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

### **Adopter's notice curtailing adoption leave**

Before the adopter or partner can take shared parental leave, the adopter must either return to work before the end of his/her adoption leave (by giving the required eight weeks' notice of his/her planned return) or provide his/her employer with an adoption leave curtailment notice. The adoption leave curtailment notice must be in writing and state the date on which adoption leave is to end. That date must be at least:

- two weeks after the first day of the adopter's ordinary adoption leave period;
- eight weeks after the date on which the adopter gave the adoption leave curtailment notice to his/her employer; and

- one week before what would be the end of the additional adoption leave period.

The adopter must provide his/her adoption leave curtailment notice at the same time he/she provides either his/her notice of entitlement and intention or a declaration of consent and entitlement signed by the adopter confirming that his/her partner has given his/her employer a notice of entitlement and intention.

### **Revocation of adoption leave curtailment notice**

The adopter can withdraw his/her notice curtailing his/her adoption leave in limited circumstances. The withdrawal of an adoption leave curtailment notice must be in writing and can be given only if the adopter has not returned to work. The adopter can withdraw his/her adoption leave curtailment notice if:

- it is discovered that neither the adopter nor the partner are entitled to shared parental leave or statutory shared parental pay and the adopter withdraws his/her adoption leave curtailment notice within eight weeks of the date on which the notice was given; or
- the partner has died.

### **Employee's notice of entitlement and intention**

The employee, whether the adopter or the partner, must provide Swanley Town Council with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.

If the employee is the adopter, the notice of entitlement and intention must set out:

- the adopter's name;
- the partner's name;
- the start and end dates of any statutory adoption leave taken or to be taken by the adopter;
- the total amount of shared parental leave available;
- the date on which the adopter was notified of having been matched for adoption with the child or receives official notification in relation to an adoption from overseas;
- the date on which the child is expected to be placed for adoption with the adopter and the date of the placement, or the date on which the child is expected to enter Great Britain in relation to an adoption from overseas although, if the child has not yet been placed for adoption or entered Great Britain, the date of placement for adoption or entry into Great Britain must be provided as soon as reasonably practicable after the placement or entry, and before the first period of shared parental leave to be taken by the adopter;
- how much shared parental leave the adopter and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave including the start and end dates for each period of leave.

The adopter's notice of entitlement and intention must include a declaration signed by him/her that:

- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information he/she gives in the notice of entitlement and intention is accurate; and
- he/she will immediately inform Swanley Town Council if he/she ceases to care for the child.

In addition, the adopter's notice of entitlement and intention must include a declaration signed by his/her partner:

- specifying the partner's name, address, and national insurance number or declaring that the partner does not have a national insurance number;
- declaring that the partner satisfies, or will satisfy, the conditions set out above
- declaring that the partner is married to, the civil partner of, or the partner of, the adopter;
- declaring that the partner consents to the amount of leave that the adopter intends to take; and
- declaring that the partner consents to the adopter's employer processing the information in the partner's declaration.

If the employee is the partner, the partner's notice of entitlement and intention must set out:

- the partner's name;

- the adopter's name;
- the start and end dates of any periods of statutory adoption leave or statutory adoption pay taken or to be taken by the adopter;
- the total amount of shared parental leave available;
- the date on which the adopter was notified of having been matched for adoption with the child or receives official notification in relation to an adoption from overseas;
- where statutory adoption leave was not taken, or is not to be taken, the start and end dates of any period in which statutory adoption pay is paid or payable;
- the date on which the child is expected to be placed for adoption with the adopter and the date of the placement, or the date on which the child is expected to enter Great Britain in relation to an adoption from overseas (although, if the child has not yet been placed for adoption or entered Great Britain, the date of placement for adoption or entry into Great Britain must be provided as soon as reasonably practicable after the placement or entry, and before the first period of shared parental leave to be taken by the adopter);
- how much shared parental leave the partner and adopter each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave including the start and end dates for each period of leave.

