



ADOPTION LEAVE AND PAY POLICY

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Specific changes	Minor amendments



ADOPTION LEAVE AND PAY POLICY

1.0 INTRODUCTION

The aim of the Council's Adoption Leave and Pay Policy is to provide guidance regarding the benefits available to employees adopting a child. The rules and requirements concerning adoption can be complicated and further information may be requested from ~~the HR Group~~. Information on adoption leave, pay and a ready reckoner for dates can be found on the www.direct.gov.uk but it is important to remember that this site will only provide information on the statutory minimum entitlement.

2.0 SCOPE OF THE POLICY

The policy applies where a child ("child" means a person who is, or when placed with an adopter for adoption was, under the age of eighteen) is matched and placed for adoption within the UK. Employees adopting a child from overseas will need to seek advice on the notification procedure from ~~the HR Group~~.

Length of service is an important factor in determining an employee's statutory or occupational entitlement(s). A summary of the entitlements under the Adoption Leave and Pay Policy can be found in Appendix A.

Where both parents work for the Council, the main carer will be entitled to the provisions outlined in the policy. ~~I~~ this policy does not apply to a partner adopting their partner's child.

3.0 DEFINITIONS OF TERMS USED

Throughout this Policy there are a number of abbreviations used.

- OAL – 'Ordinary Adoption Leave' is the leave to which employees with at least 26 weeks continuous local government service ending with the week in which they are notified of a match for adoption are entitled.
- AAL – 'Additional Adoption Leave' is the leave available to eligible employees and immediately follows on from the Ordinary Adoption Leave (OAL)
- *Matching Certificate* – A certificate issued by the adoption agency providing documentary evidence on matching and placement dates
- SAP – Statutory Adoption Pay
- OAP – Occupational Adoption Pay

4.0 MAINTAINING CONFIDENTIALITY

Managers, employees, and all parties involved in operating the adoption policy are expected to maintain confidentiality. If an employee breaches another employee's right to confidentiality, this may be treated as a disciplinary offence.

5.0 RESPONSIBILITIES

5.1 *Employee's must ensure that they:*

- Notify the manager of their intention to adopt a child, adhering to all timescales
- Complete the application for adoption leave and pay form (Appendix B)

5.2 *Manager's must ensure that they:*

- Provide the employee with a copy of the Adoption Leave and Pay Policy
- Ensure ~~the H.R. Group~~ is provided with information and documentation from the employee in a timely manner to enable them to adhere to their processing and notification deadlines
- Complete the manager's adoption checklist and forward to ~~the H.R. Group~~ (Appendix C)
- Conduct a pre-adoption leave meeting
- Remain in contact with the employee during the adoption leave period as discussed and agreed with the employee

5.3 *The H.R. Group will:*

- Ensure that assistance and support is provided to both the manager and the employee as required
- Following receipt of the relevant documentation provide formal notification to the employee of their entitlements within 28 days including the adoption leave start date and the expected return to work date
- Process the payment of Occupational Adoption Pay (OAP) and Statutory Adoption Pay (SAP)

6.0 TIME OFF DURING THE ADOPTION LEAVE PROCESS

Time off with pay will be granted for attendance at adoption interviews, statutory training, and introductory visits etc. Employees must be prepared to produce evidence of any appointments if requested to do so by their manager.

If both adopters are employees of the Council, consideration will be given to both receiving leave to attend any meetings during the adoption process.

7.0 ADOPTION LEAVE

Any Council employee who is newly matched with a child for adoption through an approved adoption agency and they agree that the child should be placed with them and the date of the placement, is entitled to up to 52 weeks adoption leave provided that they have at least 26 weeks continuous service calculated as at the week in which notification of matching is given by the adoption agency and be the only partner taking adoption leave.

All employees who take adoption leave have the right to return to work at any time during either OAL or AAL subject to them following the correct notification procedures.

Only 1 person in a couple can take adoption leave.

7.1 *Ordinary Adoption Leave*

The employee's entitlement is to take up to 26 weeks' OAL.

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier but no later than the expected date of placement, the leave can start on any day of the week. In order to make administration as easy as possible, the employee should discuss the timing of their adoption leave with their manager as early as possible.

7.2 Additional Adoption Leave

Additional leave begins at the end of OAL and continues for a further 26 weeks. The first 13 weeks of AAL are paid. The remaining 13 weeks of AAL are unpaid.

7.3 Termination of Placement During Adoption Leave

If a child's placement is terminated during adoption leave, special rules in relation to when adoption leave will end, apply if:

- The employee has started adoption leave before the placement and the adoption agency has notified the employee that the child will no longer be placed with them; **or**
- The child dies/is returned to the adoption agency during adoption leave.

In such circumstances, unless adoption leave is due to end earlier, it will end eight weeks after the end of the week during which the employee is notified the adoption will not take place or the child dies/is returned.

7.4 Transfer of Adoption Leave

If an employee proposes to return to work early without using their full 52-week entitlement to adoption leave, by giving proper notification of an early return, they may be eligible to transfer up to 26 weeks of their outstanding adoption leave (and outstanding SAP) to their spouse, civil partner or partner to be taken as AAL (and additional SAP) on their return to work.

