



# Maternity Policy

## Introduction

Maternity provisions are available to all female employees, regardless of length of service, number of hours worked and occupational grouping.

Although it's difficult to simplify the maternity scheme to a few basic principles, the following information highlights the most important things employees need to know about maternity leave and maternity pay.

## Our Council Values

Our Values are the things we most care about. In applying every policy and process, we must consider and uphold our [PROUD Values](#). These define what we stand for as an organisation, how we work and how we act.

- Professional – we uphold high standards.
- Respectful – we value people.
- Open and honest – we trust each other.
- Understanding and engaging – we care about people.
- Deliver what we say we will - we provide great services.

Under each Value is a set of guiding behaviours. These apply to every person who works for or represents South Tyneside Council. They are our promise to residents, each other and to all who interact with the Council.

## Abbreviations and Terms

|                                     |   |
|-------------------------------------|---|
| Continuous Local Government Service | For the purposes of maternity leave, previous local government service refers to full or part-time service with any public authority to which the Redundancy Modification Order (Local Government) 1983 applies |
| DWP                                 | Department for Work and Pensions  |
| EWC                                 | Expected Week of Childbirth - the week in which the baby is due   |
| Higher Rate (of SMP)                | 9/10ths (90%) of average weekly earnings  |
| Lower Rate (of SMP)                 | Basic weekly amount of SMP, reviewed each year  |
| MA                                  | Maternity Allowance - DWP benefit available to those not entitled to SMP (subject to qualification)   |
| MAT B1                              | Certificate issued by a Doctor or Midwife from the 20 <sup>th</sup> week before the EWC, showing the date the baby is expected or was born  |
| MPP                                 | Maternity Pay Period during which SMP is payable  |
| OMP                                 | Occupational Maternity Pay - the payment received as an employee of the organisation  |
| QW                                  | Qualifying Week - the 15 <sup>th</sup> week before the start of the week in which the baby is due   |
| SMP                                 | Statutory Maternity Pay   |

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|-----------|--|
| SSP       | Statutory Sick Pay   |
| SPP       | Statutory Paternity Pay  |
| SNCL      | Statutory Neonatal Care Leave  |
| SNCP      | Statutory Neonatal Care Pay  |
| Weeks Pay | The term “a weeks pay” for employees whose remuneration for normal working hours doesn’t vary with the amount of work done in the period, is the amount payable by the organisation to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a weeks pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned |

### **Notification of Pregnancy**

The law requires a woman to tell her employer that she’s pregnant and will take maternity leave, by the end of the 15th week before the expected week of birth, however it’s beneficial if the news is shared as early as possible. If this is not possible (for example because they did not know they were pregnant) the employer must be told as soon as possible. Line Managers can contact the [Health and Safety Team](#) as soon as they’re informed of an employee’s pregnancy should they require advice about carrying out relevant risk assessments.

### **Health and Safety**

All new and expectant mothers will have a risk assessment carried out by their line manager. The risk assessment will consider any processes, working conditions and physical, chemical and/or biological means which could jeopardise their health and/or safety. If a significant risk is found, the Council will do all that is reasonable to remove it or prevent/limit exposure to it.

If they are unable to carry out the normal duties of their role on health and safety grounds, alternative work will be found for them. In exceptional circumstances it may be necessary to remove them from the workplace on medical/health and safety grounds.

The Council will ensure the condition of their health, and that of their babies, is taken into consideration and where necessary provide them with adequate breaks from work to rest, eat and take refreshments.

Please refer to the [New and Expectant Mothers Risk Assessment](#) available on the intranet.

### **Maternity Leave**

- **Ante-Natal Care**

Employees are entitled to time off with pay to attend antenatal appointments or relaxation/parentcraft classes arranged by their Doctor’s clinic or hospital and will be asked to show evidence of their appointments/classes by their line manager.

If appointments fall on public holidays or hours not normally worked employees cannot claim time off in lieu. Evening classes and National Childbirth Trust classes are not covered.

The husband, civil partner or partner of the pregnant women has the right to unpaid time off to attend up to 2 ante-natal appointments.

- **Maternity Leave**

Employees are entitled to 26 weeks ordinary maternity leave and 26 weeks additional maternity leave providing up to 52 weeks maternity leave in total:

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- 39 weeks paid maternity leave, which may begin at any time from the 11<sup>th</sup> week before the EWC.
  - remain absent up to a maximum of 52 weeks

**Employees cannot commence their maternity leave earlier than 11 weeks before the EWC.**  
**Maternity Support Leave**

Maternity Support Leave of up to 5 days (pro rata) with pay may be granted to the nominated carer of the expectant mother at or around the time of the birth. The leave must be taken in a block period. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to her at or around the time of the birth.

