

## Adoption Leave Policy

Policy Date	June 2017 Reviewed November 2019 Reviewed September 2023
Policy Review Date <i>when under review, this policy should continue to be used</i>	September 2026
This policy is non-contractual. Payments are governed by the NJC Green Book conditions	
Author	HR
Version This policy may be amended prior to the review date to comply with any new, relevant legislation or organisational change that affects how this policy is used	4
Related Policies	Maternity Policy Parental Leave Policy Paternity Leave Policy 'Other' Employee Leave Policy Shared-Parental Leave Policy Flexible Working Policy Grievance Policy

## Contents

<b>1. Purpose</b> .....	<b>3</b>
<b>2. Scope</b> .....	<b>3</b>
<b>3. Principles</b> .....	<b>3</b>
<b>4. Definitions</b> .....	<b>3</b>
<b>5. Adoption Pay</b> .....	<b>4</b>
5.2 The employee will be notified by HR Payroll if they do not qualify for SAP. ....	4
<b>6. Adoption leave and notification</b> .....	<b>5</b>
6.1 Qualifying for Adoption leave .....	5
6.2 Notification requirements .....	5
6.3 During Adoption Leave .....	6
6.4 Returning to work.....	6
<b>7. Terms and Conditions during Adoption Leave</b> .....	<b>7</b>
7.1 Annual Leave .....	7
7.2 Local Government Pension Scheme .....	8
7.3 Other contractual benefits.....	8

## 1. Purpose

- 1.1 This policy sets out how the council manages the rights and responsibilities of employees who have adopted a child.
- 1.2 The policy offers benefits which equal and improve on statutory entitlements.
- 1.3 The policy has been developed in consultation with UNISON.

## 2. Scope

- 2.1 This policy applies to all eligible employees regardless of gender, gender reassignment, race, religion or belief, disability, sexual orientation, age, trade union membership or public interest disclosure status. It also applies to eligible part time and fixed term employees.

## 3. Principles

- 3.1 Line managers are responsible for ensuring that the policy is followed for their staff. The line manager will make sure that the employee is not treated unfairly. This policy is created in line with the Equalities Policy.
- 3.2 This policy will be reviewed from time to time to ensure that it meets legal and operating requirements

## 4. Definitions

**Statutory Adoption Pay (SAP):** Employees who meet qualifying conditions based on their length of service and average earnings and give the correct notice are entitled to receive up to 39 weeks Statutory Adoption Pay.

**Expected Week of Adoption (EWA):** The date during which the actual adoption is expected to take place.

**Ordinary Adoption Leave (OAL):**

The first 26 weeks of Adoption Leave (regardless of length of service) during which the contract of employment continues, and during which the employee must continue to receive all their contractual benefits except (unless agreed otherwise) wages or salary.

**Additional Adoption Leave (AAL):**

The next 26 weeks (regardless of length of service) during which the contract of employment continues. AAL follows OAL and there must be no gap between the two.

**Keeping in Touch Days:**

Optional days during the period of adoption leave to give employees the chance to go to work, to undertake work related training and keep in touch for up to 10 days without losing the right to Adoption Pay.

## 5. Adoption Pay

- 5.1 All payments (including SAP) will be made to the employee's bank account at the end of the month, through payroll.
- 5.2 The employee will be notified by HR via Payroll if they do not qualify for SAP.
- 5.3 SAP and additional adoption pay is treated as earnings and is therefore subject to PAYE deductions such as tax and national insurance.
- 5.4 Employees with **less than 26 weeks service ending with the week in which they are notified of having been matched with the child** have:
- no entitlement to Statutory Adoption Pay
  - but contractual benefits such as leave entitlement, council pension contributions etc are maintained.
- 5.5 Employees with **26 weeks service ending with the week in which they are notified of having been matched with the child** are entitled to:
- Statutory Adoption Pay (SMP) for 39 weeks (provided average weekly earnings for National Insurance Contributions, in the 8 weeks before the 15th week before the EWA (Expected Week of Adoption), are at least equal to the lower earnings limit).
  - 90% of average earnings (or the higher rate of SAP whichever is the greatest) for the first 6 weeks of Ordinary Adoption Leave
  - Lower rate SAP for the following 33 weeks.
  - All other contractual benefits, during Adoption Leave.
- 5.6 Employees with **one or more years continuous service at the 15<sup>th</sup> week before EWA** are entitled to:
- Six weeks at 90% pay, plus
  - 12 weeks at half pay plus lower rate SAP (however, if they do not return to work after 52 weeks Adoption Leave for three months or more, then they must repay the 12 weeks half pay)
  - 21 weeks at the current SAP rate
  - All other contractual benefits, during Adoption Leave
- 5.7 If the employee chooses to terminate their contract of employment and not return to work, they will be entitled to SAP for up to 39 weeks.
- 5.8 SAP is calculated on average earnings prior to the period of Adoption Leave. The calculation of average earnings will be adjusted if any increase in pay applies during the employee's Adoption Leave and will be applied upon the employee's return to work and will be backdated.
- 5.9 SAP will cease for employees who:
- move outside the UK (other than on holiday)
  - are taken into legal custody
  - work for another employer.

