

Adoption Leave Policy

Introduction

This Adoption Leave Policy has been developed as part of South Tyneside Council's continued commitment to helping employees' balance their family and work life. This policy meets and exceeds recent legislation relating to adoption leave and pay and is available to all employees regardless of length of service.

This Adoption Leave Policy describes how an employee can take adoption leave and includes information on paternity leave during adoption.

Who Does the Scheme Apply to?

Employees adopting a child from an approved UK adoption agency, and the child will be new to the family unit. Where a couple employed by the school adopt jointly, adoption leave and pay is only available for one partner. The couple must decide which partner takes the adoption leave. The other partner may be entitled to paternity leave and pay. Only one period of adoption leave is available, regardless of the number of children that are placed as part of the same arrangement.

Arranging Adoption Leave

Within 5 working days of being informed of a match with a child by the adoption agency, the employee must complete the "Starting Your Adoption Leave" form, including when they expect the child to be placed with them, when they intend the adoption leave to start and return it to their Head Teacher, who should forward on to HR services.

The employee must give at least 28 working days' notice if they wish to change the start date of the adoption leave and pay to start. If this is not possible due to exceptional circumstances, the request must be discussed with their Head Teacher, as soon as possible, who must inform HR services.

A **Matching Certificate** must be submitted to the Head Teacher to qualify for Statutory Adoption Pay (SAP). The Matching Certificate includes basic information on the adoption and expected dates, and is obtained from the adoption agency.

If the employee needs to change the dates of the adoption leave, they must inform their Head Teacher at least 28 working days in advance, unless this is not reasonably possible. The Head Teacher must inform HR services of any

change. The employee must keep their Head Teacher updated on developments affecting their adoption leave dates, who will update HR Services.

The Head Teacher has 28 working days to provide written confirmation of the details of the adoption leave. This must include the date the adoption leave will end. Where an employee has made a request for adoption leave, but does not meet the eligibility criteria, the Head Teacher must send a letter informing the employee of this. The Head Teacher can discuss with HR Services for further guidance.

Time Off to Attend Pre-Adoption Meetings

Employees have the right to “reasonable” time off with pay to attend these meetings, and must produce evidence of appointments if asked to do so. If the school employs both partners who are adopting a child, they will both be eligible to time off to attend pre-adoption meetings. If appointments fall on public holidays or hours not normally worked, then employees cannot claim time off in lieu.

Start Date for Adoption Leave

The start date of the adoption leave must be agreed with the Head Teacher, but can start on any day of the week from either:

- The date of the child’s placement (whether this is earlier or later than expected) or
- From a fixed date which can be up to 10 working days before, but not later than the expected date of placement.

If the child’s placement ends during the adoption leave, the employee can remain on leave for up to 8 weeks after placement ended. However, the maximum period of time an employee can take as adoption leave is 52 weeks. Employees must remember to give their Head Teacher at least 8 weeks’ notice if they are returning to work earlier than expected.

Adoption Leave and Pay

The employee’s length of service will determine the length of adoption leave and pay. Adoption leave must be taken in one block. It cannot be taken intermittently.

Employees with less than 26 continuous weeks’ service

Employees with less than 26 continuous weeks’ service, leading into the week in which they are notified of being matched with a child, are entitled to up to 26 weeks unpaid adoption leave.

Employees with more than 26 weeks but less than 1 year’s continuous service

Employees with more than 26 weeks but less than 1 year’s continuous service leading into the week in which they are notified of being matched with a child, are entitled to:

- Up to 39 weeks paid adoption leave
- Remain absent subject to a maximum of 52 weeks
- Providing earnings are above the lower earnings limit for National Insurance Contributions, the employee will be entitled to:
 - 6 weeks at 9/10ths (90%) of normal pay and
 - 33 weeks SAP, paid at 90% of average weekly earnings or the current SAP rate, whichever is the lowest.