To apply for this leave, the nominated carer must:

- be an employee of South Tyneside Council.
- submit a letter from the expectant mother confirming that they'll be their only nominated carer and that no other person has been nominated.
- produce a copy of the expectant mother's MAT B1 (Maternity Certificate).
- give the service sufficient notice of the actual timing of the leave
- for teaching staff, Maternity Support Leave is at the discretion of the Governing Body of the school

This entitlement is a maximum of 5 days with pay (pro rata for part time employees).

To apply for this leave the employee must complete [Appendix A - Maternity Support Leave Application Form.](#)

**Paternity Leave**

In addition to Maternity Support Leave (where applicable), two week's leave, paid at the lower rate of SMP, which is the lower of 90% of average weekly earnings or current SPP, (and their earnings are above the lower limit for N.I. contributions) may be granted to the biological father of the child, the partner/husband of the mother or the female partner in a same sex couple if they have 26 weeks' continuous service by the end of the 15<sup>th</sup> week before the EWC.

Eligible employees can choose to take either one week or two week's paternity leave (not odd days). This will allow employees to take their leave and pay at any point in the first year of the birth or adoption of their child. If taking two weeks, they do not have to be consecutive weeks.

The Paternity Leave entitlement is the same irrespective of whether more than one child is born as a result of the pregnancy.

You must give your line manager at least 28 days notice before you wish to take each block of leave. :

To apply for this leave the employee must complete [Appendix B - Paternity Leave Application Form.](#)

**Shared Parental Leave**

Mothers, fathers and partners of mothers of children due on or after 5 April 2015, or adoptive parents who are notified of having being matched with a child on or after 5 April 2015 have the right to opt to take Shared Parental Leave. Please refer to the [Shared Parental Leave Policy](#) for further information.

**Neonatal Care Leave**

Entitlement to Neonatal Care Leave applies from the first day of employment and will apply to parents of babies who are admitted into hospital up to the age of 28 days, and who have a continuous stay in hospital of 7 full days or more.

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In addition to existing maternity and paternity leave and pay, up to 12 weeks' Neonatal Leave and Pay may be granted. Entitlement to Statutory Neonatal Care Pay will require 26 weeks' service by the end of the relevant week (see appendix 1 for further information).

How the leave is taken is dependent on when you wish to take it. You can take your leave in Tier One or Tier Two to suit your need and/or work around other pre-booked parental leave. Please see appendix 1 for further information.

## **Maternity Pay**

### **Who Qualifies?**

If an employee has completed less than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC, but has completed 26 weeks service by the 15<sup>th</sup> week before the EWC (and their earnings are above the lower limit for N.I. contributions), they will be entitled to SMP i.e. 6 weeks at 9/10ths (90%) of their normal pay and 33 weeks lower rate of SMP, paid at the lower of 90% of average weekly earnings or current SMP rate

If the employee has completed more than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC, the payments will be:

### **Non-Teaching Staff**

For the first six weeks of absence an employee will be entitled to 9/10ths of a week's pay offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP

If the employee has declared their intention to return to work, they will be entitled to:

- 12 weeks of absence at half pay plus lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate. (Not exceeding full pay).
- In addition to the above, 21 weeks lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate.
- No pay for any remaining period of absence up to the date of return (up to 13 weeks)
- The 12 weeks half pay can be paid over a mutually agreed distribution, e.g. 12 weeks half pay, 3/10<sup>ths</sup> pay over the remaining 20 weeks or to receive the amount in full on the return to work after the maternity leave period.
- If the employee does not intend to return to work, payments during the subsequent 33 weeks of leave will be paid at the lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate. Employees can choose to defer half payments if they know in advance that they won't be returning to work.

### **Teaching Staff**

For the first four weeks of absence an employee will be entitled to full pay, followed by two weeks of 9/10ths of a week's pay offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP:

- If the employee has declared their intention to return to work, they will be entitled to:
- 12 weeks of absence at half pay plus lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate. (Not exceeding full pay)
- In addition to the above, 21 weeks lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate.
- No pay for any remaining period of absence up to the date of return (up to 13 weeks)

### **Teaching and Non-Teaching**

Payments made shall be made on the understanding that the employee will return to Local Authority employment for a period of at least 3 months (13 weeks for Teaching Staff). If the employee doesn't return, they will be required to pay back the half pay payments.

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If the employee chooses to take a career break immediately after maternity leave, half payments will not need to be paid back unless they decided not to return to work following the career break.

