



People Framework

Adoption Procedure



Version number 1
Date June 2019

Contents

1. Joint and Individual Adoptions	4
2. Notification requirements.....	4
3. Providing proof of eligibility for Adoption Leave and Pay	5
4. Time off for adoption appointments.....	6
5. Adoption Leave	6
6. When adoption leave can begin	6
7. Adoption Pay	7
8. Statutory Adoption Pay (SAP)	7
9. Occupational Adoption Pay (OAP)	8
10. Terms and conditions of employment during adoption leave	8
11. Annual leave	9
12. Loans.....	9
13. Pension	10
14. Contact during adoption leave.....	10
15. Keeping-in-touch days.....	10
16. Returning to work after adoption leave.....	11
17. Reducing hours of work	11
18. Resignation during or following adoption leave.....	11

19. Failure to return to work	11
20. Miscellaneous.....	12
20.2 Fixed term/temporary contracts	12
20.3 Reorganisations/Restructuring.....	12

Tracking

Policy Title	Adoption Procedure		
LT sign off	15 November 2019		
Committee	HR Panel Strategy & Resources	Date approved	17 December 2019 (TBC) 30 January 2020 (TBC)
Review due date	15 November 2021	Review completed	
Service			

Revision History

Revision Date	Revisor	Previous Version	Description of Revision

Document Approvals

Each revision requires the following approvals:

Sponsor Approval		Name	Date

1. Joint and Individual Adoptions

Where a couple are adopting jointly, they must decide who (regardless of gender) will take statutory adoption leave (SAL) and who will take statutory paternity leave (SPL). Statutory Adoption Leave cannot be taken by both partners and will usually be taken by the primary carer for the child (the primary adopter).

Alternatively, both partners may be eligible for up to 50 weeks' Shared Parental Leave, provided that they meet the eligibility criteria and the primary adopter has submitted notice to curtail their adoption leave. Please see the Council's Shared Parental Leave Procedure for further details.

Where an employee or their partner is adopting individually, only the primary adopter is eligible for SAL, although their partner (regardless of gender) may be eligible for statutory paternity leave and/or Shared Parental Leave.

Employees will not qualify for either adoption leave or pay if they:

- Become a special guardian or kinship carer
- Adopt a family member or stepchild
- Adopt privately, for example without permission from a UK authority or adoption agency
- Are genetically related to a child who is being adopted through a surrogacy arrangement (i.e. the egg or sperm donor).

In these circumstances they may qualify for unpaid Ordinary Parental Leave.

2. Notification requirements

The employee should notify their manager of their intention to take Adoption Leave as soon as possible. This will provide the opportunity for the manager to plan ahead for the employee's absence. The notification requirements are different for UK adoptions, overseas adoptions and adoptions through a surrogacy arrangement.

UK adoptions

The employee must inform their manager, in writing, no more than 7 days after they are matched with a child (or as soon as is reasonably practicable).

- That they intend to take adoption leave
- How much adoption leave they would like to take
- When they intend to start your adoption leave
- The date on which the child is expected to be placed with them for adoption

Overseas adoptions

The employee must inform their manager, in writing:

- The date of their 'official notification' and the expected date the child arrives in the UK - within 28 days of getting the notification
- The actual date the child arrives in the UK - within 28 days of this date
- How much leave they would like to take and when they would like the leave to start - giving you 28 days' notice

Adoption through a surrogacy arrangement

At least 15 weeks before the baby's due date the employee must inform their manager, in writing:

- When the baby is due
- When they want to start their leave.

LINK – Adoption notification form

3. Providing proof of eligibility for Adoption Leave and Pay

UK and overseas adoptions

The employee will need to provide proof of their eligibility for adoption leave by providing documentation confirming:

- Their name and address and that of the adoption agency.
- Confirmation of the matching date – e.g. the matching certificate.
- Confirmation of the proposed date of placement – e.g. a letter from the adoption agency.
- The relevant UK authority's official notification confirming the employee's eligibility to adopt (overseas adoptions only).
- Confirmation of the date the child arrived in the UK – e.g. plane ticket (overseas adoptions only).