The partner's notice of entitlement and intention must include a declaration signed by him/her that:

- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information given by the partner in the notice of entitlement and intention is accurate;
- he/she is married to, or the civil partner or the partner of the adopter; and
- he/she will immediately inform Swanley Town Council if he/she ceases to care for the child or if the adopter informs him/her that he/she no longer meets the requirement to have curtailed his/her adoption leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the adopter:

- specifying the adopter's name, address, and national insurance number (or declaring that the adopter does not have a national insurance number);
- declaring that the adopter satisfies, or will satisfy, the conditions set out above;
- declaring that the adopter consents to the amount of leave that the partner intends to take;
- declaring that he/she will immediately inform the employee if he/she no longer meets the requirement to have curtailed his/her adoption leave or pay period; and
- declaring that the adopter consents to the partner's employer processing the information in the adopter's declaration.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the adopter or partner, Swanley Town Council can request from the employee:

- in relation to adoptions within the UK, documentary evidence from the adoption agency of:
  - the name and address of the adoption agency;
  - the date on which the adopter was notified of having been matched for adoption with the child; and
  - the date on which the adoption agency expects the child to be placed for adoption with the adopter; and
- in relation to adoptions from overseas, a copy of the official notification; and
- whether a UK or overseas adoption, the name and address of the other adoptive parent's employer (or a declaration that the other adoptive parent has no employer).

The employee has 14 days from the date of the request to send Swanley Town Council the required information.

### **Variation or cancellation of notice of entitlement and intention**

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides Swanley Town Council with a written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave including the start and end dates for each period of leave;
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the adopter and the partner that they agree the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

### **Employee's period of leave notice**

To take a period of shared parental leave, the employee must provide Swanley Town Council with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

### **Variation or cancellation of period of leave notice**

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides his/her employer with a written notice not less than eight weeks before any period of leave varied by the notice is due to commence.

The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

Limit on number of requests for leave

The employee can provide a combined total of up to three period of leave notices or variations of period of leave notices per adoption, although Swanley Town Council may waive this limit in some circumstances.

### **Continuous period of shared parental leave**

If the employee submits a period of leave notice requesting one continuous period of leave, he/she will be entitled to take that period of leave.

### **Discontinuous periods of shared parental leave**

The employee may submit a period of leave notice requesting discontinuous periods of leave. For example, the adopter and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

If the employee submits a period of leave notice requesting discontinuous periods of leave, Swanley Town Council, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was

originally given. The employee must notify Swanley Town Council of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if Swanley Town Council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

### **Amount of shared parental pay available**

Statutory shared parental pay is available for eligible adoptive parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the adoptive parents will depend on how much statutory adoption pay the adopter has been paid when his/her adoption pay period ends. A total of 39 weeks' statutory adoption pay is available to the adopter. As adoption leave cannot be curtailed for the first two weeks of leave, an adopter can share up to 37 weeks' statutory shared parental pay with his/her partner.

Any statutory shared parental pay due during shared parental leave will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

It is up to the adoptive parents as to who is paid any statutory shared parental pay and how it is apportioned between them.

### **Eligibility for statutory shared parental pay**

For employees to be eligible for statutory shared parental pay, both adoptive parents must meet certain eligibility requirements.

#### **Adopter's eligibility for statutory shared parental pay**

The adopter is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment by the end of the week in which the adopter is notified of having been matched for adoption with the child or by the end of the week in which he/she receives official notification in relation to an adoption from overseas and remains in continuous employment with his/her employer until the week before any period of shared parental leave that he/she takes;
- has normal weekly earnings for a period of eight weeks ending with the week in which the adopter is notified of having been matched for adoption with the child (or by the week in which he/she receives official notification in relation to an adoption from overseas) of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date on which the child is placed for adoption or enters Great Britain if the child is being adopted from overseas, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay; and
- is entitled to statutory adoption pay in respect of the child, but the adoption pay period has been reduced.

