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| ADOPTION LEAVE POLICY - FAQ |

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| **ADOPTION LEAVE POLICY - FAQ** |

# 1. Does this guidance apply to all staff?

No. This guidance does not apply to staff employed to work in schools (where such matters are under the control of the Governing Body), or to consultants, casual or relief staff or agency workers.

It also does not apply if the employee becomes a special guardian, adoption by a step-parent or in most cases of a foster parent adopting, where there is already an established family relationship.

There is no statutory right to Adoption Leave or pay if an employee arranges a private adoption.

# 2. Who can apply for Adoption Leave?

There is no qualifying period for Adoption Leave.

UK Adoption – Adoption leave may be taken when a child starts living with the employee or up to 14 days before the placement date or when an employee has been matched with a child by a UK adoption agency.

Overseas Adoption – When the child arrives in the UK or within 28 days.

The partner of an individual who adopts, or the secondary adopter if a couple are adopting jointly may be entitled to paternity leave and pay or shared parental leave.

Some surrogate parents will become eligible for adoption leave.

# 3. How much Adoption Leave can I take?

You can take 52 weeks leave. If the child’s placement ends for any reason whilst you are on Adoption Leave you must inform your manager straight away and confirm this in writing. You would be entitled to remain on Adoption Leave (and continue to receive any Adoption pay to which you are entitled) for up to eight weeks after the placement ended.

# 4. Would I be entitled to any pay during Adoption Leave?

This depends on factors such as length of local government service, your earnings and how long you have worked for Enfield Council as explained below:

**Statutory Adoption Pay** is payable for the first 39 of the 52 week Adoption Leave period as follows:-

90% of your average weekly earnings for the first 6 weeks;

£156.66 or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks.

The qualifying conditions for payment are that you have average earnings of at least £123 per week and have been employed continuously by **Enfield Council** for at least 26 weeks leading into the week in which you are notified of the match / received Official Notification (overseas adoption only – or by the date you plan to commence Adoption Leave).

**Occupational Adoption Pay** is payable for 12 weeks at half pay.  This is paid alongside any entitlement to SAP, providing the combined amount does not exceed your normal pay.

The qualifying condition for payment of OAP is that you have 1 year or more continuous local government service by the date you commence your Adoption Leave.

**Occupational and Statutory Adoption Pay** are both payable if you meet all the qualifying conditions stated above.  Payment would be made for a total of **39** of the 52 week leave period as follows:-

* 90% of your pay for 6 weeks (this amount includes any Statutory Adoption Pay entitlement)
* Half pay for 12 weeks (plus any Statutory Adoption Pay to which you are  entitled, provided this would not exceed normal pay)
* Standard rate Statutory Adoption Pay for 21 weeks (If you meet Statutory Adoption Pay entitlement conditions) or 90% of your average weekly earnings if this is lower.
* Followed by 13 weeks unpaid Adoption Leave

It is important to note that payment of Occupational Adoption Pay is made on the understanding that you will return to work for a period of at least 3 months and work the same hours you were contracted to work before you went on leave.

If you return to work having reduced your working hours, the minimum period you would be required to work to retain entitlement to Occupational Adoption Pay will be proportionately longer.  For example, if you were previously working 36 hours per week and dropped your working hours by half to 18 hours per week, you would have to return to work for at least 6 months rather than 3 months.

If you are not intending to return to work for the required length of time you should let your manager know without delay. Should you not comply with these return-to-work terms it is Council practice to recover the Occupational Adoption Pay paid to you.  The amount paid will be deductible from any payments from the Council that may be due to you.  If this is insufficient to cover the amount you were paid, action will be taken to recover the balance.

Adopters of children placed for adoption on or after 5 April 2015, may curtail their statutory adoption pay to trigger an entitlement to statutory shared parental pay, which can be shared with their partner provided that he or she meets the eligibility requirements

# 5. I might be adopting more than one child. Would this affect my entitlement in any way?

Only one period of leave / payment would apply regardless of the number of children adopted under the adoption arrangement.

