

1. Introduction

- 1.1 Adoption Leave and/or Pay is available to eligible employees who are:
- An individual who is adopting; or
 - One member of a couple where a couple are adopting jointly (the couple must choose who will be the Primary carer and will therefore take Adoption Leave).
- 1.2 The partner of an individual who adopts or the other member of a couple who are adopting jointly may be entitled to Paternity Leave and Pay or Shared Parental Leave (after 5 April 2015).
- 1.3 There are differences for notification, starting dates and evidence provision depending on whether the child is adopted from within the UK or from overseas. These differences are included within this guide. Some surrogate parents will be eligible for Adoption Leave and Pay.
- 1.4 Employees are protected from suffering detriment or dismissal for taking Statutory Adoption Leave.

2. Statutory Adoption Leave (SAL)

- 2.1 The 52 weeks SAL period is made up of 26 weeks ordinary adoption leave (OAL) followed immediately by 26 weeks additional adoption leave (AAL).
- 2.2 Only one period of SAL can be taken for each placement regardless of how many children are placed at the time as part of the same arrangement.
- 2.3 You must have been notified that you have been newly matched by an adoption agency with the child for the purposes of adoption and you must continue to be employed by the Council until immediately before the week in which the notification was given (the Matching Week). The Matching Week starts on a Sunday and ends on a Saturday.
- 2.4 You must also continue to be employed by the Council until immediately before the week in which the notification of being matched with a child for adoption, or for overseas adoptions, the week in which they receive official notification (official notification of eligibility to adopt a child from abroad would come from the relevant UK authority).
- 2.5 In surrogacy cases you must tell the Council when the baby is due and when you wish to start your leave (in writing) at least 15 weeks before the due date and continue to be employed until this date.
- 2.6 The Primary adopter is entitled to take paid leave for up to 5 adoption appointments once they have been matched with a child (the other adopter can take unpaid leave for up to 2 appointments). If requested you will need to provide evidence of adoption leave appointments in order to receive payment. These appointments are treated the same as other medical appointments and reasonable paid time off will include travel time to and from the appointment.

3. When Statutory Adoption Leave Can Begin

- 3.1 For UK adoptions, you can choose to begin SAL on either of the following:
- The date on which the child is placed for adoption,
 - A predetermined date which is no more than 14 days before the date on which the child is expected to be placed with you and no later than the expected date of placement.
 - The day the child is born or the day after (if you've used a surrogate to have a child).
- 3.2 For overseas adoptions, you can choose to begin SAL on either of the following:
- The date the child enters the UK,
 - A predetermined date, no later than 28 days after the date the child enters the UK.
- 3.3 In the cases of surrogacy SAL can begin on the day the baby is born, or the day after.

- 3.4 The leave can start on any day of the week.
- 3.5 You must tell the council within 28 days if the date of placement (or UK arrival date for overseas adoptions) changes. If the child is unexpectedly placed for adoption early e.g. during a period of annual leave, born early in cases of surrogacy, SAL will begin automatically.

4. Notification and Confirmation of Statutory Adoption Leave

- 4.1 You should inform the Parish Administrator at the earliest possible date that you intend to take SAL, how much leave you wish to take, when you intend to start it and the date the child is expected to be placed with you for adoption.
- 4.2 For UK adoptions, you must send your Matching Certificate and Adoption Application form to Payroll no more than 7 days after the date you have been notified of having been matched with a child or as soon as is reasonably practicable.
- 4.3 For overseas adoptions, there are three notification stages. Please see gov.uk for further information.
- 4.4 For surrogacy arrangements your employer may ask for a written statement that you have applied or will apply for a parental order in the 6 months after the child's birth (signed in presence of a legal professional).
- 4.5 When Payroll receive your adoption leave application form, they will write to you to confirm your SAL start and end dates.

5. Annual Leave Entitlement

- 5.1 During SAL, you will continue to accrue annual leave, including bank/public holidays and the extra statutory day, dependant on length of service and pro-rata for part-timers.
- 5.2 Prior to your commencement on SAL, where possible you should take at least the proportion of annual leave to which you are entitled up until the commencement of SAL. All annual leave must be agreed with the Parish Administrator.
- 5.3 In addition, you may also take any remaining current leave year entitlement. However, should you not take all your leave prior to the commencement of SAL, and the period of your SAL spans two leave years, any untaken leave will carry over to your next leave year.
- 5.4 Accrual of annual leave through SAL will be based on the hours you worked prior to starting SAL. You are entitled to take this accrued leave when you return to work (irrespective of the hours worked upon return) within the relevant leave year as per Council policies. You should discuss and agree when you will take your leave with the Parish Administrator.
- 5.5 If you return to work on reduced hours, you will from that point on, accrue leave pro-rata to the new hours of work, which will be added to leave accrued through the SAL period
- 5.6 Should you not return to work following your SAL and you have overtaken your annual leave entitlement, you will be liable to repay any excess taken leave.
- 5.7 An employee cannot take annual leave during SAL.