The earliest that AAL may commence is 20 weeks after the adopted child's placement and it must end no later than 12 months after the date of placement.

The minimum period of AAL is two consecutive weeks and the maximum period is 26 weeks. The employee must therefore have at least two weeks of their adoption leave that remains unexpired to transfer.

Further details should be obtained from the employee's spouse's or partner's employer. If the employee does wish to transfer part of the adoption leave entitlement in this way, they will be required to submit a written and signed declaration form to that employer, who may also make additional enquiries of the Council to verify its employee's entitlement to AAL and pay.

7.5 Annual Leave

Annual leave cannot be taken whilst on adoption leave but accrues throughout -OAL and AAL periods.

If the employee's adoption leave is going to cross leave years, the employee must make sure that they take as much leave as possible before the adoption leave period starts.

An employee wishing to take some of their annual leave entitlement at the end of the AAL must have this agreed with their manager **prior** to going on adoption leave.

8.0 ADOPTION PAY

To qualify for SAP employees must have 26 weeks continuous service by the week in which they are notified of a match for adoption and their average weekly earnings must be at least equal to the lower earnings limit for National Insurance purposes.

Payments of SAP and/or OAP is paid in 4 or 5 week blocks. ~~I~~the employee will received this in the same way as their salary e.g. 20th of each month.

In the event of any pay increases being implemented whilst employees are on adoption leave, the pay entitlement will automatically be recalculated to take this into account.

8.1 Service of Less than 26 Weeks

Employees who have less than 26 weeks' continuous service by the week in which they are notified of a match for adoption are not entitled to receive SAP but are entitled to up to 26 weeks' OAL and 26 weeks' AAL.

~~The H.R. Group~~ will notify the employee that they are not entitled to receive SAP and they will also provide them with the Inland Revenue Form SAP1. The employee may then contact the Social Security/Job Centre Plus office to check if they are eligible for an Adoption Allowance.

8.2 Service of Less than One Year

Employees will receive 39 weeks paid adoption leave made up as follows:

6 weeks at 9/10 of their salary (or SAP if greater)

Then

33 weeks SAP

8.3 Service of One Year or More

Employees who have completed one year's continuous local government service ending with the week in which they are notified of a match for adoption will be entitled to either of the following:

8.3.1 if returning to work

Note: To receive the OAP employees must declare on the Application for Adoption Leave and Pay that they intend to return to work for a **minimum of 3 months**. If while on adoption leave they decide not to return to work then this payment will have to be repaid. If an employee does not declare their intention to return to work, but does return after their adoption leave, payment of this amount will be made to the employee in a lump sum.

Employees will **receive 39 weeks paid** adoption leave made up as follows:

6 weeks at 9/10 of their salary (or SAP if greater)

Then

12 weeks at 5/10 of their salary plus SAP (if eligible this should not exceed full pay)

Then

21 weeks SAP

8.3.2 if not returning to work

Qualifying employees will receive 39 weeks paid adoption leave made up as follows:

6 weeks at 9/10 of their salary (or SAP if greater)

Then

33 weeks SAP

8.4 Working For More Than One Employer

Employees who work for more than one employer and satisfy the qualifying rules with each of them may be able to:

- Receive SAP from each of the employers, and
- Choose a different Adoption Pay Period with each employer

9.0 NOTIFICATION PROCEDURE

A flowchart outlining the notification process can be found in Appendix D.

9.1 Information to be provided

To qualify for adoption leave employees must inform their manager of their 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, unless this is not reasonably practicable stating:

- When the child is expected to be placed with them and
- When they want their adoption leave to start.

Employees must provide evidence of their entitlement to adoption leave and pay, which should usually be done by submitting the matching certificate provided by the adoption agency.

9.2 Application for Adoption Leave and Pay

Employees should complete the 'Application for Adoption Leave and Pay' form which can be downloaded from the Intranet ~~or is alternatively available from the H.R. Group.~~

Once an employee has notified their manager of their intention to take adoption leave, the manager will forward the application to ~~the H.R. Group~~ who will write back to the employee within 28 days (unless the start date for the adoption leave has been changed), notifying them of the date on which they are expected to return to work at the end of their full entitlement (OAL and AAL).

9.3 Changes to the Adoption Leave Start date

Employee's are permitted to bring forward or postpone the adoption leave date even after they have submitted their application for Adoption Leave and Pay provided that they advise their manager in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable.

10.0 PRE- ADOPTION LEAVE MEETING

Two months before an employee's adoption leave starts the manager, ~~with assistance from an HR Officer~~ will discuss and agree the arrangements for their leave, pay and keeping in touch. The Council reserves the right in any event to maintain reasonable contact with the employee during the adoption leave. This may be to discuss plans for returning to work, any special arrangements to be made for their return to work, job vacancies or simply to update on developments at work during their absence.

The manager will confirm that the Adoption Checklist has been completed and will be forwarded to ~~the H.R. Group~~ for retention on the employee's personal file.

