

ADOPTION SCHEME



1.0 Purpose

This is to enable employees to understand their entitlements to leave and pay when adopting a child or children from the UK or overseas.

This applies to all employees regardless of their status or length of service.

This document does not form part of any employee's contract of employment. It may be amended from time to time.

2.0 Definitions

Adoption Leave is available where an employee has been notified of being matched with a child on or after 5th April 2015 or where a child has been placed with them for adoption on or after this date. Where a couple are adopting jointly they must decide which one of them will take adoption leave and which one will take paternity leave (adoption) or shared paternity leave (adoption).

Provided they meet the eligibility criteria, parents who have a child through surrogacy will be permitted to take ordinary paternity leave and pay; adoption leave and pay and shared parental leave and pay.

Adoption from overseas is the adoption of a child who enters Great Britain (GB) from outside the United Kingdom (UK) in connection with, or for the purpose of, adoption. Adoption leave and pay is not available to employees if they have not been assessed and approved (i.e. those who have not received official notification as detailed below).

3.0 Key Principles

To be eligible for Adoption leave (AdL) an employee must:

- Be the child's adopter

In addition, for an adoption of a child from the UK the employee must:

- have been matched with a child to be placed with them by a UK adoption agency (Including Fostering for Adoption placements under s.22C of the Children Act 1989.)
- have notified the adoption agency that they agree that the child should be placed with them and have agreed on the date of placement
- notify the Council of when they want to take their adoption leave within 7 days of the date on which they are notified of having been matched with the child

In addition, for an adoption of a child from overseas the employee must:

- have received an official notification – i.e. written notification that the authority is prepared to issue a certificate (or has issued a certificate) confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent
- have complied with the notification procedures
- have informed the council of the date official notification was received and the date the child is expected to enter Great Britain. This must be within 28 days of receiving notification of the date

- give notice of the chosen date for the adoption leave to begin – which must be 28 days prior to the start date for the leave
- give notice of the date on which the child enters Great Britain – which must be given no later than 28 days after the date of entry
- provide the council with a copy of the official notification together with the evidence of the date of entry into Great Britain.

There is an entitlement to only one period of adoption leave for each placement regardless of the number of children placed.

4.0 Time off for Appointments

Where an employee has been notified of being matched with a child on or after 5th April 2015 or where a child has been placed with them for adoption on or after this date, the main adopter will be eligible to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

Parents who have a child through surrogacy will be entitled to take unpaid time off to attend two antenatal appointments with the woman carrying the child.

5.0 Adoption Leave

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave.

The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures as set out below.

The employee can choose to start their adoption leave on:

- The date the child is placed for adoption, or
- a predetermined date, no more than 14 days before the date the child is expected to be placed, and no later than the expected date of placement. The date may be changed providing 28 days' notice of the change is given to the Council. Where this is not possible, it must be given as soon as is reasonably practicable.

An Adoption Leave Request form is available on InSite for this purpose

To make administration as easy as possible, the employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

6.0 Adoption Pay

Employees will be eligible for statutory adoption pay (SAP) if:

- they have worked continuously for PCC for at least 26 weeks by the week they were matched with a child
- they earn on average at least £112 a week before tax
- they give the correct notice
- they provide proof of the adoption

SAP is payable at 90% of the employee's normal weekly earnings for the first six weeks, the remaining leave is paid at the prescribed rate which is set by the Government for the relevant tax year or the earnings-related rate if this is lower.

SAP is treated as earnings and is therefore subject to PAYE and national insurance deductions.

SAP entitlement depends on average weekly earnings in the 'relevant period'. The relevant period is the eight weeks before the matching week. The end of the relevant period is the last normal pay day on or before the Saturday of the matching week.

If an employee is not eligible for SAP then form SAP1 will be issued which explains why SAP cannot be paid.

SAP will cease if the employee is taken into legal custody or dies. If the placement of the child is disrupted then the SAP will end 8 weeks after the end of the week in which the disruption occurred.

SAP is not payable in any week in which an employee is entitled to SSP.

7.0 Occupational Adoption Pay (OAP)

Employees who have completed 1 year's continuous local government service at the beginning of the 11th week prior to the date of adoption (the matching week) are entitled to additional benefits under the Peterborough City Council OAP scheme.

The total of SAP and OAP should not exceed normal full pay, regardless of the option taken below, or when the payment is made.

Employees can choose from one of the following options in addition to their SAP:-

- **Option A: 12 weeks at half salary paid during Weeks 7-18; OR**
- **Option B: 06 weeks full pay paid in a lump sum on return from adoption leave**

In order to claim OAP the employee must provide written notification of their intention to return to work at Peterborough City Council after their adoption leave. A sample form is attached at [Appendix A](#). This form will be sent to all qualifying employees by HR Support. Although there is no specified date by which this notification should be given, payment of OAP will only be made when the employee feels able to make an informed decision to return.