6. Adoption Pay

6.1 Adoption Pay Entitlements

If you have completed at least one year's continuous local government service at the beginning of the week in which you are notified of a match with a child for adoption, you are entitled to:

- First six weeks – 90% of a week's pay
- Next 33 weeks – Statutory Adoption Pay at SAP rate (set by the government and reviewed annually) or 90% of normal weekly pay, whichever is lower.
- Occupational Adoption Pay (OAP) – 12 weeks half pay.

6.2 Statutory Adoption Pay

6.2.1 If you have completed less than one year's continuous local government service at the beginning of the week in which you are notified of a match with a child for adoption, you may be entitled to:

- An allowance payable for a period of 39 weeks known as the Adoption Pay Period (APP) at SAP rate (set by the government and reviewed annually) or 90% of normal weekly pay, whichever is lower.
- SAP can start on any day during the week and is paid for complete weeks only.
- SAP is subject to Tax, National Insurance and where appropriate, Pension.

6.2.2 Statutory Adoption Pay is normally payable to an employee who:-

- (a) is the person with whom a child is to be placed for adoption.
- (b) has been in continuous service with this Council for at least 26 weeks as at the week in which they are notified they have been matched with a child for purposes of adoption OR for overseas adoptions, the week in which they received official notification OR for surrogacy by the 15th week before the baby's due;
- (c) has stopped work, but not before the beginning of the week they were notified of having been matched with a child or for overseas adoptions, the week in which they received official notification;
- (d) has average earnings in the eight week period ending with the week in which the adopter is notified of being matched with the child for purposes of adoption, of not less than the lower earning limit for the payment of National Insurance contribution;
- (e) Has elected in writing to receive SAP;
- (f) Has provided evidence of entitlement to take Adoption Leave (Matching Certificate or for overseas adoptions, a copy of the Official Notification form the relevant UK authority), intends to apply for parental order (in surrogacy arrangements).
- (g) For overseas adoptions, evidence of the child's date of entry into the UK must also be provided.

6.2.3 You do not qualify for Statutory Adoption Leave or Pay if you arrange a private adoption, become a special guardian or kinship carer, adopt a stepchild, adopt a family member or stepchild.

6.2.4 Payments can only be made for any week in which you do not work for the Council or another employer.

6.2.5 Payroll will inform you if you are not entitled to SAP for any reason.

6.3 Occupational Adoption Pay

6.3.1 You will be requested to make a declaration about your intention to return to work, or not (Adoption Leave Application Form), prior to commencing your SAL. The half pay OAP payments are made on the understanding that you will return to local authority employment for a period of at least three months. You can choose to delay these payments until after you have returned, but if you receive them and do not return for the required period, they will have to be repaid.

6.3.2 If you have said that you are not intending to return to work, you will not be entitled to OAP, but you will still be eligible for your entitlement to SAP (which will be paid by the Council).

6.3.3 In the event of the SAP and half pay exceeding your normal weekly pay then the half pay would be reduced by this excess – you cannot receive more than a normal week's pay during this half pay period.

6.3.4 In the event of repayments needed (6.3.1), you need to be aware that these may exceed the amounts received because of complicated tax and NI regulations – ask Payroll for details if this affects you.

6.4 Statutory Adoption Pay and its effect of Occupational Adoption Pay

6.4.1 Where OAP is payable this goes towards discharging the employer's liability to pay SAP.

6.4.2 OAP is based on your substantive salary/wages at the beginning of your SAL. Future incremental or cost of living rises on your substantive salary/wages during your SAL period will be included in your Adoption Pay.

6.4.3 During the 12 week half pay period you will receive SAL plus half pay based on your substantive salary/wages. However, in the event of the SAP and half pay exceeding your normal weekly pay then the half pay would be reduced by the excess – you cannot receive more than a normal week's pay during this half pay period.