Adoptions through a surrogacy arrangement

The employee will need to provide proof of their eligibility for adoption leave by providing a written statement ('statutory declaration') confirming that, in the 6 months after the baby's birth:

- They intend to apply for a parental order
- They expect the order to be granted (for example because they do not have any convictions involving children, and the birth mother or father agree to the arrangement)

The employee should also contact HR to arrange a meeting to discuss their adoption entitlements and next steps.

HR will write to the employee within 28 days of receiving the Adoption Notification form, confirming the start date of their adoption leave, the date on which they are expected to return to work and their adoption pay entitlements.

The employee may bring forward or postpone their adoption leave start date, provided that they advise the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable.

The Council may delay the start of the employee's adoption leave (and pay) until the correct notice and proof of eligibility has been given. However, it is not possible to postpone the start of leave beyond the date of the child's placement.

4. Time off for adoption appointments

Employees who adopt a child are entitled to time off to attend appointments in connection with the adoption as follows:

- The primary adopter is entitled to **paid** time off to attend up to five adoption appointments
- The secondary adopter is entitled to **unpaid** time off to attend up to two adoption appointments

The appointments must have been arranged by or at the request of the adoption agency and the time off must be taken before the date of the child's placement for adoption with the employee. The employee should give their manager as much notice as possible of adoption appointments and produce an appointment card if asked to do so. Wherever possible, appointments should be arranged at the start or end of the working day.

5. Adoption Leave

All employees who adopt a child within the UK or from overseas are eligible to take up to 52 weeks' adoption leave (26 weeks' ordinary adoption leave and a further 26 weeks' additional adoption leave) if they:

- Are the child's primary adopter
- Have been matched with a child to be placed with them by a UK adoption agency
- Have received official notification from the relevant UK authority of their eligibility to adopt a child from abroad (overseas adoptions only)
- Have notified the adoption agency that they agree that the child should be placed with them and agree the date of placement
- Have complied with the notification requirements set out in this procedure
- Have provided proof of eligibility as set out in this procedure
- These rights apply regardless of the hours worked or length of service.

6. When adoption leave can begin

The start date of statutory adoption leave (SAL) is dependent on whether the employee is adopting a child from within the UK or from overseas.

UK adoptions

Adoption leave may begin from the date on which the child is placed with the employee for adoption or from a fixed date up to 14 days earlier.

Overseas adoptions

Adoption leave may begin on the date on which the child enters the UK or on a fixed date that is no later than 28 days after the date on which the child enters the UK. Adoption Leave cannot be used for overseas travel prior to the placement date to make arrangements for the adoption or to visit the child. It may be possible to take annual leave or unpaid leave for these purposes.

Adoptions through a surrogacy arrangement

Adoption leave will start on the day the child is born or the following day. Adoption leave may start on any day of the week.

7. Adoption Pay

There are two types of adoption pay:

- Statutory Adoption Pay (SAP)
- Occupational Adoption Pay (OAP)

8. Statutory Adoption Pay (SAP)

Statutory Adoption Pay is payable for up to 39 weeks during adoption leave. The statutory adoption pay period remains the same regardless of how many children are placed for adoption as part of the same arrangement.

An employee is eligible to receive SAP if:

- They are the person with whom a child has been, or is expected to be, placed for adoption.
- They have been continuously employed for at least 26 weeks ending with the week in which they are notified of having been matched with the child.
- Their average weekly earnings for the 8 weeks ending with the week in which they are notified of being matched with the child for adoption are not less than the lower earnings limit for national insurance contributions purposes (LINK).
- Where the employee is adopting with their partner, they must have elected to receive statutory adoption pay.
- They have given the Council proper notification (as set out in Section xx of this procedure)

Continuous service with other local authorities and associated public bodies does not count for the purposes of adoption pay.

Where a salary-sacrifice arrangement is in place during the 8 weeks ending with the week in which the employee is notified of being matched with the child for adoption, the employee's average weekly earnings calculation will be based on the lower salary and may adversely affect the amount of SAP payable. Where average weekly earnings are reduced to below the lower earnings limit for NI contributions, this may mean that the employee is not entitled to receive SAP.