11.0 KEEPING-IN-TOUCH DAYS

Except during the first two weeks after adoption, an employee can agree to work for the Council (or to attend training) for up to 10 days during either OAL or AAL without that work bringing the period of adoption leave to an end and without loss of a week's SAP. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute the employee's normal day's work for these purposes and they will be paid for the hours worked.

The Council has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during their adoption leave. Any keeping-in-touch days worked do not extend the period of adoption leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SAP for any week in which they agree to work for the Council. The manager will be responsible for formally notifying ~~the H.R. Group~~ of any hours/days of work undertaken so payment can be made in the usual way.

12.0 PENSION ARRANGEMENTS

Employees on adoption leave will pay pension contributions on any pay received, including SAP and they have the option to pay contributions during any unpaid leave. Employees who decide to pay contributions during any unpaid leave may do so over an agreed time period and are required to inform ~~the HR Group~~, who will make the necessary arrangements for the appropriate deductions of their contributions which is based on the pay on the day immediately before their pay ceased.

For employees who choose not to pay pension contributions during any unpaid adoption leave, the appropriate period of leave will not count towards your pensionable service.

Pensionable service will continue to accrue during the OAL period even if the employee does not receive SAP.

This information is summarised as follows:

Adoption Leave	Pensionable Service	What contributions are based on
Ordinary Adoption Leave (weeks 1 to 26)	Counts in full	Actual OAP and/or SAP (if any) received (including OAP paid as a lump sum on return to work)
Additional Adoption Leave (weeks 27 to 52) Employee opts to pay contributions to cover paid (39 weeks) and unpaid period	Counts in full	Notional pay based on a) The rate of And/or SAP the employee was entitled to receive on last day of paid adoption leave (treating the OAP as if it had been paid during the week they were entitled to receive it, not over any longer period over which it may have been spread) Or b) If the employee was not entitled to any adoption pay (due to their length of service), the employee's full rate of pay prior to going on adoption leave is paid by the employer
Additional Adoption Leave (weeks 27 to 52) Employee does not opt to pay contributions to cover the unpaid period after the paid 39 weeks	Does not count	Not applicable – no contributions are due

13.0 WORKING FOR MORE THAN ONE EMPLOYER

Employees who work for more than one employer and satisfy the qualifying rules with each of them may be able to:

- Receive SAP from each of their employers, and
- Choose a different adoption pay period with each employer.

14.0 RETURNING TO WORK

14.1 Right to Return to Work

An employee returning to work after OAL has the right to return to the same job on the same rate of pay that they had before their leave.

An employee returning to work after a period of AAL has the right to return to the same job on the same rate of pay that they had before their leave began except if it is no longer reasonably practicable to do so (other than due to redundancy). In such circumstances they must be given another suitable and appropriate job.

14.2 Notification of Returning to Work

An employee does not have to give notice of their intention to return to work if this is immediately after their **full leave entitlement**, i.e. at the end of the adoption leave period (OAL and AAL).

If an employee wishes to return earlier than their **full leave entitlement** they must give **at least 8 weeks** notice of their intended date of return. Failure to provide the proper notice will entitle the Council to postpone the employees return until the notice requirement has been satisfied, or they have come to the end of their full entitlement, whichever is earlier.

15.0 NOT RETURNING TO WORK

Should the employee decide not to return to work at the end of their adoption leave they must provide notice to their manager in accordance with their terms and conditions of employment.

If an employee had initially indicated their intention to return to work, therefore receiving OAP and then does not return to work for at least three months, they will be required to refund all OAP payments. Employees will **not be** required to repay any SAP payments that have been made to them.

16.0 SICKNESS ABSENCE AT THE TIME OF RETURN

If the employee is ill and unable to return to work on the relevant date, the manager should treat them in the same way as any other employee who had not been on adoption leave would be treated. The day that the employee should have returned to work will be the first day of a period of sickness absence.

17.0 GENERAL INFORMATION

17.1 *Continuous Service*

All periods of adoption leave will count as continuous service

17.2 *Adopting More Than One Child*

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

17.3 *Union Subscription Deductions*

Any Union subscription will not be taken whilst on unpaid adoption leave, but the employee will continue to receive benefits of the subscription.

18.0 CONCERNS IN THE APPLICATION OF THE POLICY

Any employee who believes that this policy is not being fairly applied may seek redress through the Council's Grievance Procedure.

19.0 RELATED POLICIES

The following family friendly policies may be of interest to mothers or fathers who may wish to take additional leave or consider altering their current working arrangements:

- Career Break
- Flexible Working
- Parental Leave
- Paternity Leave

20.0 REVIEW

~~This policy will be reviewed by July 2014 or earlier in the light of operating experience and/or further changes in legislation.~~

This Policy will be reviewed on a regular basis in the light of operating experience and/or changes in legislation.

APPENDICES TO THIS DOCUMENT

Appendix A – Summary of Adoption Leave and Pay Entitlements

Appendix B – Application for Adoption Leave and Pay

Appendix C – Manager’s Adoption Checklist

Appendix D – Flowchart Outlining the Notification Process