6.4.4 If you return to work during your pay period, your partner/husband may be eligible for Statutory Additional Paternity Leave and Pay or Shared Parental leave.

6.5 Payment of Adoption Pay

6.5.1 Adoption Pay will be paid on your normal pay day and details of the amounts payable will be supplied directly to you by Payroll as soon as possible following receipt of the your Matching Certificate.

6.5.2 SAP and OAP are identified separately on your pay advice slip.

6.5.3 Pay advice slips will normally be sent to your home address during the Adoption Pay Period.

7. Pension

7.1 You will pay pension contribution on the pay actually received during paid SAL, even though that pay may be less than you would normally receive. For pension purposes, the period of adoption absence should be treated throughout as if it were a period during which the employee in question was working normally.

7.2 During any period of unpaid OAL, you will be deemed to have paid basic pension contributions. The service will count as normal for pension purposes.

7.3 For any period of unpaid AAL, the unpaid period will not count for pension purposes unless you make an election for it to count. Such an election has to be made within the period of 30 days beginning with the day you return to work or resign. If you wish to make such contributions please notify Payroll.

8. Contact and Working during Statutory Adoption Leave

- 8.1 During SAL, you and the Parish Administrator are encouraged to stay in contact. The Council may make reasonable contact with you at home during this time to discuss such issues as your return to work, workplace developments, training opportunities etc. You may also wish to keep in contact with the Council.
- 8.2 In addition, keeping in touch (KIT) days allow you if you wish, to come back into work up to a maximum of 10 days during your SAL, at a time agreed with the Council. This may be to attend a particular training course, meeting, etc.
- 8.3 Any work you do under your contract of employment on a day will count as a whole KIT day so, if you attend for a one hour training session for example, you will have used up one of your KIT days. If you use up all your 10 KIT days, you will thereafter lose a week's SAP for any week in which you work. (If a week during your SAL contains one or more KIT days but no other work, you will retain your SAP for that week. If, however, a week contains the last of your KIT days and another day(s) work you will lose your SAP for that whole week.)
- 8.4 Where you use a KIT day to attend a meeting or a training session for example, you will be paid your normal contractual pay for actual hours worked on a KIT day. In this case, any SAP due for that day will be offset against the contractual pay earned that day.
- 8.5 Pension contributions will be payable on any KIT days worked, based on the pay you receive for that day.
- 8.6 You will suffer no detriment because you took, considered taking, or did not take KIT days.
- 8.7 KIT days must be agreed in advance between you and the Council. You cannot insist on the Council allowing you to come into work.
- 8.8 The above provisions do not preclude you from coming into the workplace for the purpose of informal visits of a social nature. Informal contact during SAL is to be welcomed and such visits will not count towards your KIT day entitlement.

9. Return to Work

- 9.1 SAL is 52 weeks – if you want to change your return to work date you must give the Council at least 8 weeks' notice.
- 9.2 If you attempt to return to work early without giving the required notice, the Council is entitled to postpone your return so that 21 days' notice has been given.
- 9.3 If you decide not to return to work after the adoption you must inform the council as soon as possible in writing. The usual notice periods for resignation will apply. The Council will notify Payroll. If you do not specify a date of termination then the date of your letter will be used. You will continue to receive any SAP to which you are entitled.
- 9.4 All employees, irrespective of the hours worked or length of service, during OAL have the **right to return** to the job in which they were employed and on the same terms and conditions as when they took the SAL. 'Job' means the nature of the work and the capacity and place in which employed. If returning at the end of AAL, the right will be to a similar job. This should not be substantially less favourable.
- 9.5 If you are considering returning to work on a part-time or job-share basis, then you should make this known before commencing SAL. You still have the option to return to your current full-time job, but the possibility of reduced hours can be explored.

9.6 If you return from SAL on reduced hours you will be able to keep/receive any half pay OAP to which you are entitled so long as you remain in employment for a period of at least three months from the end of your SAL.

10. Adoption and Redundancy

10.1 Where a potential redundancy situation exists or there is a planned organisation, any employee on Adoption Leave will be fully consulted. The employee must be offered a suitable alternative job if one is available and will not need to apply for it. If there is no suitable alternative work and it is a genuine redundancy situation, they could get redundancy pay. The council will not select an employee for redundancy because of their adoption leave or a related reason.

11. Disrupted Placement

11.1 If the child's placement is terminated (for whatever reason) during either the ordinary or additional adoption leave, the leave period will end eight weeks after the week during which the employee is notified.