If the employee does not qualify for statutory adoption pay, the Council will provide them with a completed Statutory Adoption Pay: Non-Payment Explanation (SAP1) exclusion form within 28 days of the notification of the adoption matching date.

9. Occupational Adoption Pay (OAP)

Occupational Adoption Pay is paid as follows:

First 6 weeks	Full pay
Weeks 7 to 20	Half pay
Weeks 21 to 39	Statutory Adoption Pay or 90% of average weekly earnings (whichever is lower)

These rates are inclusive of Statutory Adoption Pay. Before going on adoption leave, the employee must decide whether they wish to receive their 12 weeks' half pay OAP. Where an employee elects not to receive this and returns to work for a period of three months immediately after adoption leave, they will receive her OAP as a lump sum on completion of three months' work.

If an employee decides not to receive her half pay OAP during this 12 week period, they will receive Statutory Adoption pay as detailed above.

Where an employee who has claimed OAP does not return to work for a period of at least three months immediately after their adoption leave, they will need to repay the 12 weeks half pay Occupational Adoption Pay (excluding their entitlement to SAP). Adoption pay will start on the employee's first day of adoption leave.

During adoption leave, payments will be made through payroll on the usual pay date (20th of the month.) Statutory Adoption Pay and Occupational Adoption Pay are treated as earnings and are subject to tax, NI deductions and pension contributions.

The employee is required to give at least 28 days' notice of the date that they wish their statutory adoption pay to begin. If it is not possible for the employee to give 28 days' notice, for example if the child is placed with the employee sooner than anticipated, they should tell the Council as soon as reasonably practicable.

10. Terms and conditions of employment during adoption leave

During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except salary will continue. Salary payments will be replaced by statutory adoption pay and occupational adoption pay where the employee is eligible for this. If there are any changes to an employee's terms and conditions of employment whilst they are on adoption leave, for example changes to the pay scales, policies and procedures, etc., these will also be applied.

11. Annual leave

Annual leave will continue to accrue during both paid and unpaid periods of adoption leave. In addition, employees have a contractual right to time off for public holidays and are therefore entitled to the appropriate number of days off in lieu of any public holiday which occurs during their adoption leave. The normal rule of carrying over a maximum of 5 days' annual leave continues to apply. Therefore if the end of the annual leave year (31 March) falls within the employee's adoption leave period, the full year's annual leave entitlement should be taken before adoption leave commences.

Where adoption leave crosses two annual leave years, the employee should discuss and plan when to take their annual leave with their manager as soon as possible. Where annual leave is transferred to the next leave year, this must be taken in a block immediately before the employee returns to work so that they do not lose their entitlement. As with any annual leave requests, the employee must agree their annual leave dates with their manager in advance. Annual leave cannot be taken during or between ordinary and additional adoption leave periods. Where the employee is not intending to return to work following adoption leave, they should take any accrued annual leave before their adoption leave commences.

Where this is not possible, payment will be made for any outstanding annual leave on termination of employment. Equally, where an employee has taken more annual leave than they have accrued, they will be required to repay the overtaken annual leave.

12. Loans

The employee will be required to continue to make repayments in respect of loans throughout their period of adoption leave, even though they may be on reduced earnings. If at any stage an employee is on unpaid adoption leave, it will be their responsibility to make necessary arrangements for the ongoing repayments during the unpaid period. Advice can be sought from HR.

13. Pension

The Council will continue to make pension contributions based on the employee's normal pay during ordinary adoption leave and paid additional adoption leave. However, employer pension contributions will cease during any periods of unpaid additional adoption leave. Where the employee is a member of the Local Government Pension Scheme (LGPS) and takes unpaid adoption leave, they can choose whether or not to pay pension contributions for their period of unpaid leave.

If the employee elects to pay pension contributions to cover lost pension, they can do this by paying an age related Additional Pension Contribution (APC) within 30 days of returning to work or, if they do not return to work, within 30 days of ceasing to be employed by the Council. If the employee purchases an APC within the 30 day period, the Council will share the cost. It will be assumed that the employee does not wish to pay contributions unless they elect to do so within the 30 day timescale.

