

Adoption Policy

Document Control

Current Version:	1.1	Date Modified:	April 2023
Revision due	The service aims to review policies and procedures every two years to ensure documents are up to date		
Owning Service	Human Resources		

Approvals (if required)

Date Employment Committee gave authorisation for changes (where necessary)

Change History

Version	Date	Description	Changes made by
1.1	July 2023	Changes to more inclusive terminology, check against current legislation – no changes.	Pauline Meredith
1.0	November 2021	Policy updated	

ADOPTION POLICY

Table of Contents

Contents

1. INTRODUCTION	3
2. EQUALITY	3
3. PURPOSE	3
4. PRINCIPLES	3
5. SCOPE	4
6. ELIGIBILITY	4
7. TYPE OF LEAVE and pay	4
7.1 Pre-adoption	4
7.2 Adoption leave	5
7.3 Adoption Pay	5
8. Notification of Intention to take Adoption Leave	5
Taking Adoption Leave	6
9. SALARY DEDUCTIONS/ALLOWANCES	6
10. BREAKDOWN OF ADOPTION	6
11. COMMUNICATION DURING ADOPTION LEAVE	6
12. KEEPING IN TOUCH DAYS	6
13. RETURNING TO WORK	7
14. GIVING NOTICE	7
15. ANNUAL LEAVE	7
16. PENSION	7
17. ADOPTION LEAVE FOR SECONDARY ADOPTERS	8
18. PARENTAL LEAVE ENTITLEMENT	8
19. OVERSEAS ADOPTIONS	8
20. CONCLUSION	8

ADOPTION POLICY

1. INTRODUCTION

The Statutory Paternity Pay and Statutory Adoption Pay (General) (Amendment) Regulations 2014 provides all working parents who adopt one or more children under the age 18 with the statutory right to paid time off for a period directly after the adoption.

This policy aims to provide a supportive and flexible framework to assist eligible employees who wish to adopt a child. It recognises the demands adoption places on these employees and intends to reflect as closely as possible the Council's maternity provisions. Adoptive parents, like natural parents, will also be entitled to parental leave under the provisions of the Employment Relations Act 1999, the Employment Act 2002 and the Work and Families Act 2006. The shared parental leave (SPL) arrangements contained in the Children and Families Act 2014 apply to parents whose babies were due, or who have children placed for adoption, on or after 5 April 2015.

2. EQUALITY

At Bracknell Forest Council we are committed to encouraging equality, diversity and inclusion among our workforce, and eliminating unlawful discrimination. We want everyone that works for us to feel that their individuality is respected, and their unique contributions are valued.

The aim is for our workforce to be truly representative of all sections of society and our customers, and for each employee to feel respected and able to give their best.

The Council- in providing goods and/or services and/or facilities - is also committed against unlawful discrimination of customers or the public.

3. PURPOSE

To outline the process and payments in relation to Adoption.

4. PRINCIPLES

This policy is based on the following general principles:

- that as far as possible the adoption provisions reflect the maternity provision i.e. paid leave on the same basis as post-confinement maternity leave
- that the entitlement to adoption pay will depend on the employee's length of service with this authority only. Continuous local government service does not count towards entitlement to statutory adoption pay.

5. SCOPE

This procedure applies to all employees of Bracknell Forest Council, with the exception of:

- School based staff (see separate School policy)
- For individuals undertaking casual work

6. ELIGIBILITY

Employees are eligible for Statutory Adoption leave or Statutory Adoption Pay if they are:

- Adopting a child
- Fostering a child permanently and becoming their legal parent (fostering to adopt)

The entitlements for a secondary carer are detailed in the section headed Adoption Leave for Secondary Adopters.

Dual approved prospective adopters who have a child placed with them under section 22C of the Children Act 1989 with a view to adopting that child (this is sometimes referred to as fostering for adoption) are entitled to the provisions of this policy. The partner of the dual approved adopter or, in the case of joint dual approved adoptions, the parent who will not take adoption leave and pay, will qualify for paternity leave and pay.

The intended parents in a surrogacy arrangement where they are eligible and intend to apply for a Parental Order (or where they have already obtained such an order) making them the legal parents of the child that they are having with the help of a surrogate mother are entitled to the provisions of this policy. One of the Parental Order parents (the parent that does not take adoption leave and pay) will qualify for paternity leave and pay.

This policy 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.

When fostering a relative, the leave entitlements outlined within this policy (section 7.2) will still apply but there is no statutory right to that leave to be paid, so any periods of adoption leave will be treated as unpaid leave. However, the pre-adoption leave for appointments outlined in Section 7.1 will be paid.

7. TYPE OF LEAVE AND PAY

7.1 Pre-adoption

The main adopter is entitled to paid time off for up to five adoption appointments with the appropriate Social Services Department, adoption agencies, solicitors etc. This can also include attendance at required courses prior to acceptance as adoptive parents.

An employee who is the secondary adopter for the child, as opposed to the primary adopter, is entitled to unpaid time off for up to two appointments.

Parental Order parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to up to two of her antenatal appointments.

Proof of attendance at such interviews/appointments must be provided to management by way of an appointment card, letter, email, or SMS.

7.2 Adoption leave

Adoption leave is a 'day one' right with no qualifying period. Adoption leave is up to 52 weeks. It may be taken when a child starts living with the employee or up to 14 days before placement date (UK adoptions); or when an employee has been matched with a child by a UK agency; or when the child arrives in the UK; or within 28 days (overseas adoption)

7.3 Adoption Pay

To qualify for Statutory Adoption Pay (SAP) the employee must:

- Be continuously employed by Bracknell Forest Council for at least 26 weeks.
- Earn at least the National Insurance lower earnings limit, for at least eight weeks before the week they are matched with a child.
- Tell their manager and give the correct notice.
- Give proof of adoption or fostering to adopt.

