

Appendix 18

ADOPTION LEAVE

Statutory rights in accordance with the Employment Act 2006 came into force for babies due on or after 30th September 2007.

1. ADOPTION

- 1.1 Employees who are accepted to be adoptive parents of a child under the age of 18, may be entitled to paid and unpaid leave, to be called 'Adoption Leave' (Ordinary Adoption Leave and Additional Adoption Leave), upon the same basis and subject to similar conditions as they would become entitled to Maternity or Paternity Leave, were they to become natural parents.

2. WHO IS ELIGIBLE?

- 2.1 To be entitled to Ordinary Adoption Leave (OAL), an employee must:
- Have been matched with a child to be placed with him/her by an adoption agency (a certificate at [Annex 1](#) can be used for this purpose)
 - Where the child is to be adopted by a couple jointly, have chosen to be treated as the adopter for this purpose
 - Have notified the agency that he/she agrees that the child should be placed with him/her, and agree the date of the placement
 - Notify their line manager of when he/she wants to take adoption leave within 7 days of the date on which he/she is notified of having been matched with the child
- 2.2 To be entitled to Additional Adoption Leave (AAL) an employee must:
- Have the child placed with him/her for adoption
 - Have worked continuously for 26 weeks, ending with the week (beginning on a Sunday) in which he/she was notified of having been matched with the child
 - Have taken OAL (which did not end prematurely)

3. ADOPTION LEAVE

- 3.1 All employees are entitled to Ordinary Adoption Leave (OAL) of 26 weeks from its commencement, provided they satisfy the conditions set out in paragraph 2 above.
- 3.2 In addition, employees entitled to OAL who have been continuously employed for a period of not less than 26 weeks at the beginning of the week of the date of placement, will be entitled to additional adoption leave of 26 weeks from the day on which it commenced (equating to 52 weeks total adoption leave OAL + AAL).
- 3.3 If more than one child is placed for adoption as part of the same arrangement, only one period of Adoption Leave is available.
- 3.4 Adoption Leave will normally commence from the date of the child's placement with the adoptive parent. Leave cannot start later than that date; however the adopter can choose for the leave to start earlier, but no sooner than 14 days before the date on which the child is expected to be placed for adoption.
- 3.5 If the date of placement changes, the employee should discuss the situation with their line manager and give appropriate notice to change the start date. If adoption

leave has already begun and the placement is delayed, the leave cannot be stopped and started again at a later date.

4. NOTICE PERIODS

- 4.1 The employee must advise their line manager of when he/she wants to take adoption leave, and complete the Statement of Intention (see Annex A at Appendix 3, Maternity), within 7 days of the date of receiving notification of being matched with a child (or if this is not practicable, as soon as is reasonably practicable).
- 4.2 At least 28 days' notice must be given to your line manager in advance of the date adoption leave is to commence (or if this is not practicable, then as soon as is reasonably practicable). An employee can change the date on which he/she wants to start adoption leave, as long as the required notice is given to the line manager.
- 4.4 The line manager will ensure that, within 28 days of receiving appropriate notice, the employee is advised of the date the adoption leave period will end (see model letter at [Annex 2](#)). If the employee is entitled to additional adoption leave, the end date will be calculated on the assumption that he/she is taking it.
- 4.5 An employee who intends to return to work earlier than the end of the adoption leave shall give the line manager not less than 28 days' notice of the date on which he/she intends to return. Where an employee qualifies for additional adoption leave, but only wishes to take ordinary adoption leave, the employee must give 28 days' notice of his/her return to work. Should such notice not be given, the return date may be postponed by the line manager/department to allow for the appropriate 28 days' notice (but no later than the date on which the leave would normally end).

5. STATEMENT OF INTENTION

An employee who is accepted to be an adoptive parent should advise their line manager and complete the Statement of Intention (see Annex A at Appendix 3, Maternity) within 7 days of the date of receiving notification of being matched with a child (or if this is not practicable, as soon as is reasonably practicable). On receipt of the completed form the manager should:

- a) retain a copy
- b) send a copy to the appropriate Pay Section
- c) send a copy to the Office of Human Resources (if applicable)
- e) arrange for a letter of confirmation to be issued to the employee within 28 days of receipt of notification (see model letter at [Annex 2](#))

NOTE: The appropriate Pay Section and Pensions Authority should also be notified of any unpaid leave taken by the employee.

6. ADOPTION PAY

- 6.1 There is no statutory requirement to pay an employee whilst on adoption leave; however details of contractual pay are detailed in 6.3 below.
- 6.2 A qualifying condition for entitlement to adoption pay is that an employee returns to work for a period of at least three months. This requirement may be varied at the discretion of the Authority on good cause being shown.
- 6.3 An employee who is entitled to adoption leave will also be entitled to adoption pay as follows:

At least 1 year continuous service	6 weeks at nine-tenths of a week's pay (less if employee is not eligible for Social Security Maternity Allowance (MA)), followed by 12 weeks at half a week's pay (without deduction unless combined pay and MA or any dependent's allowances exceeds full pay)
More than 2 years continuous service	6 weeks at nine-tenths of a week's pay (less if employee is not eligible for Social Security Maternity Allowance (MA)) (the first 6 weeks is payable whether or not the employee returns to work following maternity leave – see 11.1 below) followed by 12 weeks at half a week's pay (without deduction unless combined pay and MA or any dependent's allowances exceeds full pay)

7. ADOPTION ALLOWANCE (From Social Security)

- 7.1 Employees may be eligible to claim adoption allowance from Social Security for up to 39 weeks. Where this is granted during the period of full pay, the allowance will be deducted from pay. No allowance will be deducted during periods of half pay.
- 7.2 Employees who have completed the 'Option to Draw Unabated Sick/Maternity/Adoption/ Paternity Pay' form (see Annex C at Appendix 3, Maternity), will be paid their full salary during periods of paid adoption leave as they have agreed not to receive adoption allowance in that option.