In addition, for the adopter to be eligible for statutory shared parental pay, the partner must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the week in which the adopter is notified of having been matched for adoption with the child (or the week in which he/she receives official notification in relation to an adoption from overseas);
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks; and

- have, at the date on which the child is placed for adoption (or enters Great Britain if the child is being adopted from overseas), the main responsibility, apart from the adopter, for the care of the child.

### **Partner's eligibility for statutory shared parental pay**

The partner is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment by the end of the week in which the adopter is notified of having been matched for adoption with the child (or by the end of the week in which he/she receives official notification in relation to an adoption from overseas) and remains in continuous employment with his/her employer until the week before any period of shared parental leave that he/she takes;
- has normal weekly earnings for a period of eight weeks ending with the week in which the adopter is notified of having been matched for adoption with the child (or by the week in which he/she receives official notification in relation to an adoption from overseas) of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date on which the child is placed for adoption (or enters Great Britain if the child is being adopted from overseas), the main responsibility, apart from the adopter, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay.

In addition, for the partner to be eligible, the adopter must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the week in which the adopter is notified of having been matched for adoption with the child (or the week in which he/she receives official notification in relation to an adoption from overseas);
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks;
- have, at the date on which the child is placed for adoption (or enters Great Britain if the child is being adopted from overseas), the main responsibility, apart from the partner, for the care of the child; and
- be entitled to statutory adoption pay in respect of the child, but the adoption pay period has been reduced.

### **Rights during shared parental leave**

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue. Pension contributions will continue to be paid during periods of paid shared parental leave.

### **Contact during shared parental leave**

Swanley Town Council reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

An employee can agree to work for Swanley Town Council (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

Swanley Town Council has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between employees and Swanley Town Council.

If you are entitled to receive statutory shared parental pay for any week during which you attend

work for SPLIT days, you will still receive this in the usual way.

### **Returning to work following shared parental leave**

The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory adoption leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory adoption or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional adoption leave or additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for Swanley Town Council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.



# Adoption Leave Overseas

This policy sets out the rights of employees who adopt a child from overseas to statutory adoption leave and pay.

An employee who adopts a child from overseas and has received "official notification" in respect of that child is entitled to a period of adoption leave provided that he/she has at least 26 weeks' continuous service, ending with the week in which the official notification was received or starting with the week in which his/her employment with Swanley Town Council began.

An official notification is defined as written notification, issued by or on behalf of the "relevant domestic authority", that it is prepared to issue, or has already issued and sent, a certificate to the overseas authority concerned with the child's adoption, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The relevant domestic authority is defined as the Secretary of State, except in the case of an adopter to whom the Inter-country Adoption (Hague Convention) Regulations 2003 apply and who is

habitually resident in Wales, in which case it is the National Assembly for Wales, or one to whom the Inter-country Adoption (Hague Convention) (Scotland) Regulations 2003 apply and who is habitually resident in Scotland, in which case it is the Scottish Ministers.

The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave. The employee's maximum entitlement is thus to take up to 52 weeks' adoption leave.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave subject to their following the correct notification procedures as set out below.

## **Who qualifies for statutory adoption pay and how much will the employee receive?**

Employees who qualify for adoption leave will also qualify for statutory adoption pay provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

## **Timing of adoption leave**

Adoption leave can start on the day on which the child enters Great Britain or on a chosen date no later than 28 days after the child enters Great Britain.

In order to make administration as easy as possible, the employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

## **Notice requirements**

In order to be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give Swanley Town Council written notification of his/her intention to take adoption leave. No later than 28 days after the date he/she receives the official notification, or the date on which he/she completes 26 weeks' continuous service with Swanley Town Council (whichever is later), he/she must give notice of both the date the official notification was received and the date the child is expected to enter Great Britain.