Statutory Adoption Pay is paid for 39 weeks. This is the same as for maternity pay.

Adoption pay starts when the employee takes adoption leave.

Week 1 – 6 of Adoption Leave: 90% of your normal pay which forms part of their entitlement to Statutory Adoption Leave.

Week 7 – 39 of Adoption Leave: 33 weeks SAP at the current rate.

Week 40 – 52 of Adoption Leave is unpaid.

If an employee is not eligible for Statutory Adoption Pay, they may still qualify for adoption leave without pay.

8. NOTIFICATION OF INTENTION TO TAKE ADOPTION LEAVE

The employee must produce evidence when the child has been placed with the employee (usually a 'matching certificate' from the adoption agency). This should be produced within seven days, or if this is not possible, as soon as possible afterwards.

Taking Adoption Leave

Adoption leave can be taken from a maximum of 14 days before the date of placement with the carer. As soon as the date of adoption is known, the employee must advise their manager and HR. HR@bracknell-forest.gov.uk

The employee must tell their manager:

- The date the child will be placed with them.
- When the employee wants their leave to start.

9. SALARY DEDUCTIONS/ALLOWANCES

If the employee has regular monthly deductions from pay such as payments in respect of a car loan, childcare or shopping vouchers etc., they should contact HR to discuss the arrangements for payment during periods of no pay.

Employees may still participate in the Council's scheme of buying, selling and banking annual leave whilst on adoption leave. If an employee is either currently in the scheme or would like to buy, sell or bank annual leave during adoption leave, please contact your HR Adviser for further information.

If an employee is an essential car user, the car allowance will continue to be paid in full for the remainder of the first month in which adoption leave started and for the next three months thereafter. It will then be paid at half-rate for the next three months, after this the payment ceases until the employee returns to work.

10. BREAKDOWN OF ADOPTION

If the child's placement ends during the adoption leave period, the employee can continue on adoption leave for up to eight weeks after the breakdown.

11. COMMUNICATION DURING ADOPTION LEAVE

Managers and employees are encouraged to maintain regular communication during the adoption leave period.

Employees should be kept informed of job vacancies, changes within their department, updates on issues facing the Council as a whole.

Staff are encouraged to discuss their intentions regarding return to work with their line manager in order to help with staff planning.

12. KEEPING IN TOUCH DAYS

Employees will be able to work during their adoption leave for up to 10 'keeping in touch' days without losing statutory adoption pay, if they wish to. Any work undertaken will be paid at their normal rate when they return from adoption leave. The employee will be paid only for hours worked and not full days. The manager is not obliged to provide 10 days and the employee is not obliged to attend if they do not wish to.

13. RETURNING TO WORK

An employee has the right to return to the same job on terms and conditions that are no worse than the employee would have been on if there had been no absence.

If the employee intends to return to work before Adoption Leave expires, eight weeks notice must be given. If the employee fails to give notice of an earlier return, then the return to work may be postponed until eight weeks have lapsed.

To qualify for half pay (only payable to those with over a year's service) you must return to work for a minimum of three months after taking Adoption Leave. Repayment of your half pay will be required if you do not return to work for all of this qualifying Adoption Policy

period. Repayment will be calculated pro rata, based on complete months not worked. E.g., if you return for 2 ½ months you will be required to repay 1/3rd of your half pay.

14. GIVING NOTICE

If the employee decides to resign before or at the date of adoption the normal contractual arrangements for termination of the employment contract apply.

If the employee decides whilst on adoption leave not to return to work after all, the date that decision was notified would be treated as the leaving date.

15. ANNUAL LEAVE

During adoption leave, whilst it is still the employee's intention to return to work, annual leave and bank holidays are accrued.

Carrying over leave - More than ten days of annual leave may be carried over into the new leave year however, it is recommended that the employee and manager discuss using this before and/or after their period of leave to ensure that they do not accrue an unmanageable amount of leave.

If the employee decides not to return to work, holiday accrual is calculated in the usual way for a leaver and payment made for any untaken leave.

16. PENSION

Pension contributions are deductible from earnings until the period of SAP expires. The remaining period of adoption leave (i.e., period of no pay) will result in a break of pensionable service unless the employee elects to pay contributions for that period. These will be calculated on the rate of earnings payable immediately prior to the first day of no pay.

The contributions owing can be paid either by way of a lump sum payment or by "doubling up" the rate of contribution upon return to work until the outstanding sum due has been cleared.

17. ADOPTION LEAVE FOR SECONDARY ADOPTERS

An employee who is the secondary adopter for the child, as opposed to the primary adopter, is entitled to unpaid time off for up to two appointments. The secondary adopter may be entitled to take further periods as shared parental leave – see policy for details.

18. PARENTAL LEAVE ENTITLEMENT

Parental leave and shared parental leave may also be applicable in adoption cases – please refer to the Council's Parental Leave & Shared Parental Leave policies.

19. OVERSEAS ADOPTIONS

In cases of overseas adoptions where the process may differ slightly to the UK, please contact your Departmental HR Adviser for further advice.

20. CONCLUSION

Whilst this policy attempts to provide a comprehensive framework for adoption, there may be issues or unforeseen circumstances which require further clarification. If this is the case, the HR Section will be able to advise.