8. ANNUAL LEAVE & PUBLIC HOLIDAYS DURING ADOPTION LEAVE

- 8.1 Contractual annual leave allowance continues to accrue during periods of ordinary adoption leave. No contractual annual leave allowance will accrue for periods of additional adoption leave. Public and privilege holidays falling during unpaid leave will be unpaid.
- 8.2 During periods of additional adoption leave when contractual leave does not accrue, statutory leave will accrue accordingly (to a minimum of 4 week's leave per annum in total). Accrued statutory leave cannot be carried forward into a new leave year.
- 8.3 Should an employee return to work on reduced hours, credits of annual leave accrued prior to and during adoption leave will be proportionate to the contract in force at the time and will not be reduced on a pro-rata basis in accordance with the newly contracted hours, i.e. an employee working full time prior to taking adoption leave, who reduces his/her hours to half time on return to work, will have accrued his/her annual leave at a daily full time rate, not at the new half time rate.

9. DISRUPTION OF PLACEMENT

- 9.1 If an employee begins a period of adoption leave before the child is placed with him/her, and is then told that the placement will not be made, the leave will finish 8

weeks after the end of the week in which that happens (unless the period of OAL/AAL ends within that 8 week period).

9.2 If, during an employee's adoption leave, the child dies or is returned to the adoption agency, the leave will finish 8 weeks after the end of the week in which that happens (unless the period of OAL/AAL ends within that 8 week period).

9.3 An employee will be required to give 28 days' notice if he/she is returning to work earlier than expected for one of the above reasons.

10. PERMISSION TO RETURN TO WORK

10.1 An employee who is absent from work on adoption leave will be eligible to return to work in the same grade and working the same hours at any time before the end of the period of adoption leave. He/she will normally be employed in the same location and post filled before taking adoption leave, although this may not always be possible.

10.2 An employee who has been advised of the date the adoption leave period will end, but intends to return to work earlier than the end of that adoption leave period, is required to give his/her line manager not less than 28 days' notice of the date on which he/she intends to return. Should such notice not be given, the return date may be postponed by the line manager/department to allow for the appropriate 28 days notice.

11. SICK ABSENCE DURING OR FOLLOWING ADOPTION LEAVE

11.1 If following adoption leave, an employee is unfit for work but there is a reasonable prospect of recovery and return to duty, the normal provisions for paid sick leave will apply. However, paid sick leave will not be allowed during the period of adoption leave requested by the employee.

12. REPAYMENT OF ADOPTION PAY

12.1 If an employee does not return to work on or before the end of his/her entitlement to adoption leave **and** complete at least 13 weeks' paid service he/she may be required to repay all pay paid to him/her during the period of adoption leave.

12.2 If an employee fails to return to work after adoption leave their last day of service for pay and related purposes will be taken as their last day at work before commencing adoption leave. If he/she returns, but does not complete 13 weeks' service, normal notice periods will apply.

13. RETURN TO WORK - FLEXIBILITY

13.1 An employee wishing to return to work on a flexible basis (i.e. amended hours, job-share) is required to submit such a request in accordance with the provisions set out in Appendix 19.

Matching Certificate

Matching Certificate: Adoption Leave

This Certificate, when completed by the appropriate adoption agency, may be used as evidence for the purposes of statutory adoption leave. It confirms that the named person(s) has been matched with a child for adoption.

A Name and address of adoptive parent(s):

He or she was notified of this on:

*It is expected that the child will be placed with him or her on:

*The child has already been placed with him or her, this occurred on:

** delete as appropriate*

B Agency name and address:

Agency Stamp

This is an adoption agency within the meaning of the Adoption Act 1984

Name

Title

Signature

Date

MODEL LETTER FOR LINE MANAGER TO ACKNOWLEDGE NOTIFICATION OF ADOPTION LEAVE

Date

Dear []

Congratulations and thank you for telling me that you will be adopting a child. This letter is to provide details of your adoption leave.

As we have discussed, you are eligible for *[26 weeks' OAL / 52 weeks' adoption leave (26 weeks' OAL plus 26 weeks' AAL) delete as appropriate]*. Given your chosen start date of *[insert date]*, your adoption leave will end on *[insert date]*.

If you want to change the date your leave starts you must, if possible, tell me at least 28 days before your proposed new start date. Please contact me if you wish to discuss this. If you decide to return to work before *[insert date leave ends]*, you must give me at least 28 days' notice.

[Insert details of any contractual pay offered during adoption leave]

[insert details of any contractual / statutory leave accrual]

If you decide not to return to work, you must still give me proper notice. If you have any questions about any aspect of your adoption entitlement, please do not hesitate to get in touch with me.

Yours sincerely,