# 6. Am I entitled to paid time off to attend adoption appointments?

If you are the main adopter you will be able 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.

# 7. How and when do I inform my manager of my plans to adopt?

You should tell your manager about your plans to adopt and to apply for Adoption Leave **before**the adoption agency matches you with a child or, in the case of an overseas adoption, **before** you receive the Official Notification permitting an overseas adoption.

**Within 7 days** of:

UK Adoption **– being** advised of a match you must let your manager know when the child will be placed with you.

Overseas Adoption **-** receiving official notification from the UK authority you must advise your manager of the date the child will be entering the UK.

In either case, you must give **at least 4 weeks notice** of the date you wish your Adoption Leave to start. If you give less than 4 weeks notice your manager has the discretion, taking the circumstances and business needs into account, to postpone the start of your adoption leave until either the date by which the correct notice has been served, or the latest allowable leave commencement date. This is either:

UK Adoption - the date on which the child is to be placed with you, *or*

Overseas Adoption – the date the child will enter the UK (or on a date up to 28 days later if the child will not be coming to live with you straight away).

**At least 4 weeks** before you intend to go on Adoption Leave you must show your manager the Matching Certificate / Official Notification provided by the Adoption Agency / relevant UK authority.

It **must** state the:

* Name and address of the adoption agency / UK authority issuing the Official Notification
* Name and date of birth of the child
* Name/s of the adoptive parent/s
* Date the adopting agency / UK authority notified you of the adoption
* Expected date of placement or, in case of an overseas adoption, the date s/he will enter the UK.

# 8. Do I need to inform Human Resources?

After showing the Matching Certificate or Official Notification to your manager this must be forwarded to the HR Advisor/Consultant for your department along with written notification of the date adoption leave is to start and - only if you are adopting as a couple – confirmation that you are not going to apply for Statutory Paternity Pay. Please note that Adoption Pay cannot be paid until this information is provided. HR will confirm in writing the date upon which you will be due to return to work.

# 9. When can I start Adoption Leave?

UK Adoption - The latest date you can start your leave is the date the child is to be placed with you, or you can choose a date up to 14 days before the expected placement date.

Overseas Adoption – You can start your leave from the date the child enters the UK, or up to 28 days afterwards. You must show your manager evidence of the child’s entry into the UK. You must advise your manager urgently if circumstances change and the child is not coming to the UK.

# 10. Can I change the date my Adoption Leave starts?

Yes, provided you inform your manager and HR **at least 4 weeks** in advance. If you fail to give sufficient notice, your manager has the discretion to postpone the start of Adoption Leave until either the date by which the correct notice has been served, or the latest allowable leave commencement date (Question 8 refers), whichever date comes first.

# 11. What do I do if I would like to return to work sooner or later than the planned date?

You are entitled to a maximum of 52 weeks Adoption Leave. If you want to change the date that you are due to return to work you must tell your manager **at least 8 weeks in advance** and confirm this in writing. If you want to return to work on an earlier date and you have not given enough notice your manager may postpone your return until the required notice has been served, or until the date you were due to return to work, whichever is the sooner.

# 12. Would going on Adoption Leave affect my local government pension?

Local Government Pension Scheme contributions would be deducted from your Adoption Pay. If you take unpaid Adoption Leave you may be able to make contributions for this period if you elect to do this within 30 days of returning to work. Any period during which you are not making pension contributions will not count as membership and could affect your pension entitlement. For further details about pension contributions you are advised to contact Pensions on 020 8379 4670-3.

# 13. Would taking Adoption Leave affect my conditions of employment?

Adoption Leave counts as continuous service and, other than the pay that is received whilst on leave (see Question 4) all entitlements under your conditions of service are maintained.