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

If the employee has not worked for the Council for 26 weeks prior to the 15<sup>th</sup> week before the baby is due, they may be eligible for Maternity Allowance paid by the DWP.

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

### **Leavers**

Qualifying employees who leave either before the baby's due date or during maternity leave will receive their full SMP entitlement in a lump sum payment, however, employees cannot start work for another employer during the 39-week period the SMP covers, otherwise they would need to reimburse the SMP payment back to us.

### **What to Do**

#### **What the employee must do BEFORE commencing Maternity Leave**

The employee must give their Line Manager/ at least 28 days' notice, in writing, including the following details:

- The expected week of childbirth (EWC).
- The date on which they would like to start their maternity leave.

[Appendix C - Starting Your Maternity Leave Form](#) should be used for this purpose and the original MAT B1 Certificate should be included.

This will confirm their EWC and is our official notice of their pregnancy for payment and audit purposes.

#### **What the Organisation must do BEFORE you commence Maternity Leave**

The employee will be written to within 28 days of receiving the 'Starting Your Maternity Leave Form' stating the expected date of return from maternity leave.

### **The Right to Return to Work**

An employee is entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them if they had not been on maternity leave. "Job" for this purpose, means the nature of the work which they are employed to do and the capacity and place in which they are employed.

### **Redundancy**

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

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

Redundancy protection as explained above will start when the employee notifies us of their pregnancy and until 18 months from the birth of the child. Further information can be found in the ER/VR Policy.

### **Exercising the Right to Return to Work**

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It will be assumed that an employee will be returning to work at the end of their maternity leave period, i.e. 26 weeks or 52 weeks. If an employee wishes to return earlier than this they must notify their line manager in writing at least 8 weeks prior to the proposed date of their return to work. Where the notice given is less than 8 weeks the Council may postpone the return to work to ensure 8 weeks' notice, but not beyond the end of the maternity leave period.

Where, because of an interruption of work it is unreasonable to expect the employee to return on the notified date, they may instead return when work resumes, or as soon as reasonably practicable thereafter.

**In both instances the employee cannot return to work/carry out any work during the first 2 weeks of childbirth.**

### **Delaying the Return to Work**

It will be assumed that an employee will return to work as agreed prior to starting maternity leave however if the employee wishes to delay their return to work they should give 8 weeks' notice in writing. Employees are entitled to remain absent up to a maximum of 52 weeks.

### **Reasonable Contact**

The line manager is allowed to make 'reasonable contact' with the employee whilst on maternity leave. Employees should be informed of significant team workplace developments, internal team vacancies and training opportunities. It is advised that a meeting takes place between the employee and their line manager prior to the start of maternity leave to establish the level of workplace information the employee wishes to receive whilst on maternity leave.

### **Keeping in Touch Days**

An employee on maternity leave or in receipt of maternity allowance can return to work for up to 10 days during their leave without losing their right to statutory maternity pay or maternity allowance. Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace, however an employer cannot insist that an employee carries out any work. Working for part of a day will count as one day and any additional work carried out beyond 10 days will result in loss of SMP.

A woman's maternity leave will not be extended due to the fact that she has carried out some work during this period.

A woman will be paid for the hours worked on KIT days. SMP will be offset against a normal days pay. No more than a normal days pay will be paid.

Claims for keeping in touch days should be made on the [Appendix D - KIT Days Claim Form](#) and emailed to HR.Payroll@southtyneside.gov.uk.

### **Further Information**

#### **Early Birth**

If the baby is born early but after the employee has already started to receive maternity pay, then their pay will not be affected and will continue to be paid as if the baby had been born when it was due.

If the baby is born before the employee has informed their Manager/Head Teacher of their intention to take maternity leave, they will still be entitled to maternity pay. They must still provide medical evidence of the date the baby was due to be born. Evidence of both the expected and actual dates of birth is provided on the MAT B1 Certificate.

#### **Late Birth**

If the baby is born later than the week it was due, maternity leave is not affected and will be paid as if the baby was born on the expected date.

#### **Miscarriage/Still Birth**

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If the baby is stillborn earlier than the 24<sup>th</sup> week of pregnancy, the employee will not be eligible for maternity pay and leave. However, if they are unfit to return to work at this time, Compassionate Leave could be considered.

If the baby is stillborn after the start of the 24<sup>th</sup> week of pregnancy, then the employee will still qualify for full maternity pay and leave.

### **Calculating the 11<sup>th</sup> or 15<sup>th</sup> Week before the EWC**

If the baby is due on a Sunday, count back 11 or 15 weeks to find the start of the 11<sup>th</sup> or 15<sup>th</sup> week before the EWC. If the baby is due on any other day of the week, go back to the previous Sunday and count back 11 or 15 weeks.

