

Adoption Provisions Guidance

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1. Introduction

Advice on Adoption Provisions

These notes are for general guidance only and are applicable to all employees, except for Teachers and Associated Professionals, who are covered by the SNCT Conditions of Service.

Adoption leave and pay provides an opportunity for employees to take time off work when their child starts to live with them.

Eligibility criteria with regards to leave and pay during leave and the application process are detailed in these guidelines.

Definitions/Abbreviations

The main terms and abbreviations used in the guidance notes are defined as follows :

- Ordinary Adoption Leave – the first 26 weeks of the Statutory Adoption Leave period
- Additional Adoption Leave – the second 26 weeks of the Statutory Adoption Leave period
- Statutory Adoption Pay (SAP) – statutory sum paid to qualifying employees
- Occupational Adoption Pay (OAP) – sum paid in addition to Statutory Adoption Pay to employees who fulfil additional conditions
- Week of Child Being Matched – the week during which the child is expected to be matched with you ('matched' means that the adoption agency gives you the details of the child they think is suitable for you to adopt)
- Matching Certificate – certificate confirming that the child has been matched with you
- Adoption Pay Period – the weeks during adoption leave for which an employee receives adoption pay

2. Adoption Leave

Entitlement to Adoption Leave

To qualify for Statutory Adoption Leave the employee must be newly matched with a child by an approved adoption agency.

All employees, who qualify, regardless of weekly working hours are entitled to 52 weeks Statutory Adoption Leave, which are made up of 26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.

If the employee is adopting a child they have been fostering, he/she must be matched for adoption by a recognised agency to be eligible for Statutory Adoption Leave or Pay.

The employee must provide documentary proof to show that they have the right to Statutory Adoption Leave. This is usually a matching certificate from an adoption agency, which must be recognised in the UK.

If the employee is adopting a child from overseas then the employee must have received official notification confirming the central authority has, or is prepared to, issue a certificate confirming the employee is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The employee will not qualify for Statutory Adoption Leave or Pay if they:

- arrange a private adoption
- become a special guardian
- adopt a stepchild

Where a couple jointly adopt a child, the couple must choose one person to take Statutory Adoption Leave, while the other may be entitled to maternity support leave, statutory paternity leave and/or shared parental leave.

Where a placement ends during the adoption leave period, the adopting employee will be entitled to remain absent on adoption leave for up to eight weeks after the end of the placement.

Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.

Pre-adoption Meetings

An employee who is adopting a child through an approved Adoption Agency will be allowed to take reasonable time off to attend pre-adoption meetings on production of evidence of appointments.

- The main adopter will be entitled to take **paid** time off for up to five adoption appointments.
- The second adopter will be entitled to take **unpaid** time off for two appointments.

Surrogate Parents

As a surrogate parent employees may also be eligible to Statutory Adoption Leave and Pay provided that:

- they are an employee
- they intend to apply for, have applied for, or have been granted a parental order
- if requested, they provide The Council with a statutory declaration that they are an intended parent

Beginning Adoption Leave

Adoption Leave may begin on any day of the week. The earliest start is 14 days before the date the employee expects the child to start living with him/her and the latest the day the child starts living with the employee.

Notification to take adoption leave

The employee must inform their line manager in writing using The Application for Adoption Leave/Pay for (with a copy to Human Resources) **within 7 days** of being notified by the adoption agency that they have been matched with a child for adoption. If this is not possible, he/she must do so as soon as possible thereafter. The notification must include a matching certificate from the adoption agency.

The employee must confirm when they expect the child to be placed and when they wish to start their Statutory Adoption Leave period and whether or not he/she intends to return to work following adoption leave.

For employees adopting a child from overseas there are three notification stages:

1. Notification of the date on which they received official notification and notification of the date on which the child is expected to enter Great Britain must be given within 28 days of receiving official notification (or within 28 days of completing 26 weeks service).
2. Notification of the actual date they want to start their Statutory Adoption Leave and Pay must be given at least 28 days' prior to their adoption leave starting. Statutory Adoption Leave and Pay cannot start before the child enters Great Britain.
3. Notification of the date the child actually entered Great Britain within 28 days of the child's date of entry. Evidence must be provided; this could be a copy of a passport stamp or visa.

If the employee wishes to change the start date of their Statutory Adoption Leave he/she must do so in writing and give at least 28 days' notice.

If an employee is entitled to the period of 12 weeks at half pay (see section 3.2) he/she is required to declare that he/she will return to work for at least three months following adoption leave. Should the employee fail to return for this three month period, he/she will normally be required, to repay the 12 weeks of half pay. The Council may, however, vary the requirement for the employee to return for the three month period if he/she is able to show good cause.

