



ADUR & WORTHING  
COUNCILS

# Adoption Policy

## 1.0 Overview

- 1.1 The Councils are committed to all its employees being able to support their families alongside their work commitments, whilst appreciating that this can, at times, be a challenge.
- 1.2 The aim of this policy is to provide a standard and equitable approach to the management and calculation of adoption leave, including surrogacy.
- 1.3 This policy only applies to employees, with the exception of the right to time off for antenatal appointments/adoption appointments. They also apply to certain agency workers. See section 8.0 for further details.

## 2.0 Areas of responsibility

- 2.1 All employees have the responsibility for complying with this policy. Individual areas of responsibility are:
  - **Corporate Leadership Team** – publicising the policy
  - **HR team** - reviewing this policy to ensure it is effective and advising managers on the interpretation and consistent application of the policy and on best practice
  - **Managers** - responsibility for ensuring the fair application of this policy, liaising with employees before and during leave.
  - **Employees and those working on behalf of the Councils** – complying with the spirit and wording of this policy, ensuring they read and understand this policy and submit relevant documentation as required.

## 3.0 Adoption leave

- 3.1 The Councils' policy on adoption leave applies to all employees who are:
  - a. adopting a child under the age of 18 through a UK approved adoption agency
  - b. fostering a child with a view to possible adoption
  - c. having a child through a surrogate mother.

- 3.2 Adoption leave and pay may also be available for adoptions from overseas, which is not dealt with in this policy. Please contact HR for information on eligibility and process.
- 3.3 In some cases, shared parental leave may be available. Details can be found in the Shared Parental Leave Policy.

### **Entitlement to adoption leave**

- 3.4 In adoption cases or fostering for adoption cases, employees are entitled to adoption leave if they meet all the following conditions:
- a) the employee is adopting a child through a UK adoption agency, or is a local authority foster parent who has been approved as a prospective adopter.
  - b) The adoption agency or local authority has given the employee written notice that it has matched the employee with a child for adoption, or that it will be placing a child with the employee under a fostering for adoption arrangement, and tells the employee the date that the child is expected to be placed into their care (the **Expected Placement Date**).
  - c) The employee has notified the agency that they agree to the child being placed with them on the Expected Placement Date.
- 3.5 In a surrogacy case, the employee is entitled to adoption leave if both of the following conditions are met:
- a) A surrogate mother gives birth to a child who is biologically the employee's child, the child of the employee's spouse or partner, or the child of them both.
  - b) The employee expects to be given parental responsibility for the child under a parental order from the court. The child must live with the employee and the employee must apply for the parental order within six months of the child's birth.
- 3.6 If a couple is adopting, they must choose who is going to take the adoption leave. The other adopter may be entitled to Paternity Leave.
- 3.7 Only one period of leave is available, irrespective of whether more than one child is placed with the individual for adoption as part of the same arrangements.

### **Notification requirements: adoption**

- 3.9 Within 7 days of being matched with a child (or where that is not reasonably practicable, as soon as reasonably practicable), the adopter must inform their manager that they intend to take adoption leave. They must also state in writing:

- the Expected Placement Date of the child; and
- the date they would like to start adoption leave

3.10 The employee will be written to within 28 days to inform them of the date they would be due to return to work (the **Expected Return Date**) assuming that the employee takes the full entitlement to adoption leave.

3.11 A copy of the matching certificate issued by the adoption agency should be provided promptly to their manager.

#### **Notification requirements: surrogacy**

3.12 In a surrogacy case, the employee must tell their line manager in writing of their intention to take adoption leave and give the Expected Week of Childbirth. The employee must give this information by the end of the 15th week before the Expected Week of Childbirth, or if that is not reasonably practicable, as soon as is reasonably practicable.

3.13 The employee will be written to within 28 days of receiving the notification, to confirm the Expected Return Date, assuming the employee takes the full entitlement to adoption leave.

3.14 When the child is born, the employee must tell their line manager of the date of birth.

#### **Starting adoption leave**

3.15 In adoption or fostering cases, Ordinary Adoption Leave may only start at a predetermined date no more than 14 days before the Expected Placement Date, or on the date of placement itself, but no later.

3.16 If the employee wants to change the intended start date, the employee should give as much notice as they can, but wherever possible at least 28 days before the intended start date (or the new intended start date if the employee wants to bring the date forward). Following instruction from the manager, HR will write to the individual within 28 days with the new Expected Return Date.

3.17 In surrogacy cases, Ordinary Adoption Leave will start on the day that the child is born, unless the employee is in work, in which case it will start on the following day. This start date cannot be changed.

#### **Adoption pay**

##### **Employees who have less than one year's continuous service by the date of placement:**

3.18 The individual will have the right to a maximum of 39 weeks statutory adoption pay if they are entitled to it. This pay is treated as earnings and is therefore subject to the normal pay deductions (i.e. national insurance, income tax and pension

contributions). Statutory adoption pay will cease if an individual returns to work before the end of the 39 week period or if the placement is disrupted (as outlined below).