### **SMP and SSP – Basic Rules**

Employees cannot receive SMP and SSP at the same time.

#### **In normal circumstances:**

- If the employee is sick after 4 weeks before the EWC and still at work, they can receive SSP if the illness is **not** pregnancy related.
- If the employee's sickness after the 4<sup>th</sup> week before the EWC **is** pregnancy related, maternity leave and pay are triggered automatically.

### **Annual Leave**

Maternity leave does not affect entitlement to annual leave. Employees will continue to accrue annual leave even during unpaid maternity leave. Bank holidays should accrue as they fall, with a substitute day's leave being provided. Employees should therefore plan wherever possible, to take annual leave before the commencement of maternity leave however if an employee is unable to take all their annual leave in the current leave year, they will be able to carry forward any remaining leave to the next leave year.

### **Phased Return using Annual Leave**

To support the return to work after maternity leave, a phased return using the annual leave accrued during maternity leave may be an option for some staff. Discussions about this should take place as early as possible and arrangements are subject to line manager agreement in line with the needs of the service.

### **Breastfeeding**

If you are planning to breastfeed when you return to work you should inform your line manager in writing at the same time as you confirm your return to work date. A risk assessment will be carried out by your line manager to identify risks to you as a breastfeeding mother or to your baby. If there are risks they must do all that is reasonable to remove the risks or make alternative arrangements for you. The Council must also provide suitable rest facilities. Breaks don't have to be paid so discussions should take place at the earliest opportunity as to how the time will be managed.

### **Fertility Treatment**

There's no legal right for time off work for IVF treatment or related sickness. Employees who are undergoing fertility treatment will be allowed reasonable time off to attend appointments. You should speak with your Line Manager about any time off you need during your IVF treatment. Managers/Head Teachers are encouraged to consider the flexible working policies available.

### **Pensions**

During maternity leave employees will pay pension contributions calculated on the actual pay they receive.

Employees also have the option to pay pension contributions for any period of unpaid leave taken. The advantage of paying these pension contributions is that they do not have a break in pensionable service and the calculation of any pension is not affected.

For further information and advice, please contact the relevant pensions service i.e. Tyne and Wear Pension Fund, Teachers Pensions Service or NHS Pensions.

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### **Parental Leave**

Please refer to the Parental Leave Policy for further information.

### **Childcare Advice**

When it comes to choosing childcare there are lots of options to think about. You can contact the **Families Information Service** to request a personalised list on 0800 783 4645 or email [Cisinfo@southtyneside.gov.uk](mailto:Cisinfo@southtyneside.gov.uk)

### **Equality and Diversity Statement**

South Tyneside is committed to promoting equality and valuing diversity. An equality check for this policy was carried out in March 2025. No equality implications were identified in this policy.

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|-----------------------------------|----------|
| Policy approved by Governors:     | May 2025 |
| Date of next review by Governors: | May 2026 |

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## Appendix 1 – Neonatal Care Leave

You may be entitled to time off work if your child requires neonatal care within 28 days of being born. The entitlement is for one week for each week that the baby is in neonatal care, up to a maximum of 12 weeks. Entitlement to Neonatal Care Leave applies from the first day of employment.

Neonatal care is:

- Medical care received in a hospital
- Medical care received in any other place providing:
  - child was an inpatient in hospital and needs continuing care after leaving the hospital
  - the care is under the direction of a consultant
  - the care involves ongoing monitoring and visits from healthcare professionals arranged by the hospital where child was an inpatient
- Palliative or end-of-life care

Entitlement to Statutory Neonatal Care Pay (SNCP) will require 26 weeks' service by the end of the relevant week. The relevant week is detailed below:

- If an employee is entitled to SMP or SPP, the relevant week is 15th week before the expected week of childbirth
- If an employee is entitled to SAP or SPP, the relevant week is the week in which they are notified of being matched with the child for adoption
- Otherwise, the relevant week is the week immediately before the week in which the neonatal care begins.

How the leave is taken is dependent on when you wish to take it. You can take your leave in Tier One or Tier Two to suit your need.

### Tier One

If you choose Tier One, you are taking Statutory Neonatal Care Leave while your child is in neonatal care or in the first week following their discharge.

This leave will be taken as soon as accrued because care is still ongoing, and you need to be with the child.

You can take Tier One leave in unlimited number of blocks (up to 12 weeks) allowing flexibility for you to start or stop work at short notice on a number of occasions to be with your child in neonatal care. Each block will last at least one continuous week.