Employees with more than one year's continuous service

Teaching Staff

Teachers with at least 26 weeks' continuous employment with their current employer and at least 1 year's continuous service, are entitled to:

- Up to 39 weeks paid adoption leave
- Remain absent subject to a maximum of 52 weeks
- Providing earnings are above the lower earnings limit for National Insurance Contributions, the employee will be entitled to the following:
 - 4 weeks at full pay inclusive of SAP
 - 2 weeks at 9/10th (90%) of their week's pay inclusive of (SAP)
 - 12 weeks half pay plus SAP (not exceeding full pay)
 - 21 weeks SAP

Non-Teaching Staff

Employees with more than 1 year's continuous service leading into the week in which they are notified of being matched with a child, are entitled to:

- Up to 39 weeks paid adoption leave
- Remain absent subject to a maximum of 52 weeks
- Providing earnings are above the lower earnings limit for National Insurance Contributions, the employee will be entitled to the following:
 - For the first 6 weeks of leave, the employee will be entitled to 9/10th (90%) of their weeks' pay
 - If the employee has declared their intention to return to work, they are entitled to:
 - 12 weeks of adoption leave at half pay plus SAP, which is paid at 90% of average weekly earnings or the current SAP rate, whichever is lowest, as long as the total adoption pay does not exceed full pay.
 - And 21 weeks of adoption leave with SAP, paid at 90% of average weekly earnings of the current SAP rate, whichever is the lowest.

All Employees

If the employee does not intend to return to work, payments during the subsequent 33 weeks of leave will be paid at the SAP rate (the lower of 90% average weekly earnings or the current SAP rate). Payments made by the Council shall be made on the understanding that the employee will return to the Councils employment for a period of at least 3 months. If the employee does not return, they will be required to pay back the half payments.

What if the employee does not qualify for Statutory Adoption Pay?

Employees who do not qualify for SAP should contact their adoption agency and their local Jobcentre Plus office to see if they are entitled to any additional financial support.

Keeping In Touch Days

An employee on adoption leave can return to work for up to 10 days during their leave without losing their right to statutory adoption pay. Work is defined as any work done under the contract of employment which may include training or any activity undertaken for the purpose of keeping in touch with the workplace, however an employer

cannot insist that an employee carries out any work. Working for part of a day will count as one day and any additional work carried out beyond 10 days will result in a loss of SAP.

An employee's adoption leave will not be extended due to the fact that they have carried out some work during this period.

An employee will be paid for the hours worked on KIT days. SAP will be offset against a normal days pay. No more than a normal days pay will be paid.

Claims for keeping in touch days should be made on a Contractual Changes Form and forwarded directly to HR Payroll, HR Services, Hawthorne.

Return to Work

The employee is entitled to return to the same job, on the same terms and conditions as before, unless the job has been made redundant during the period of adoption leave, or there has been a reorganisation. In either case every effort will be made to find suitable alternative employment, if it is available.

Employees who intend to return to work at the end of their full adoption leave entitlement do not need to give any further notification to their employers. Employees wishing to return to work earlier must give their Head Teacher 8 weeks' notice of the date they intend to return. The Head Teacher must inform HR Services if the return date is earlier.

Annual Leave

Adoption Leave will not affect an employee's entitlement to annual leave, and this will continue to accrue even during any period of unpaid leave.

Will Adoption Leave affect an employee's pension?

During Adoption leave employees will pay pension contributions calculated on the actual pay they receive. Employees also have the option to pay pension contributions for any period of unpaid leave taken. For further information and advice, please contact the Pensions Section.

Paternity Leave and Pay (Adoption)

Eligible Employees

Eligible employees will be able to take paternity leave to care for their new child or support the adopter. To be eligible employees must:

- Have or expect to have responsibility for the child's upbringing
- Be the adopters spouse or partner
- Have 26 weeks' continuous service leading into the week in which the adopter is notified of being matched with a child.

Employees must produce evidence that they meet this eligibility if asked to do so.

Taking Paternity Leave

Eligible employees are entitled to take either one or two consecutive weeks' paternity leave. During this leave, employees will receive Statutory Paternity Pay (SPP), which is the lower of 90% of average weekly earnings or the current SPP rate, providing the employee has average weekly earnings at or above the lower earnings limit for National Insurance which is applied at the end of the matching week. Only one period of leave is available for each adoption arrangement, so even if twins are adopted the maximum entitlement is two weeks.