During the Adoption Pay Period, if any of the above occurs, the employee must notify HR as soon as possible as entitlement to SAP may be affected.

## 6. Adoption leave and notification

### 6.1 Qualifying for Adoption leave

6.1.1 The right to adoption leave is available to one member only of a couple who have had a child placed with them for adoption. It is up to the adoptive parents to decide which of them takes the Adoption Leave. The council reserves the right to seek further information to clarify this position.

6.1.2 To qualify for Adoption Leave, you must be an employee (i.e. work under a contract of employment) and:

- be matched with a child for adoption by an approved adoption agency in the UK:  
**Or**
- if adopting a child from overseas you must have received 'official notification', **Or**
- be one of a couple who have been jointly matched with a child for adoption;

**And**

- have been continuously employed by the council for 26 or more weeks by the end of the week in which you have been notified of being matched with a child for adoption;

**And**

- have notified the agency that you agree that the child should be placed with you for adoption on the date of placement.

### 6.2 Notification requirements

6.2.1 Employees must notify the council of their intention to take Adoption Leave within seven days of being notified by an approved adoption agency that they have been newly matched with a child for adoption. At the same time, they must advise the council of the date on which the child is expected to be placed with them and the date on which they intend their Adoption Leave to start (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 beforehand).

6.2.2 The council may ask employees to produce evidence, in the form of one or more documents issued by the adoption agency, of:

- the name and address of the agency;
- the date on which the employee was notified that they have been matched with the child;
- the date on which the agency expects to place the child with the employee.

**NOTE:** *Under no circumstances is the council to request documentary evidence of the name and date of birth of the child.*

6.2.3 The Adoption Leave start date may be changed as long as the employee gives at least 28 days' notice.

6.2.4 The line manager must respond in writing within the next 28 days, informing the employee of the date on which they are expected to return to work if the full 52-week entitlement to adoption leave is taken.

### 6.3 **During Adoption Leave**

6.3.1 The line manager is responsible for and must maintain contact with, the employee (and vice-versa) while they are on Adoption Leave, as long as the amount and type of contact is not unreasonable e.g. to discuss plans for returning to work, or to inform of important developments at work. This must include any relevant promotion opportunities or job vacancies that arise during adoption leave.

6.3.2 Employees may, by agreement with the council, complete up to 10 days' work – known as **Keeping in Touch (KIT) Days** – under their contract of employment during the Adoption Leave period. These days are different to the reasonable contact described in 5.3.1 because during Keeping in Touch Days employees can actually carry out work, for which they will be paid at the applicable rate of pay (this must be agreed with the employee by the manager before they commence such work).

6.3.3 Keeping in Touch Days may be used for any activity which would ordinarily be classed as work under their contract of employment, for which they would be paid, such as attending a conference, undertaking a training activity or attending a team meeting.

### 6.4 **Returning to work**

6.4.1 If the employee intends to return at the end of their full 52 weeks of Adoption Leave they do not need to provide any further notice.

6.4.2 The employee can change the dates of their return to work and must give the council at least 21 days notice in writing if this is before the end of the adoption leave. Where notice of less than 21 days is given, the council may postpone the return to ensure 21 days notice but not beyond the end of the Adoption Leave.