At least 28 days prior to the date that he/she has chosen as the beginning of his/her adoption leave period, he/she must give notice of the chosen start date, and a declaration that he/she has chosen to receive statutory adoption pay and not statutory paternity pay (adoption). He/she must also produce a copy of the official notification.

Within 28 days of the child's entry into Great Britain the employee must inform Swanley Town Council of the date of entry and provide evidence of this date in the form of a plane ticket or copies of entry

clearance documents.

The employee is permitted to bring forward his/her adoption leave start date, provided that he/she advises Swanley Town Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone his/her adoption leave start date, provided that he/she advises Swanley Town Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Any failure to give proper notice of an intention to start adoption leave will be regarded as a disciplinary offence, leading potentially to disciplinary sanctions for misconduct if appropriate.

Within 28 days of receiving the employee's notice of the date on which he/she intends to begin his/her adoption leave, Swanley Town Council will write to the employee confirming the latest date on which the employee must return to work after adoption leave. Where the employee has provided notice of a revised start date, within 28 days of the date on which the employee's adoption leave period began, Swanley Town Council will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

### **Rights during adoption leave**

During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. Salary/wages will be replaced by statutory adoption pay if the employee is eligible to receive it.

This means that, while sums payable by way of wages or salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid.

Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

### **Contact during adoption leave**

Swanley Town Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

### **Keeping-in-touch days**

Employees can agree to work for Swanley Town Council (or to attend training) for up to 10 days during their adoption leave without that work bringing their adoption leave to an end and without loss of a week's statutory adoption pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

Swanley Town Council has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and Swanley Town Council.

### **Returning to work after adoption leave**

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that he/she gives the appropriate notification. Alternatively, the employee may take his/her full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, he/she must give at least eight weeks' notice in writing to Swanley Town Council of the date on which he/she intends to return.

The employee has the right to resume working in the same job if returning to work from ordinary

adoption leave. If the employee returns to work after a period of additional adoption leave, he/she is entitled to return either to the same job, or if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.

If the employee decides during adoption leave that he/she does not wish to return to work, he/she should give written notice of resignation to Swanley Town Council as soon as possible and in accordance with the terms of his/her contract of employment.

### **Transfer of adoption leave**

If an employee proposes to return to work by giving proper notification, his/her spouse, civil partner or partner may be eligible to take up to 26 weeks' additional paternity leave (and additional statutory paternity pay) once he/she has returned to work.

The earliest that additional paternity leave may commence is 20 weeks after the date on which the adopted child enters Great Britain and it must end 12 months after the date of entry. The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks.

Further details should be obtained from the employee's spouse's or partner's employer. He/she will be required to submit a written and signed declaration form to that employer, which may also make additional enquiries of Swanley Town Council to verify its employee's entitlement.

# Parental Leave

An employee is entitled to up to 18 weeks' unpaid parental leave per child if he/she is the birth or adoptive parent of a child who is under 18 years of age. To qualify for parental leave, employees must have completed at least one year's continuous service with Swanley Town Council.

"Parental leave" should not be confused with shared parental leave. Shared parental leave enables mothers to commit to ending their maternity or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. Swanley Town Council provides a separate policy on shared parental leave.

## Rights during parental leave

Qualifying employees will be entitled to a maximum of 18 weeks' parental leave to be taken up until the child's 18th birthday. During parental leave, the employee will remain employed, although pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will, however, remain in place. Certain other terms of employment will remain in force, as follows. During parental leave employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:

- notice of termination;
- redundancy compensation; and
- disciplinary or grievance procedures.

Employees taking parental leave will be bound by the implied obligation of good faith, and any terms and conditions of employment relating to:

- notice of termination;
- disclosure of confidential information;
- the acceptance of gifts or other benefits; and
- participation in any other business.

## Conditions of leave

Swanley Town Council has adopted the default scheme for the taking of parental leave and the following conditions apply.