- 3.19 If the employee leaves employment for any reason (for example, by resignation or redundancy), the individual is still eligible for statutory adoption pay if they have already been notified by an agency that they have been matched with a child. In such cases, statutory adoption pay starts either 14 days before the Expected Placement Date *or* the day after their employment ends, whichever is the later.

**Employees who have one year’s continuous service by the date of placement:**

- 3.20 The adoption pay entitlement for those with one year’s continuous service at the beginning of the child’s placement is shown on the table below. This pay is treated as earnings and is therefore subject to the normal pay deductions (i.e. national insurance, income tax and pension contributions).

Period of time	Paid if an individual confirms that they intend to return to work following the adoption leave	Paid if an individual is not intending to return to work following the adoption leave
First six weeks	90% of a week’s pay (including allowances) offset against payment made by way of statutory adoption pay	90% of a week’s pay (including allowances) offset against payment made by way of statutory adoption pay
Following 12 weeks	Occupational adoption pay at 50% of a week’s pay (including allowances) plus statutory adoption pay (this amount cannot exceed an individual’s normal full pay).	Statutory adoption pay
Following 21 weeks	Statutory adoption pay	Statutory adoption pay
Following 13 weeks	No pay	No pay

- 3.21 The individual can either choose to receive the pay as detailed above, or ask for the pay to be divided equally across the period of time that they will be on adoption leave. To choose to spread the pay across a number of months, individuals should contact the payroll department.

- 3.22 In order to receive occupational adoption pay, individuals must first confirm in writing that they intend to return to work for a minimum period of three months after their adoption leave (and any shared parental leave that they may take in respect of the same child), and that they agree to repay any occupational adoption pay (but not statutory adoption pay) if they later decide to not work this minimum period.

## **Disrupted adoption**

- 3.23 In an adoption or fostering for adoption case, adoption leave is disrupted if it has started but:
- a. the employee is notified that the placement will not take place
  - b. the child is returned to the adoption agency after placement or
  - c. the child dies after placement.
- 3.24 In a surrogacy case, adoption leave is disrupted where the employee does not apply for a parental order within the relevant time, or a court does not grant a parental order and the time limit for appeal or further application has expired, or where the child dies.
- 3.25 In the event of disruption, the entitlement to adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which disruption occurred, unless their entitlement to leave or pay would have ended earlier in the normal course of events.

## **4.0 Returning to work**

- 4.1 Once the employee has notified the line manager of the intended start date, the line manager shall notify HR. A letter will be sent to the employee within 28 days to inform the employee of the expected return date. If the start date has been changed (because the employee gave notice to change it), HR will write to the employee within 28 days of the start of adoption leave with a revised expected return date.
- 4.2 The employee will be expected back at work on their Expected Return Date unless the employee informs otherwise. It would assist if the employee confirms during their adoption leave that they will be returning to work as expected.
- 4.3 If the employee wishes to return to work earlier than their Expected Return Date, they must give at least eight weeks' notice. It is helpful if this notice is given in writing. If eight weeks' notice is not given, the return date may be postponed until eight weeks after the notice is given, or to the Expected Return Date if sooner.
- 4.4 If the employee wishes to return later than their Expected Return Date, they should either:
- a. request unpaid parental leave (in accordance with the Councils' policy), giving as much notice as possible but not less than 21 days or

- b. request paid annual leave in accordance with their contract, which will be at the Councils' discretion.

4.5 If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence and the Councils' Sickness Absence Policy will apply.

4.6 In all other cases, late return will be treated as unauthorised absence.

### **Deciding not to return**

4.7 If the employee decides not to return to work, or are unsure, it is helpful if this is discussed as early as possible. If the employee decides not to return, notice of resignation should be given in accordance with their contract. Once notice of resignation has been given, please note that this cannot be changed without the Councils' agreement.

## **5.0 Time off to attend antenatal appointments/adoption appointments**

5.1 The Councils will support individuals to attend adoption/antenatal appointments.

5.2 The entitlements to time off for adoption/antenatal appointments in this section apply to employees and qualifying agency workers.

5.3 An agency worker is a qualifying agency worker if the agency worker has worked in the same role with the Councils for at least 12 continuous weeks (which may include more than one assignment).