6.4.3 An employee returning from Adoption Leave has the right to request to return on a flexible basis, i.e. part-time, compressed hours etc. A request must be submitted in writing at least 8 weeks before the intended date of return to work. Please refer to the Flexible Working Policy for further information.

6.4.4 The employee has options to help keep a good balance in caring for their child and continuing to work:

- the right to request flexible working
- the right to time off such as parental leave and time off to deal with a family emergency
- appropriate financial support from the government such as tax credits

6.4.5 The council also provides childcare vouchers for those members of staff who were already within the workplace scheme on or before 4 October 2018 –

further information is available from HR. For other members of staff, information on tax-free childcare can be found on [www.gov.uk](http://www.gov.uk)

- 6.4.6 Where reduced hours are agreed the contract is varied at the end of the Ordinary or Additional Adoption Leave as appropriate. Pay and other benefits will be pro-rata'd.
- 6.4.7 Failure to return to work on the agreed date without adequate explanation may lead to disciplinary action being taken.
- 6.4.8 An employee unable to return to work on their due date because of sickness must provide a doctor's certificate.
- 6.4.9 If an employee is returning during or at the end of the first 26 weeks (**Ordinary Adoption Leave**) they are entitled to return to the same job on the same terms and conditions as if they had not been absent unless a redundancy situation has arisen.
- 6.4.10 An employee who returns to work after **Additional Adoption Leave** is also normally entitled to return to the same job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen. The employee is entitled to be offered suitable alternative work if the employee is unable to return to the same job.
- 6.4.11 An employee who is made redundant during Adoption Leave has the right to be offered suitable alternative employment under a new contract (no less favourable terms) that begins on the day immediately following the day on which the previous contract came to an end.
- 6.4.12 If the employee decides not to return to work at the end of their Adoption Leave they are entitled to continue to receive their full amount of statutory Adoption Leave and pay.  
Notice to terminate a contract must be given in the normal way.
- 6.4.13 When an employee returns to work after Adoption Leave the entire period of leave counts as continuous service for the purposes of entitlement to other statutory employment rights.

## **7. Terms and Conditions during Adoption Leave**

### **7.1 Annual Leave**

- 7.1.1 Annual leave will accrue during Ordinary and Additional Adoption Leave. However, paid Annual Leave cannot be taken whilst an employee is receiving Statutory Adoption Pay (SAP).
- 7.1.2 Any outstanding entitlement to Annual Leave up to the start of Adoption Leave may be taken before the start or at the end of Adoption Leave.
- 7.1.3 Where an employee's Adoption Leave straddles the holiday year, only five days holiday entitlement (or equivalent for part time employees) may be carried over from one year to another.

However, with the Head of Service approval any leave accrued should normally be taken before the employee returns to work.

## **7.2 Local Government Pension Scheme**

- 7.2.1 Where the employee is a member of the Pension Scheme, they will continue with full membership of the scheme and pay contributions based on actual gross pay received for the 39 weeks of Ordinary Adoption Leave.
- 7.2.2 If the employee takes Additional Adoption Leave they will continue with full membership of the scheme and pay contributions for this period based on actual gross pay received during this period.
- 7.2.3 If the employee remains on leave during the last 13 weeks of AAL, which is unpaid, the council does not continue the pension contributions during the unpaid leave. However, the employee can elect to pay contributions for this period on the rate they were paying immediately before they went into unpaid Adoption Leave.
- 7.2.4 Where the employee takes additional unpaid leave (including parental leave), their membership of the Pension Scheme will not count unless they have the right to return to work. If so, they can choose to make up pension contributions to cover the unpaid period. The employee must inform their manager within 30 days of returning to work (or within 30 days of leaving if they did not return to work) and the manager must notify Payroll. The cost of contribution is based on the actual rate of pay (prior to the unpaid period) the employee would have received had they been working.
- 7.2.5 The council contributes to the pension scheme and will make contributions based on actual monies paid for the whole time the employee is receiving any SAP.

## **7.3 Other contractual benefits**

- 7.3.1 All contractual benefits are maintained during Adoption Leave. This means employees are entitled to receive all benefits as if they were at work.