Pension contributions for the period of unpaid adoption leave are based on the actual pay that the employee received immediately before the period of unpaid leave started. If the employee chooses not to pay pension contributions for the period of unpaid adoption leave, this period will not count as service for pension purposes.

14. Contact during adoption leave

The Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss the employee's plans for returning to work or to discuss and update them on developments at work during their absence, including internal vacancies and training opportunities.

15. Keeping-in-touch days

An employee may work (or attend training) for up to 10 Keeping in Touch (KIT) days during their adoption leave without bringing it to an end. Managers cannot insist that employees attend or carry out any work and employees cannot insist that their manager gives them work during their adoption leave. A KIT day is defined as anything from attending a 1 hour meeting to working the full contractual hours for the day. Employees will receive their normal rate of pay for the hours they attend or carry out work. However, where an employee is in receipt of adoption pay, this will be offset from the payment. KIT days cannot be used to accrue overtime or TOIL.

Where an employee works during their adoption leave, they must ensure that the **Keeping In Touch payments form** is completed, signed by their Line Manager and submitted to HR so that payment can be made.

The employee's period of adoption leave will not be extended because they have carried out some work during their leave. The employee cannot carry out any work during the first two weeks following the placement of the child.

16. Returning to work after adoption leave

Subject to legislative requirements and the notification requirements set out in this procedure, the employee may return to work at any time during either ordinary adoption leave or additional adoption leave. Alternatively, they may take their full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return to work before their full period of adoption leave has elapsed, they must give at least eight weeks' notice in writing to the organisation of the date on which they intend to return. The employee should discuss their intention to return to work early with their manager.

Where an employee intends to return to work on the first working day after the end of their full adoption entitlement (i.e. at the end of the Additional Adoption Leave period) they do not need to notify their manager in advance. The employee has the right to resume working in the same role if they are returning to work during or after ordinary adoption leave.

If the employee returns to work during or after a period of additional adoption leave, they are entitled to return either to the same role or, if this is not reasonably practicable, to another suitable role that is on terms and conditions not less favourable than the terms and conditions which applied prior to adoption leave. Managers must confirm the date of the employee's actual return to work to HR so that salary payments can restart.

17. Reducing hours of work

There is no automatic right to return to work on different terms than before, e.g. part-time hours. Employees who wish to change their working arrangements must contact their manager as soon as possible in advance of their return. Requests should be made in line with the Council's Flexible Working Procedure.

Managers will consider requests for flexible working and will seek to agree the changes wherever possible, however, requests may be rejected if there are genuine business reasons to do so.

18. Resignation during or following adoption leave

If the employee decides during adoption leave that they do not wish to return to work, they must give written notice of resignation to the Council as soon as possible and in accordance with the terms of their contract of employment. If the employee leaves the Council's employment during the SAP period, the Council will continue to pay SAP as long as the employee has not started work for another employer. Where an employee has received OAP, they will need to repay this amount.

19. Failure to return to work

Failure to return to work at the end of adoption leave will be treated as unauthorised absence unless the employee is sick and produces a Fit Note before the end of the adoption leave period.

20. Miscellaneous

Resignation before adoption leave

Where an employee has met the eligibility requirements for statutory adoption pay, they will remain entitled to receive SAP if they leave the Council's employment for any reason, including because they have resigned, before their adoption leave is due to start.

UK adoptions

If the employee leaves the Council's employment before the start of the statutory adoption pay period they have chosen, adoption pay will begin 14 days before the expected date of placement. If the employee leaves the Council's employment less than 14 days before the start of the statutory adoption pay period they have chosen, adoption pay will begin on the day immediately following the last day of employment. Where this happens, the notification requirements for taking statutory adoption pay will not apply.

Overseas adoptions

If the employee leaves the Council's employment before the start of the statutory adoption pay period they have chosen, SAP will still be payable as long as the child enters the UK within 26 weeks of the end of the employment. The employee should still give 28 days' notice of when they want their SAP to begin.