Human Resources will reply within 28 days of receiving the application, to confirm the employee's adoption leave and pay entitlement.

Working During Adoption Leave

The employee may undertake up to 10 days' work ('Keeping in Touch' or KIT days) for The Council during adoption leave with normal pay under their contract of employment. This will not affect their Statutory Adoption Pay. The employee and line manager should agree in advance for this to happen as well as the type of work to be undertaken. This provision is particularly helpful for team meetings or training. A Keeping in Touch Day Notification Form should be completed.

Any work done on any day during the adoption leave period will count as a whole working day, however, up to the 10 day maximum. The days do not have to be consecutive. If an employee comes in for a one-hour training session and does no other work that day, he/she will have used up one of the 10 days. This provision is not a requirement on either side and the adoption leave will not be extended due to these days being worked. Please refer to the Keeping in Touch Days FAQs for further

guidance.

Contact with line manager during adoption leave

The line manager should keep in contact with the employee and make reasonable time to discuss his/her plans for returning to work, or to keep him/her informed of important changes or developments at the workplace.

The employee should be informed of any relevant promotion opportunities or job vacancies that arise during their adoption leave. Arrangements for receiving this information should be made prior to the commencement of the adoption leave. This contact does not constitute work and is not included within the 10 work days provided for in 2.4.

Notification of return to work after adoption leave

If the employee intends to return to work earlier than the last date of return to duty notified by Human Resources he/she must inform their line manager in writing (with a copy to Human Resources) at least 8 weeks before he/she intends to return from adoption leave, of the date that he/she proposes to return.

Annual Leave/Public Holiday Entitlement

Entitlement to annual leave is unaffected by adoption leave and it is accrued as if the employee was at work. The employee is entitled to public holidays which fall during the period of Ordinary Adoption Leave and additional Adoption Leave.

Should the employee not return to work after adoption leave, he/she will be entitled to a proportion of the year's annual leave up to the end of her adoption pay period and to any public holidays which arose before that date.

Should the employee return to work on reduced hours (i.e. on a job-share or part-time basis), the annual leave entitlement will be calculated based on a period of full-time service up to the date that he/she has returned from adoption leave and a period of part-time service, from the date that he/she has commenced job-share/part-time hours.

Ordinary Parental Leave

The Council provides for Parental Leave which allows the parent 18 weeks of unpaid leave up to the child's 18th birthday. The Council's Flexible Working Policy gives more detail on this provision.

3. Adoption Pay

Entitlement to Adoption Pay

An employee will be advised of his/her entitlement when he/she applies for adoption leave. The following is a detailed account of these provisions.

If an employee has 26 weeks or more continuous service before the beginning of the week when the child is matched, he/she will be entitled to 39 weeks paid leave, as follows:

First 6 weeks at 9/10ths pay (including SAP). Followed by 12 weeks at half pay (plus SAP).

Followed by 21 weeks at SAP.

With any further adoption leave at No Pay (up to a maximum of a further 13 weeks).

Entitlement to Statutory Adoption Pay

To qualify for Statutory Adoption Pay (SAP) an employee must:

- continue to be employed by The Highland Council before the start of the week in which the child is matched
- have average earnings of at least the lower earnings limit for National Insurance contribution liability
- have stopped work wholly or partly because of the commencement of their adoption leave
- inform The Council in writing when they intend to start their Statutory Adoption Leave within 7 days of being told by an adoption agency that he/she has been matched with a child for adoption
- submit an Adoption Placement Certificate when applying for Statutory Adoption Leave

An employee is excluded from receiving SAP if, at the beginning of the adoption pay period, he/she :-

- fails to meet any of the qualifying conditions outlined above.

An employee is also excluded if, at any time during his/her adoption pay period, he/she is in legal custody. Legal custody means being detained by the police, usually arrested and/or in prison.

If the employee is not entitled to SAP The Council will provide the employee with a form SAP1 to provide reasons.

Current Level of Statutory Payments

Payment will be the lesser of SAP or 90% of the employee's earnings. Statutory rates can be found on the [Government](#) website.

Salary Sacrifice Schemes

The Council has operated several employee benefit schemes based upon salary sacrifice. This is when an employee gives up the right to receive part of their gross pay in return for some form of non-cash benefit such as bicycle loans, childcare vouchers or Home Computing equipment.

In these cases, employees should seek confirmation with Payroll as to how their salary sacrifice payments will be managed in relation to adoption leave.

Pension Benefits

Any unpaid period during an employee's adoption leave will not count in the calculation of his/her future pension benefits unless he/she agrees to pay the appropriate contributions. On the employee's return to work, the Pension Section of the Finance Department will contact the employee if he/she wishes to buy back the pension that he/she has lost during this time.