If a week of your Statutory Neonatal Care Leave overlaps with another pre-booked parental leave such as Shared Parental Leave, you can pause your Statutory Neonatal Care Leave to accommodate the other pre-booked leave. You can then use the remaining days of Statutory Neonatal Care Leave immediately at the end of the interrupting leave. This will ensure that you can take leave in Tier One when needed.

### Tier Two

Tier Two Leave is taken at any period outside of Tier One period. This is a period when the child is no longer receiving neonatal care (excluding one week immediately after the end of neonatal care).

This is most likely to apply if you have accrued Neonatal Care Leave while on Maternity Leave or other parental leave and need to take your Neonatal Care Leave later.

You must take the leave in a single continuous block before or at the end of any other existing parental leave entitlements, excluding Maternity Leave which you need to take first, if this applies to you.

Please complete Appendix E – Neonatal Care Leave form and submit this to your line manager.

**Taking leave with other types of statutory leave**

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If you are on Maternity Leave whilst your child is in neonatal care, your Statutory Neonatal Care Leave must be taken after your Maternity Leave because you cannot stop your Maternity Leave once you start it. Other types of parental leave (e.g. Shared Parental Leave or Paternity Leave) can be taken before or after neonatal Care Leave.

In Tier One, if you have previously booked another type of statutory parental leave, you will be able to start and stop your Neonatal Care Leave to accommodate this other pre-booked leave.

Your remaining days of Neonatal Care Leave must be taken immediately after completing the other type of statutory parental leave, unless the remaining days are pushed into the Tier Two period in which case and if applicable, you will need to tag the days to the end of any Tier Two leave you have planned to take.

If you are taking your leave in Tier Two, which is when your child is no longer in neonatal care, you will need to plan your leave so it can be taken in one continuous block without being interrupted by any other parental leave.

You have 68 weeks, from when your child is born, to take your Neonatal Care Leave.

### **Notice requirements for leave**

To be entitled to take Neonatal Care Leave, where possible, an employee must give the required notice of their intention to take the leave. The notice should specify the date of birth, the date the child's neonatal care starts (and, if applicable, when it ended), the date on which the employee intends to start the period of leave, and the number of weeks.

During a 'Tier One' period of Neonatal Care Leave, notice must be given in respect of each week of such leave, before the employee is due to start work on the first day of absence or as soon as reasonably practicable.

During a 'Tier Two' period of leave, an employee must give a minimum of 15 days' notice for a single week of leave, or 28 days' for two or more consecutive weeks of leave.

### **Pay during statutory neonatal care leave**

To be entitled to receive statutory pay during Neonatal Care Leave, an employee must have at least 26 weeks' service by the end of the relevant week.

Statutory Neonatal Care Pay is paid at the same rate as Statutory Paternity Pay and Statutory Shared Parental Pay. It can only be paid in blocks of at least one week, which must be consecutive weeks if in a 'tier 2' period.

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**APPENDIX E**

**NEONATAL CARE LEAVE**

Please complete this form and return it to your Line Manager as soon as possible.

|  |  |
|--|--|
| Name:  |  |
| Address:   |  |
| Directorate:   |  |
| Payroll Number:  |  |
| The baby was born on:  | / /                                      |
| Neonatal care started on:  | / /                                      |
| The child was discharged from Neonatal care on:  | / /                                      |
| I would like to start my Neonatal Care Leave on:   | / /                                      |
| In accordance with the Appendix 1 of the Maternity Policy, please indicate which Tier of leave you wish to take.<br><br>Tier 1 - you are taking Statutory Neonatal Care Leave while your child is in neonatal care or in the first week following their discharge.<br>You can take Tier 1 leave in unlimited number of blocks (up to 12 weeks). Please note dates opposite.<br><br>Tier 2 – you are taking Statutory Neonatal Care Leave at any period outside of Tier 1 period. This is a period when the child is no longer receiving neonatal care (excluding one week immediately after the end of neonatal care).<br>You must take the leave in a single continuous block before or at the end of any other existing parental leave entitlements, excluding Maternity Leave which you need to take first, if this applies to you. | Tier 1 / Tier 2 (*delete as appropriate) |

**Declaration**

I am applying for Statutory Neonatal Care Leave with pay and have at least 26 weeks' service

I am applying for Statutory Neonatal Care Leave without pay

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

**Line Manager Signature** ..... **Date**.....

**Agreed form to be returned to HR Payroll at [hr.payroll@southtyneside.gov.uk](mailto:hr.payroll@southtyneside.gov.uk)**

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