

**APPENDIX A**

Forest Heath District Council and  
St Edmundsbury Borough Council

Adoption Policy and Procedure

2014



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## Adoption Policy and Procedure

### **Introduction:**

We recognise the need for staff to balance both home and work commitments and will take a supportive approach to adoption leave. We also strive to create and maintain a healthy and safe working environment. This policy and procedure should be followed by all employees of the West Suffolk Councils and is broadly in line with the Maternity Policy and Procedure.

When two people have been jointly matched for adoption, one of them must elect to be the child's adopter for the purposes of the Paternity and Adoption Leave Regulations 2002. They should therefore agree at the time of the match which member of the couple will be treated as the adopter for the purposes of taking statutory adoption leave and pay. The other member of the couple may be entitled to take one or two consecutive weeks' paternity leave

If siblings are adopted at the same time, only one period of adoption leave and pay will apply. Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children.

### **1. Eligibility**

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

To qualify for 52 weeks **Statutory Adoption leave** you must:

- be newly matched with a child by an approved adoption agency ("matched" means given the details of the child they think is suitable for you to adopt);
- have worked for local government for 26 continuous weeks by the end of the week in which you are notified of having been matched with the child for adoption (this is known as the "matching week");
- notify the adoption agency that you agree to the child being placed with you and agree a date for the placement; and
- have or expect to have responsibility for the upbringing of the child.

However, the Government has confirmed, in its response to the modern workplaces consultation, that it intends to abolish the requirement that employees must have 26 weeks continuous employment to qualify for adoption leave and make it a "day 1" right (in order to bring adoption leave in line with maternity leave). Removing this 26-week qualification requirement will come into effect from 5 April 2015.

Adoption Leave is made up of 26 weeks ordinary adoption leave (OAL) plus 26 weeks additional adoption leave (AAL) making 52 weeks adoption leave. Additional adoption leave will start immediately after ordinary adoption leave. You may also qualify for 39 weeks **Statutory Adoption pay** (SAP) subject to certain conditions – see para 7.

If you have more than 1 year's local government service you will also be eligible for additional **Contractual Adoption pay**. (See section 7).

## **2. Giving Notice to take Adoption Leave**

To be entitled to adoption leave you must notify Human Resources/your line manager in writing of:

- your intention to take adoption leave;
- when you expect the child to be placed with you; and
- when you want your adoption leave to start.

This notification should be no later than 7 days from the date you are notified of a match with a child by the adoption agency or as soon as practicable. It is helpful if you can discuss this with your manager as soon as possible.

Adoption leave may start the first working day after the adoption or a date which is not more than 14 days before the child is expected to be placed with you. Adoption leave can start on any day of the week.

The start date of adoption leave may be brought forward or postponed provided that you advise the employer in writing at least 28 days before the new start date or original proposed date, or if this is not possible, as soon as reasonably practical. and Human Resources will respond within 28 days. You may decide when you wish to start your adoption leave, but leave cannot commence any earlier than 14 days before the child is expected to be placed with you.

Human Resources will respond within 28 days of receipt of your letter setting out the end date of the additional adoption leave or confirm the date you intend to return to work (if indicated).

On request, you must provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

If you resign or are dismissed before the date you have notified, you lose the right to adoption leave, but you may still be eligible for SAP. If you are dismissed prior to or during adoption leave you forfeit the right to contractual adoption pay from the date of dismissal.

## **3. During Adoption leave**

You are not entitled to your normal pay during adoption leave, but you are

entitled to all other non-remuneration benefits and terms and conditions that you would otherwise have i.e. annual leave; gym membership, essential car user allowance, lease car, mobile phone, laptop, childcare vouchers, eye test and public holidays. If you are eligible (see section 7) your pay will be replaced with statutory adoption pay.

We will make reasonable contact with you while you are on adoption leave and in addition you can work a maximum of 10 days (or 10 part days) by mutual agreement. These are known as keeping in touch (KIT) days. KIT days will not end adoption leave and will be paid at your normal daily rate in addition to any SAP and contractual adoption pay. The number of KIT days will not be reduced for part time employees ie if you work 3 days a week you can still take up to 10 KIT days. KIT days will not extend the overall period of adoption leave.

KIT days can be used for any activity which would form part of the employment eg attend meetings, training. This is a voluntary scheme and it is helpful to discuss these arrangements with the line manager before the start of the adoption leave.

As this is paid leave, pension will be deducted at the normal rate and the days will count for "reckonable" service.