5.4 The entitlements are detailed in the table below:

	<b>Main adopter</b>	<b>Secondary adopter</b>
Adoption	<p>Paid time off for up to 5 adoption appointments. Employees should show the employer (if requested), an appointment card or other documents showing that an appointment has been made.</p> <p>An adoption appointment is an appointment arranged by an adoption agency (or at the agency's request) for the employee to have contact with a child who is to be placed with them for adoption.</p>	<p>Unpaid time off (up to 6.5 hours per appointment including travel and waiting time) for 2 adoption appointments. If more time off is needed, individuals should refer to the leave policy.</p>

	The time off to attend an appointment can be taken once the adoption agency has notified the employee that a child is to be placed with them for adoption but before the child is actually placed with them.	
Baby via surrogacy	Unpaid time off to attend with the surrogate up to 2 antenatal appointments (up to 6.5 hours per appointment), if they expect to satisfy the conditions for, and intend to apply for a Parental Order for the child.	Unpaid time off for up to 2 antenatal appointments (up to 6.5 hours per appointment), if they expect to satisfy the conditions for, and intend to apply for a Parental Order for the child.

- 5.5 Please give as much notice of the appointment as possible. Further information (including formal confirmation of appointment) may be requested by the manager and, if so, the employee must provide this information.
- 5.6 Managers should try to be flexible in supporting the father/partner/secondary adopter to attend these antenatal appointments, allowing the use of annual leave or accrued hours, as detailed in the flexible working policy, where possible.

## 6.0 Keeping in touch (KIT) days

- 6.1 Individuals may attend work for a maximum of 10 Keeping in Touch Days (KIT Days) at any time during adoption leave.
- 6.2 A KIT Day can include training, team meetings or any activity undertaken to enable individuals to keep in touch with their workplace. KIT days are valuable in supporting an individual to have a smooth transition back to work and should be encouraged.
- 6.3 KIT Days are not compulsory for either the employee or the Councils and should be discussed before an individual goes on leave. This should be part of a wider discussion about ways of keeping in touch over the leave period and whether the individual would like to have KIT days.
- 6.4 Up to a maximum of 10 KIT Days may be worked during a period of leave without affecting payments. Working for part of a day will count as one day for the purposes of your KIT day allocation.
- 6.5 It is the Councils' policy that where an employee attends work on a KIT day, they will be paid for the number of hours they work at their normal rate of pay, which will be paid on top of any statutory adoption pay that is due.

## **7.0 Pension regulations**

- 7.1 Those receiving adoption leave pay (occupational or statutory) who contribute to the local government pension scheme must continue to pay pension contributions. This will be based on the actual remuneration (including statutory pay) received.
- 7.2 Anyone taking additional unpaid leave has a choice of whether or not to pay pension contributions for the period of unpaid leave. The Payroll Section will write to individuals concerned at the appropriate time asking for notification of whether the individual is intending to pay pension contributions or not.
- 7.3 If the individual wants to pay additional contributions, this will be based on the actual remuneration received immediately before the unpaid period. If an individual chooses not to pay pensions contributions, this period will not count as service for pension purposes.

## **8.0 Annual leave**

- 10.1 Holiday entitlement will continue to accrue during adoption leave in accordance with the employee's contract of employment.
- 10.2 If an employee takes adoption leave and returns to work in a new annual leave year, the employee has the option to:
  - a. use their leave to 'return to work' at an earlier point (but be on annual leave)
  - b. use the leave in the first weeks of their return to 'phase' back into work or
  - c. attach it to the end of their leave.
- 10.3 Any holiday carried over from a previous leave year should be taken within three months of returning to work.

## **9.0 Right to return to work**

- 9.1 Individuals on adoption leave are entitled to return to the job they were employed to do if the period of leave is 26 weeks or less.
- 9.2 If the leave is more than 26 weeks, then the individual has the right to return to the same job they had before their absence unless it is not reasonably practicable (other than by reason of redundancy) for the employee to return to their former job. In that case, the employee is entitled to return to another job that is both suitable and appropriate for them to do. The terms and conditions cannot be less favourable.
- 9.3 For more information about returning to work if the individual's team is going through a restructure, please see the managing people change policy available on the intranet or in the workplace.

### **Temporary contract information**

- 9.4 If an individual is on a temporary contract which expires during their adoption leave, providing the post is still required, the contract should be extended.
- 9.5 If the post is not required or funding no longer exists, the temporary contract will come to an end.
- 9.6 If the individual has received occupational adoption pay and the temporary contract comes to an end, the occupational adoption pay will continue until the final day of service. It will not be repayable.
- 9.7 For details about specific circumstances, please contact HR.

## **10.0 Flexible working**

- 10.1 Requests to change the working pattern (such as working part-time) after the leave will be dealt with in accordance with the Councils' Flexible Working Policy. It is helpful if flexible working requests are made as early as possible.

## **11.0 Monitoring and Review**

- 16.1 This policy will be monitored and reviewed on a regular basis by the HR team. It does not form part of any contract of employment.

Date policy agreed with Unison: (31st March 2021)

Date agreed by Joint Staff Committee: (date)

Date policy formally adopted: (date)

Date for review: 3 years from formal adoption of policy (date)