OAP shall be paid only on the understanding that the employee will return to employment at the Council for a period of at least three months following their adoption leave.

If an employee decides not to return to work, payments during the subsequent 20 weeks will be paid at the SAP rate only and if any OAP was claimed then the total sum of OAP is refundable to the Council. In such circumstances, the line manager must be informed immediately, and arrangements made to reimburse the sum in full.

Payments made to the employee by way of SAP are not refundable. OAP will not be payable to the partner of the employee where shared parental leave is being taken.

Definition of a week's pay:

- A week's pay for employees whose remuneration for normal working hours does not vary with the amount of work done in the period is the normal week's pay.
- Where there are no normal working hours a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

If an employee becomes eligible for a pay rise before the end of their adoption leave they will be treated for OAP purposes as if the pay rise had applied throughout the relevant period. This means that OAP will be recalculated and increased retrospectively. In those circumstances arrangements should be made for the employee to be paid a lump sum to make up the difference between any OAP already paid and the amount payable by virtue of the pay rise. Any future OAP payments at the earnings related rate (if any) will also be increased as necessary.

8.0 Notice Requirements

To be entitled to take adoption leave and receive SAP, the employee is required to give the Council written notification of his/her intention to take adoption leave no later than seven days

after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends his/her adoption leave to start.

The employee is permitted to bring forward his/her adoption leave start date, provided that he/she advises 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 employee may also postpone his/her adoption leave start date, provided that he/she advises the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The employee must also provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

Within 28 days of receiving the employee's notice of intention to take adoption leave, the Council will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

9.0. Adoption Support Leave

Adoption Support leave is a contractual entitlement, to help your partner or spouse look after a child placed in your care at or around the time the child is placed with the family. Eligible employees may take one weeks' paid leave at or around the time of the placement. This will be classed as week one of any Ordinary Paternity Leave (Adoption) taken (see para 10 below).

Requests should be submitted in writing using the Adoption Support Leave Request Form to the Line Manager at least 28 days before the leave is due to commence. It is understood that in the event of early, emergency placement it may not be possible to give notice.

10.0 Ordinary Paternity Leave (Adoption)

Ordinary paternity leave (OPL) is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave.

The employee must have 26 weeks' continuous service by the week in which the child's adopter is notified of having been matched with the child for adoption.

To qualify for ordinary paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother.

Ordinary paternity leave is granted in addition to an employee's normal annual leave entitlement. Ordinary paternity leave must be taken in a single block of one or two weeks within eight weeks of the adoption of the child. Ordinary paternity leave can start either from the date the child is placed for adoption or from a chosen number of days or weeks after that date.

There is an entitlement to only one period of paternity leave regardless of the number of children placed at any one time.

The employee must give written notice of his/her intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start ordinary paternity leave, the length of the intended ordinary paternity leave period and the date on which the adopter was notified of having been matched with the child.

If an employee subsequently wishes to change the timing of the ordinary paternity leave, he/she must give 28 days' written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that he/she is entitled to ordinary paternity leave and ordinary statutory paternity pay.

Pay during ordinary paternity leave will be at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. However, employees whose average weekly earnings are below the lower earnings limit for national insurance contributions will not be eligible for ordinary statutory paternity pay.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee starts his/her paternity leave.

The Employee should complete the Paternity Leave Request form available on Insite, (further documentary evidence may be requested from your line manager).

If a disruption occurs after the child has been placed the employee will be entitled to paternity leave and SPP as planned.

SPP is not payable in any week in which an employee is entitled to SSP. SPP is not refundable if the employee does not return to work following Adoption leave.

11.0 Ordinary Parental Leave

Ordinary Parental Leave is available where an employee has been notified of being matched with a child on or after 5th April 2015 or where a child has been placed with them for adoption on or after this date.

To qualify for ordinary parental leave an employee must have completed at least one year's continuous service with the Council.

"Ordinary parental leave" should not be confused with shared parental leave.

Qualifying employees will be entitled to a maximum of 18 weeks' parental leave to be taken up until the child's eighteenth birthday.

Conditions of "ordinary" parental leave

An employee may not exercise any entitlement to parental leave unless he/she has complied with any request made by the Council to produce evidence as to:

- his/her entitlement (eg parental responsibility or expected responsibility for the child in question;
- the child's date of birth or date on which placement for adoption began;
- or, where the employee is exercising a right in relation to a disabled child, details of the child's entitlement to disability living allowance or personal independence payment).

Where the parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to the Council at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of parental leave requested.