An employee may not exercise any entitlement to ordinary parental leave unless he/she has complied with any request made by Swanley Town Council to produce evidence of parenthood or parental responsibility. This could be in the form of a birth certificate or adoption papers.

The employee must give proper notice of the period of leave that he/she proposes to take. This notice must be given to Swanley Town Council at least 21 days before the date on which leave is to start and must specify the dates on which the period of leave is to begin and end.

Where the employee is the father of the child in respect of whom the leave is to be taken and he requests parental leave to begin when his child is born, his notice must specify the expected week of childbirth and the duration of the period of leave. The employee must give this notice at least 21 days before the expected week of childbirth.

Where the parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to Swanley Town Council at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of parental leave requested.

Swanley Town Council may postpone a period of parental leave (other than where parental leave has been requested immediately after childbirth or immediately after placement for adoption) where Swanley Town Council considers that its business would be unduly disrupted if the employee were to take leave during the period requested. In such a case, Swanley Town Council will allow the employee

to take an equivalent period of parental leave beginning no later than six months after the commencement of the period originally requested. Swanley Town Council will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice was given to Swanley Town Council.

Employees may not take parental leave in blocks of less than one week (except in relation to a child who is disabled).

Employees may not take more than four weeks' leave in respect of any individual child in any year. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

### **Return from leave**

An employee who returns to work after a period of parental leave is entitled to return to the job in which he/she was employed prior to the absence if it was an isolated period of leave lasting four weeks or less. If the period of parental leave followed on immediately from another period of statutory leave, the employee's right to return depends on the length of leave taken.

The employee has the right to return to the same job if the parental leave was the last of two or more consecutive periods of leave that did not include:

- a period of ordinary parental leave lasting more than four weeks; or
- any period of statutory leave that, when added to any other period of statutory leave (excluding ordinary parental leave) taken in relation to the same child, means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks.

An employee who returns to work after a period of parental leave that does not fall into the above description, for example because it follows ordinary and additional maternity leave lasting more than 26 weeks, is entitled to return to the job in which he/she was employed prior to the absence, or, if that is not reasonably practicable, to another job that is both suitable and appropriate in the circumstances.

# Flexible Working

Swanley Town Council believes that flexible working can increase staff motivation, promote work-life balance, reduce employee stress and improve performance and productivity.

All employees who have a minimum of 26 weeks' continuous service have the right to request flexible working and to have their request considered seriously by their employer.

## Requests for flexible working

A request for flexible working could include a request for a change to the number of hours that the employee works, a request for a change to the pattern of hours worked, a request to job share or a request to perform some or all of the work from the employee's home.

All requests must be made in writing by filling in the requisite application form, which is available from the HR department. Any request made under this policy must include:

- the date of the application;
- the changes that the employee is seeking to his/her terms and conditions;
- the date on which the employee would like the terms and conditions to come into effect;
- what effect the employee thinks the requested change would have on Swanley Town Council;
- how, in his/her opinion, any such effect might be dealt with;
- a statement that this is a statutory request;
- whether or not the employee has made a previous application for flexible working; and
- if the employee has made a previous request, when the employee made that application.

Where the request is being made by a disabled person as part of a request for a reasonable adjustment to his/her working arrangements, the employee should state this in the written application.

The HR department should not reject out of hand a request that does not contain the required information. The HR department should explain to the employee what additional or amended information he/she needs to provide and ask the employee to resubmit the request.

## Meeting to discuss a flexible working request

Once the HR department receives the request, it will be dealt with as soon as possible, but no later than the deadline set out below. The line manager will usually arrange a meeting to deal with the request. Where a request can without further discussion be approved in the terms stated in the employee's written application, a meeting will not be necessary.

An employee should be given the right to be accompanied by a work colleague at any flexible working meeting. The meeting should take place in a private meeting room so that the discussion is kept away from other employees. The aim of the meeting is to find out more about the proposed working arrangements and how they could be of benefit to both the employee and Swanley Town Council.