Where statutory adoption pay is being paid to an employee who, during the statutory adoption pay period, commences work for another employer, the Council will cease to pay statutory adoption pay in respect of the remaining part of the statutory adoption pay period. The employee is required to notify the employer that they are working for another employer.

Fixed term/temporary contracts

Where an employee is employed on a fixed-term or temporary basis, contractual adoption rights will only apply for the duration of the fixed-term or temporary contract. In these circumstances the end date of the contract will end the employee's adoption leave as well as her employment with the Council. However, where an employee qualifies for Statutory Adoption Pay, this will continue until the full entitlement has been paid (39 weeks).

Prior to commencing adoption leave, the employee will need to discuss their fixed-term or temporary appointment with their manager. Where possible, a decision regarding the end date of the contract should be made prior to the commencement of the employee's adoption leave.

Reorganisations/Restructuring

Where a reorganisation or restructure is proposed whilst an employee is absent on adoption leave, the provisions of the Council's Management of Workforce Change Procedure will apply.

Second adoption arrangement during adoption leave

If another child is placed with the employee soon after the placement of the first child (i.e. a new placement under a separate matching certificate), provided that the employee satisfies the qualifying conditions, they will be entitled to another period of adoption leave. In these circumstances, the adoption leave relating to the second child will supercede the first period of leave. For example, if the second period of leave begins one month after the first period, the first period will come to an end after one month and the employee will be entitled to a further 52 weeks' adoption leave from that point. If the employee qualifies for statutory adoption pay in relation to both placements, the adoption pay relating to the first child is not brought to an end by entitlement to adoption pay relating to the second child. The employee will be entitled to two payments during any weeks where the two periods of adoption pay entitlement overlap.

As adoption leave does not break continuity of employment, the employee's right to adoption leave for the second placement will be based on their total service with the Council. The employee must give the same notice to her manager as they did the first time they went on adoption leave.

The employee will have the same rights as they would have received on returning from their first period of additional adoption leave, i.e. they are entitled to return either to the same role or, if this is not reasonably practicable, to another suitable role that is on terms and conditions not less favourable than the terms and conditions which applied prior to adoption leave.

SAP is calculated on average earnings over the 8 weeks ending with the week in which they are notified of being matched with the child for adoption. The HR team will advise the employee regarding adoption pay on receipt of her completed Adoption Notification Form and proof of their eligibility for adoption.

Contractual leave entitlement accrued whilst on adoption leave should be taken before the start of the second adoption leave wherever possible. Where this is not possible, leave from the first adoption leave then this should be taken in one block immediately before returning to work.

Disrupted adoption

Where adoption is disrupted, i.e. the child is returned to the adoption agency, or the child dies, the adoption leave and pay period will end eight weeks after the end of the week in which the child is returned to the adoption agency (or, in the case of adoption from overseas, ceases to live with the adopter) or the death of the child occurs. A week for these purposes is a period of seven days beginning with a Sunday.

Transfer of adoption leave

Employees may choose to end their adoption leave and pay and share the untaken balance (up to a maximum of 50 weeks) with their partner as Shared Parental Leave and pay. Employees may also choose to return to work early from adoption leave and take Shared Parental Leave and pay at a later date. To be able to take Shared Parental Leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. Please see the Council's Shared Parental Leave Procedure for further details.

Balancing work and childcare responsibilities

There are options to help you to balance work and childcare responsibilities and work.
Please see:

- Flexible Working Procedure
- Ordinary Parental Leave Procedure
- Special Leave Procedure

Financial support such as the government's Tax Free Childcare scheme [Tax-Free Childcare - GOV.UK](https://www.gov.uk/tax-free-childcare)

Data protection

When managing an employee's adoption leave and pay, the Council processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which an employee informs the Council of their intention to adopt a child is held securely, accessed by and disclosed to individuals only for the purposes of managing adoption leave and pay.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Council's Data Protection Policy. Where appropriate, action may be taken in line with the Council's Disciplinary Procedure.