The Council may postpone a period of parental leave (other than where parental leave has been requested immediately after placement for adoption) where the Council considers that its business would be unduly disrupted if the employee were to take leave during the period

requested. In such a case, the Council will allow the employee to take an equivalent period of parental leave beginning no later than six months after the commencement of the period originally requested. The Council will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice was given to the Council.

Employees may not take parental leave in blocks of less than one week (except in relation to a child who is disabled).

Employees may not take more than four weeks' leave in respect of any individual child in any year. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

12.0 Disruption to Placement

Where after starting their leave an employee is notified that the child will not be placed, or after the child is placed the child dies or is returned to the Adoption Agency, the employee will not be entitled to the full adoption leave period or SAP if payment is being made. In this situation adoption leave will end 8 weeks after the end of the week in which the disruption occurred. SAP will end 8 weeks after the end of the week in which the disruption occurred or until the end of the 39 week SAP period if that is sooner. There is no extension to AAL if disruption occurs with less than 8 weeks of the Leave remaining.

13.0 Rights during all leave mentioned in this policy

During all leave associated with adoption as mentioned in this policy, all terms and conditions of the employee's contract, except normal pay, will continue. Salary will be replaced by any statutory pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue, and pension contributions will continue to be paid during periods of leave.

During all leave mentioned in this policy, employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:

- notice of termination;
- redundancy compensation; and
- disciplinary or grievance procedures.

Employees taking any leave mentioned in this policy will be bound by the implied obligation of good faith, and any terms and conditions of employment relating to:

- notice of termination;
- disclosure of confidential information;
- the acceptance of gifts or other benefits; and
- participation in any other business.

14.0 Contact and Keeping in Touch Days (KIT)

The council reserves the right to maintain reasonable contact with employees during all leave associated with adoption as mentioned in this policy. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

Employees can agree to work for the council (or to attend training) for up to 10 days during their adoption leave without that work bringing their leave to an end and without loss of a week's statutory pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

During Shared Parental Leave, an employee can agree to work for the council (or to attend training) for up to 20 days without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days. If the employee is entitled to receive statutory shared parental pay for any week during which they attend work for SPLIT days, they will still receive this in the usual way. In addition, the council will also pay for each hour that is worked during a SPLIT day at the rate of the employee's hourly payment rate.

The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption or shared parental leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the Council.

Carrying out Election duties does not form part of the employee's substantive role or contract of employment, and so cannot count as a KIT or SPLIT Days.

Managers may find it helpful to discuss with their employee arrangements for staying in touch with each other before the adoption leave starts. This may include agreement on the way in which contact will happen, how often, and who will initiate it. It could also cover the reasons for making contact and the types of issues which may be discussed. Reasonable contact will vary according to the employee, hence it is sensible to discuss this before the leave commences.

15.0 Returning to Work

Returning to work after adoption leave

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that he/she gives the appropriate notification. Alternatively, the employee may take his/her full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, he/she must give at least eight weeks' notice in writing to the Council of the date on which he/she intends to return.

Failure to return to work by the end of any leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the leave period or unless the holiday has requested holiday which has been agreed.

If the employee decides during the leave that he/she does not wish to return to work, he/she should give written notice of resignation to the Council as soon as possible and in accordance with the terms of his/her contract of employment. If the notice period would expire after the leave has ended, the Council may require the employee to return to work for the remainder of the notice period.

The employee has the right to resume working in the same job if returning to work from ordinary adoption leave, ordinary paternity leave or shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory adoption leave or statutory paternity leave taken by the employee in relation to the same child, totals 26 weeks or less.

If the employee returns to work after a period of additional adoption leave, he/she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory adoption or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional adoption leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it

is not reasonably practicable for the Council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

At the end of parental leave, the employee will be entitled to return to the same job, provided that the leave was for a period of four weeks or less (and did not follow on immediately from a period of additional adoption leave). If the period of parental leave was longer than four weeks (or followed on immediately from a period of additional adoption leave), then the employee will be entitled to return to the same job or, if that is not practicable, to a similar job that has the same or better status, terms and conditions as the previous job.

16.0 Redundancy during all leave mentioned in this policy

In the event that the employee's post is affected by a proposed restructure or other situation through which their post may become at risk of redundancy during their leave, they should be consulted in accordance with the Managing Change Policy.

Employees on leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills. If the employee is offered a suitable alternative vacancy then they are entitled to a four week trial period in which to decide whether the employment is suitable.

17.0 Abbreviations used in this policy

Adoption Leave	AdL
Statutory Adoption Pay	SAP
Ordinary Adoption Leave	OAL
Ordinary Paternity Leave	OPL
Statutory Paternity Pay	SPP
Statutory Sick Pay	SSP
Shared Parental Leave	SPL
Statutory Shared Parental Pay	ShPP
Shared Parental Leave in touch Days	SPLIT
Keeping in Touch Days	KIT
Occupational Adoption Pay	OAP