## Outcome of a flexible working request

After the meeting, the HR department will consider the proposed flexible working arrangements carefully, weighing up the potential benefits to the employee and to Swanley Town Council against any adverse impact of implementing the changes. Each request will be considered on a case-by-case basis: agreeing to one request will not set a precedent or create the right for another employee to be granted a similar change to his/her working pattern.

The employee will be informed in writing of the decision as soon as is reasonably practicable after the meeting, but no later than the deadline set out below. The request may be granted in full or in part: for example, Swanley Town Council may propose a modified version of the request, the request may be granted on a temporary basis, or the employee may be asked to try the flexible working arrangement for a trial period. The employee will be given the right to appeal the decision if the employee's request is not upheld or is upheld in part.

## **Reasons for turning down a flexible working request**

The line manager will give reasons for the rejection of any request. Those reasons must be for one or more prescribed business reasons, which are:

- the burden of additional costs;
- an inability to reorganise work among existing staff;
- an inability to recruit additional staff;
- a detrimental impact on quality;
- a detrimental impact on performance;
- a detrimental effect on ability to meet customer demand;
- insufficient work for the periods the employee proposes to work; and
- a planned structural change to the business.

The line manager must not reject a request for any other reason.

## **Flexible working requests that are granted**

If the request is upheld, the employee and the line manager will discuss how and when the changes will take effect. Any changes to terms and conditions will be put in writing and sent to the employee as an amendment to his/her written statement of terms and conditions of employment as soon as is reasonably practicable.

## **Timescales**

All requests will be dealt with within a period of three months from first receipt to notification of the decision on appeal. The line manager should hold the meeting within 28 days of receiving the request and notify the decision to the employee within 14 days of the meeting, so that there is enough time for any appeal to be concluded. Employees who are dissatisfied with the outcome of their request are allowed to lodge an appeal within 14 days of the notification, with the appeal to be heard within 14 days. The employee will be informed of the outcome of his/her appeal within 14 days of the appeal meeting. These time limits may be extended where both the employee and employer are in agreement. For example, the relevant manager and the employee may agree to extend the time limit to give the employee a trial period on the flexible working arrangements.

## **Problems with a flexible working request**

If an employee is dissatisfied or unclear at any stage throughout the process, he/she should contact the HR department. If an employee is dissatisfied with the way in which his/her request has been handled, he/she should raise a grievance under Swanley Town Council's grievance procedure.

Line managers who receive a request will have regard to Swanley Town Council's equal opportunities policy when considering the request.

If an employee fails to attend a meeting, including an appeal meeting, and then fails to attend a rearranged meeting without good reason, his/her application will be deemed to have been withdrawn



## **GENERAL DATA PROTECTION REGULATIONS POLICY**

This policy applies to:

- SWANLEY TOWN COUNCIL;
- All regional staff or home workers operating on behalf of SWANLEY TOWN COUNCIL.

This policy is operational from 25 May 2018.

The purpose of this policy is to enable SWANLEY TOWN COUNCIL to:

- Comply with our legal, regulatory and corporate governance obligations and good practice
- Gather information as part of investigations by regulatory bodies or in connection with legal proceedings or requests
- Ensure business policies are adhered to (such as policies covering email and internet use)
- Fulfill operational reasons, such as recording transactions, training and quality control, ensuring the confidentiality of commercially sensitive information, security vetting, credit scoring and checking
- Investigate complaints
- Check references, ensuring safe working practices, monitoring and managing staff access to systems and facilities and staff absences, administration and assessments
- Monitor staff conduct, disciplinary matters
- Market our business
- Improve services

This policy applies to information relating to identifiable individuals e.g. staff, applicants, former staff, clients, suppliers and other third party contacts.