Notice of intention to take Paternity Leave

The employee must complete the Paternity Leave Form within 5 working days of being informed of a match with a child by the adoption agency, including when they expect the child to be placed with them, when they intend the adoption leave to start and return it to their Head Teacher, who must inform HR Services.

The employee must give their Head Teacher at least 28 working days' notice if they need to change the start date of the paternity leave. If this is not reasonably possible the employee must discuss this with their manager as soon as possible. The Head Teacher must inform HR Services of the change of date.

Start Date for Paternity Leave

The employee and Head Teacher agree when the Paternity Leave will begin. Paternity leave can start on any day of the week on or following the child's placement. It must be taken within 56 days of the placement.

Additional Paternity Leave

Additional Paternity Leave is for a maximum of 26 weeks. If your partner has returned to work, the leave can be taken between 20 weeks and one year after your child is born.

The Additional Paternity Leave can be taken in addition to Paternity Leave.

Eligibility for Additional Paternity Leave

- The applicant must be an employee with at least 26 weeks' service by the week in which the adopter is notified of being matched with a child.
- The applicant must be employed the week in which they want to start the leave.
- The applicant must be taking time off to care for the child and the partner must have been entitled to Statutory Adoption Leave or Pay and must have returned to work and stopped claiming any relevant allowance.
- The applicant must notify their manager in writing at least 8 weeks before the leave date is due to start. This needs to include a statement identifying the proposed start / end dates, expected date of the child's placement. They must sign a declaration of their intention to return to work and that the applicant is the father / partner. Any irregularities with regard to the application of this procedure may result in disciplinary action.
- At least 6 weeks' notice is required to change or cancel the request.

Eligibility for Additional Paternity Pay

- The applicant, as an employee, must be earning at least the lower earnings limit for national insurance contributions at the end of the qualifying week and the partner must have returned to work and stopped claiming any relevant allowance and have at least 2 weeks of unexpired statutory pay period remaining.

- The applicant must intend to care for the child during the period of additional statutory paternity pay. Additional statutory paternity pay (ASPP) is only payable during the 39 weeks of the partner's statutory adoption pay period. The earliest that ASPP can be paid is 20 weeks after the child's adoption and must end no later than the date SAP ends.

Confirmation of the start and end dates of additional paternity leave will be provided in a letter from HR services within 28 days of the date of application. Once eligibility has been confirmed, the manager must agree the request for additional paternity leave.

The employee will be entitled to 10 keeping in touch days.

Employees who are on additional paternity leave and are potentially in a redundancy situation will be eligible for consideration of suitable alternative employment and should be offered this in priority to other candidates.

Employees that are no longer eligible for additional paternity leave must tell their employer as soon as possible. For example, where the partner has not returned to work as planned or because the employee will no longer be caring for the child.

In these circumstances the manager can insist the employee takes this period as unpaid leave or uses alternative leave arrangements at the discretion of the manager. This may be applicable if:

- The employee does not give the manager 6 weeks' notice of the change of the employee's eligibility.
- It is not practical to fit in with the change.

To apply for this leave the employee must complete the 'Additional Paternity Leave Form' and return a copy to their Line Manager and HR Services.

Parental Leave

Please refer to the Parental Leave Policy, Section P in the Human Resource Manual for Schools for further information. For further information in relation to flexible working, please refer to the Job Share Policy, Section J and the Flexible Working Patterns Policy, Section F in the Human Resources Manual for Schools.

Childcare Advice

When it comes to choosing childcare there are lots of options to think about. You can contact the Families Information Service to request a personalised list on 0800 783 4645 or email fis@southtyneside.gov.uk

Equality and Diversity Statement

South Tyneside is committed to promoting equality and valuing diversity. An equality check for HR Services was carried out in 2010 which included all the policies in the HR Manual. No equality implications were identified in this policy.

Policy approved by Governors: May 2023

Date of next review by Governors: June 2024