# 14. Can I take annual leave before, during or after my Adoption Leave?

You can take up to 52 weeks Adoption Leave. Because of this, your Adoption Leave could span two annual leave years (start in one leave year and end in the following leave year). Additionally, Adoption Leave counts as continuous service, so any entitlement to annual leave will build up during your Adoption Leave. You cannot break Adoption Leave by taking annual leave and then returning to Adoption Leave.

### For these reasons, it is very important that you discuss and agree with your manager at the earliest opportunity before your Adoption Leave starts how much leave you will take prior to Adoption Leave, and how much you will take at the end of your Adoption Leave. Upon your return to work, you would be entitled to take any annual leave remaining, subject to the normal leave request and approval procedures.

# 15. Am I entitled to any leave for Public Holidays?

You are entitled to take a paid day off in place of (pro-rata for part-time staff) any extra – statutory day and bank holidays that arise during your Adoption Leave. You cannot break your Adoption Leave to take a Public Holiday.

# 16. Can I do any work for the Council during Adoption Leave?

If you wish, with the agreement of your manager, you can do up to 10 days work for the Council (which may include attending meetings or training) during your Adoption Leave without losing any statutory adoption pay. You are entitled to be paid for ‘Keeping in Touch’ - ‘KIT Days’. The amount that you are paid for each ‘KIT Day’ is a matter for agreement between you and your manager. The ['KIT' Form](http://enfieldeye/downloads/file/5151/maternity-keep_in_touch_form) is available on Enfield Eye.

# 17. Can I take other leave straight after Adoption Leave?

Please refer to Question 14 about Annual Leave. Subject to meeting the terms and conditions stated in the relevant policy on Enfield Eye, including giving the required amount of notice, you may apply for up to four weeks Parental Leave and / or a 6 months to 2 years Career Break.

# 18. What are the return-to-work arrangements following Adoption Leave?

You are entitled to return to the job you were doing prior to going on Adoption Leave on conditions of employment no less favourable than those that would have applied if you had not been absent.

# 19. What happens if there is a restructure whilst I am on leave?

In the event of a restructure you would have the same rights to consultation and, where appropriate, redeployment as you would have had prior to taking Adoption Leave. Subject to your supplying current contact details, your manager would invite you to take part in the consultation process. Please note that it is important you make yourself available for consultation meetings as restructuring cannot be postponed because staff are on long-term leave.

# 20. Can I change my working arrangements when I return from Adoption Leave, for example, from full-time to part-time?

You can apply to change your working arrangements. Guidance concerning who is entitled to apply and how and when to do so are set out in the [Flexible Working Arrangements Policy - FAQ](http://enfieldeye/downloads/file/8636/flexible_working_arrangements_policy-faq) which is available on Enfield Eye. If you do not meet the flexible working conditions and you wish to reduce your working hours you should refer to the [Part-time and Job Sharing Working Policy - FAQ](http://enfieldeye/downloads/file/8620/part-time_working_and_job_sharing_policy-faq).

# 21. What happens if I decide I don’t want to return to work after Adoption Leave?

If you do not intend to return to work after your maternity leave you must let your manager know as soon as possible and confirm in writing (letter of resignation) when your last day of employment will be.

The last day of your employment would be regarded as the last day of the Adoption Leave period, unless you are due any annual leave. Where this is the case, your paid employment would continue until the end of the annual leave period. If you have taken more leave than you are entitled to, action would be taken to recover the amount that you were not entitled to be paid.

**Receipt of Occupational Adoption Pay** – It is important to note that any payment of Occupational Adoption Pay that you are paid (maximum 12 weeks half pay) will be repayable if you do not return to work for at least 3 months on your existing contractual hours. For example, this would apply if you took a Career Break straight after your Adoption leave. For further information, please see Question 4.

**Absence Without Leave** - If you do not return to work by the date your Adoption Leave ended (and you have not resigned or made prior arrangements with your manager to take Annual Leave, Parental Leave, a Career Break or any other form of leave) you will be absent without leave. This would be a breach of your contract of employment with the Council and a disciplinary matter resulting in disciplinary action, which could ultimately lead to your dismissal without notice.