SWANLEY TOWN COUNCIL will:

- Comply with both the law and good practice
- Respect individuals' rights
- Be open and honest with individuals whose data is held
- Provide training and support for staff who handle personal data, so that they can act confidently and consistently

SWANLEY TOWN COUNCIL recognises that its first priority under the GDPR is to avoid causing harm to individuals. In the main this means:

- Complying with your rights,
- Keeping you informed about the data we hold, why we hold it and what we are doing with it,
- Keeping information securely in the right hands, and
- Holding good quality information.

Secondly, GDPR aims to ensure that the legitimate concerns of individuals about the ways in which their data may be used are taken into account. In addition to being open and transparent, SWANLEY TOWN COUNCIL will seek to give individuals as much choice as is possible and reasonable over what data is held and how it is used. This includes the right to erasure where data is no longer necessary and the right to rectification where the data is incorrect. Full details are available in the Privacy Notice issued at the point of gathering the data.

SWANLEY TOWN COUNCIL has identified the following potential key risks, which this policy is designed to address:

- Breach of confidentiality (information being given out inappropriately).
- Insufficient clarity about the range of uses to which data will be put — leading to Data Subjects being insufficiently informed
- Failure to offer choice about data use when appropriate
- Breach of security by allowing unauthorised access.
- Failure to establish efficient systems of managing changes, leading to personal data being not up to date.
- Harm to individuals if personal data is not up to date
- Insufficient clarity about the way personal data is being used e.g. given out to general public.
- Failure to offer choices about use of contact details for staff, clients workers or employees.

In order to address these concerns, to accompany this policy, we have an accompanying Information Security policy and we will issue Privacy Notices to explain what data we have, why we have it and what we will do with it. The Privacy Notice will also explain the data subjects rights. We will offer training to staff where this is necessary and appropriate in the circumstances to ensure compliance with GDPR. Such training will vary according to the role, responsibilities and seniority of those being trained.

We aim to keep data only for so long as is necessary which will vary from according to the circumstances.

We have no intention to transfer data internationally.

The person responsible for Data Protection is currently [[name]] with the following responsibilities:

- Briefing the board on Data Protection responsibilities
- Reviewing Data Protection and related policies
- Advising other staff on Data Protection issues
- Ensuring that Data Protection induction and training takes place
- Notification
- Handling subject access requests
- Approving unusual or controversial disclosures of personal data
- Approving contracts with Data Processors
- Ensuring Data is stored securely
- Maintain a Data Audit and keep this up to date
- Reporting breaches to the Information Commissioners Office and the relevant Data Subject(s)

Significant breaches of this policy will be handled under SWANLEY TOWN COUNCIL's disciplinary procedures which may amount to gross misconduct.

### **Subject Access Request**

Any subject access requests will be handled by the CEO / CIVIC MANAGER

Subject access requests must be in writing. All staff are required to pass on anything, which might be a subject access request to [[name]] without delay. The applicant will be given their data within 1 month unless there are complexities in the case which justify extending this to 2 months. You will be notified of any extensions to the deadline for response and the reasons as soon as possible.

We have the right to refuse a subject access request where data is requested at unreasonable intervals, manifestly unfounded or excessive. You will be notified of the reasons as soon as possible.

Where the individual making a subject access request is not personally known to [[name]] their identity will be verified before handing over any information.

The required information will be provided in a permanent and portable form unless the applicant makes a specific request to be given supervised access in person.

You have the right to request the information we hold is rectified if it is inaccurate or incomplete. You should contact [[name]] and provide with the details of any inaccurate or incomplete data. We will then ensure that this is amended within one month. We may, in complex cases, extend this period to two months.

You have the right to erasure in the form of deletion or removal of personal data where there is no compelling reason for its continued processing. We have the right to refuse to erase data where this is necessary in the right of freedom of expression and information, to comply with a legal obligation for the performance of a public interest task, exercise of an official authority, for public health purposes in the public interest, for archiving purposes in the public interest, scientific research, historical research, statistical purposes or the exercise or defence of legal claims. You will be advised of the grounds of our refusal should any such request be refused.