#### **4. Right To Return to Work**

The date of return to work will be the first working day 52 weeks after the start of your adoption leave. No notice is required to return to work at the end of 52 weeks.

If you have already given notice to return to work as part of your initial letter (see para 2) no further notice is required.

You may return to work at any time during ordinary and additional adoption leave provided you give 8 weeks notice in writing of when you intend to return. If less than 8 weeks notice is given, your return to work may be postponed until the full 8 weeks notice has been given or until the end of the 52 weeks adoption leave, whichever is the sooner. There is no entitlement to pay because your return to work has been postponed.

You have the right to amend the chosen date of return by giving 8 weeks notice in writing to take up to a maximum of 52 weeks adoption leave.

##### **During Ordinary Adoption Leave**

If you return to work before or at the end of OAL you are entitled to return to the same job that you left on the same terms and conditions as if you had not been absent – unless a redundancy situation has arisen. (See section 14.)

##### **During Additional Adoption Leave**

If you return to work during AAL you have the right to return to the same job or, where that is not practicable, a suitable alternative role, which is no less favourable than your original job with regard to the Terms and Conditions of Employment – unless a redundancy situation has arisen.

### **Unable to Return Due to Illness**

If you are unable to return to work at the end of your adoption leave due to illness you will be put onto normal sick leave and pay, according to your contract.

## **5. Flexible Working**

If you wish to vary your working arrangements on your return from adoption leave this will be considered in accordance with the West Suffolk [Flexible Working Policy](#) which is available on the intranet or from Human Resources. Any requests will be given due consideration and will not be unreasonably refused. Where changes to working are not possible the reasons will be fully discussed and put in writing.

## **6. Decision Not to Return to Work**

If, whilst on leave, you decide that you will not be returning to work, you should let Human Resources or your line manager know in writing as soon as possible. Normal notice periods apply. You should specify the date of termination, which could be the end date of the 52 weeks adoption leave, and you will continue to receive any adoption pay due and accrue leave during the notice period.

## **7. Adoption Pay**

### **Statutory Adoption Pay**

If you have 26 weeks continuous local government employment by the end of the matching week you are eligible to receive statutory adoption pay if you:-

- a) earn an average of at least the lower earnings limit for the payment of National Insurance contributions in the 8 weeks prior to the matching week;
- b) give notice in accordance with para 2; and
- c) provide evidence of the placement for adoption (normally matching certificate).

SAP is 39 weeks pay made up of

6 weeks x 9/10<sup>th</sup> average weekly pay **plus**

33 weeks x SAP (or 90% of average earnings for full 39 weeks if

earnings are less than SAP)

From the 6 April 2014 the rate of Statutory Adoption Pay will increase to £138.18 per week or 90% of weekly earnings, whichever is lower.

If you have more than one job you may be able to get SAP from each employer. If you are not entitled to SAP you will be sent a letter by Human Resources explaining why you are not eligible. In this case, your adoption agency may have information on the financial help available to adopters or you may be eligible for Income Support or other benefits.

SAP is reviewed annually by the Inland Revenue.

### **Disentitlement from SAP**

- i. lack of evidence (i.e. no matching certificate);
- ii. working during adoption leave (except for KIT days); or
- iii. being taken into legal custody

The onus is on the employee to inform their employer of the above.

### **Contractual Adoption Pay**

In addition to statutory adoption pay you will be entitled to **contractual adoption pay** if you have:

- a) completed one year's continuous local government service by the end of the matching week; and
- b) declared an intention to return to work for 3 months following adoption leave.

Contractual adoption pay is an additional 12 weeks at half pay.

The 12 weeks half pay is refundable gross if the employee does not return to work for a period of at least 3 months because of resignation or dismissal. This 3 month period is not calculated on a pro-rata basis for part-time employees, it is 3 months service.

The 12 weeks half pay can be paid as it becomes due (spread over 12 or 20 weeks of the adoption leave), or as a lump sum three months after the employee has returned from adoption leave.

If you are uncertain about returning to work we suggest that you consider deferring payment of your half pay until you have returned to work for 3 months.

Combined SAP and half pay must not exceed your normal full pay.

## **8. Parental Leave**

Subject to eligibility criteria, both parents are entitled to take unpaid [parental leave](#). Details of the scheme is on the intranet or is available from Human Resources.

## **9. Paternity Leave and Pay (male or female partner)**

You are entitled to take up to 2 weeks' paid statutory paternity leave if you are the child's biological or adopting father or partner (male or female) who expects to have responsibility for bringing up the child. You must earn over the NI limit and have 26 weeks' continuous service by the end of the matching week. If your earnings are less than Statutory Paternity Pay you are entitled to 90% of your earnings.

You must take this leave within 8 weeks of the adoption. The 2 weeks must be complete and consecutive weeks. You should give notice no later than 7 days from the date you are notified of a match, or as much notice as is practical.

## **10. Adoption Support Leave**

If you are the partner who is not taking adoption leave or are a carer nominated by the adopter, you could take adoption support leave of 1 week at full pay. This leave is to assist in the care of the new child and provide support to the adopter at or around the time of adoption. We will need a copy of the matching certificate and this replaces 1 week of paternity leave.

## **11. Transfer of Adoption Leave (TAL)**

For a partner to take TAL the adopter must have ended their adoption leave. TAL may be for a period of between two and 26 weeks, must be for complete weeks and taken as one continuous period. TAL may be taken at any time between 20 weeks after the date of adoption and a year after the date of adoption.

The employer must be given 8 weeks' notice of the start date for this leave by the employee wishing to take TAL.

## **12. Additional Adoption Pay**

If the adopter has not taken their full entitlement to statutory adoption pay when he or she returns to work, the outstanding amount transfers to the partner who is taking TAL.

## **13. Annual Leave**

You will continue to accrue annual leave throughout your adoption leave. You must take annual leave in the current leave year wherever possible. One week's



leave may be carried forward to the end of May by agreement.

Subject to line management approval, annual leave can be taken in the first weeks back at work, effectively extending the adoption leave period. However any such period of annual leave is subject to operational requirements.

#### **14. Childcare Vouchers**

The West Suffolk Councils have a salary sacrifice scheme for costs of childcare. Details of the scheme can be found on [www.childcarevouchers.co.uk](http://www.childcarevouchers.co.uk), on the intranet or contact Human Resources/Payroll.

#### **15. Pension Contributions**

**Ordinary adoption leave** counts as membership under the scheme, and you will pay contributions at your normal % rate based on the pay you actually receive during your ordinary adoption leave. If ordinary adoption leave is unpaid, it still counts as membership but you do not contribute to the pension scheme.

**Additional adoption leave** counts as membership under the scheme during paid leave only. You will also pay contributions at your normal % rate on any pay you are entitled to during this period. Any unpaid leave will not count towards "reckonable" membership unless you opt to pay contributions for this period within 30 days of your return to work or resignation. Contact Human Resources for further information.

#### **16. Redundancy**

In the case of a job becoming redundant whilst the job-holder is on adoption leave, we will consider the employee for any other suitable alternative work that becomes available. You will have the right to be considered for such work, even though you are on adoption leave. Any such offer will be made before your employment ends and the new employment will commence immediately to preserve your continuous service.

If there is no such work available, then you will be made redundant and receive redundancy pay in line with your statutory and contractual entitlements plus all adoption pay that you would otherwise have been entitled to.

#### **17. Industrial Action**

If industrial action or any other interruption of work makes it unreasonable for you to return on the date that you specified, you may, instead, return when work resumes.

#### **18. Probationary Period**

If you commence your adoption leave during your probationary period you will have your probationary period extended and will complete the outstanding period when you return to work.

## **19. Job Vacancies**

You will be kept informed of vacancies so you can apply for vacancies in the normal way during your adoption leave.

## **20. Overseas Adoptions**

There are some differences in the law as it applies to domestic adoptions and to adoptions from overseas. The rules are complex and a member of the HR Advisory Team should be contacted as early as possible in the adoption process with a view to arranging similar benefits as those offered to those adopting in this country.

## **21. Concerns**

If for some reason the placement is not successful and ends during the adoption leave period then you will be allowed to continue adoption leave for a maximum of 8 weeks after the placement ends, or until the end of the SAP period if sooner.

If you have any concerns in relation to the adoption please contact your line manager or Human Resources who will ensure that sensitive consideration is given to any issues raised. A counselling or occupational health service is also available through Human Resources to offer support and advice if needed.

### **1. Enquiries and Change Control**

- 1.1 All enquiries relating to this document should be directed to Human Resources.
- 1.2 This policy will be subject to a review every two years and will be initiated by the Head of Human Resources and Organisational Development. Suggestions for any changes to this document should also be forwarded to the Head of Human Resources and Organisational Development.

Further information on maternity and paternity leave and pay is available from Human Resources.

## **Revisions**

| Date of review or revision | Reason | Author |
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