



# TRAFFORD COUNCIL

## ADOPTION POLICY

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## Version Control

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## **TRAFFORD COUNCIL – ADOPTION POLICY**

### **1. Introduction**

- 1.1 Trafford Council's Adoption Policy forms part of our commitment to having a range of 'family friendly' policies which offer flexibility in the workplace. The Council is fully supportive of employees who are planning to become adoptive parents.

### **2. Scope**

- 2.1 This policy covers all employees of Trafford Council with the exception of Teaching and Support Staff employed by Schools.

This policy should be read in conjunction with the following Council documents:

- Special Leave - Maternity and Adoption Support
- Shared Parental Leave

### **3. Purpose**

- 3.1 The purpose of this policy is to make employees aware of their statutory rights and responsibilities when adopting and also the occupational adoption pay that is available if employees meet the eligibility criteria.

### **4. Abbreviations**

- |     |         |   |                                    |
|-----|---------|---|------------------------------------|
| 4.1 | OAL     | - | Ordinary Adoption Leave            |
|     | AAL     | - | Additional Adoption Leave          |
|     | SAP     | - | Statutory Adoption Pay             |
|     | OAP     | - | Occupational Adoption Pay          |
|     | APL     | - | Additional Paternity Leave         |
|     | ASPP    | - | Additional Statutory Paternity Pay |
|     | KIT Day | - | Keep in Touch Day                  |

### **5. Eligibility**

- 5.1 Employees may be eligible for adoption leave and pay if they adopt a child in the UK or from overseas via an adoption agency. This includes dual approved prospective adopters, which is also known as 'fostering for adoption'. This is an arrangement through the local authority, whereby a child is placed with an individual or couple, who have been approved to foster and adopt, with the expectation that they will adopt that child.
- 5.2 Intended parents in a surrogacy arrangement may be eligible for adoption leave and pay; however, this would only be where they adopt the child or if they apply for a Parental Order. Once a Parental Order is in place, the surrogate parents become the child's legal parents; however, to apply for a

Parental Order, certain conditions must be met, including that the application is from a couple and one of the partners is genetically related to the child. Where a couple adopt jointly, only one of them is eligible to take leave and receive pay and so they must agree which one will be the main adopter.

5.3 Adopters will not qualify for adoption leave or pay in the following circumstances:

- Private adoption.
- Becoming a special guardian or kinship carer.
- Having a child with the help of a surrogate mother, where the intended parents are not eligible for a Parental Order.
- Adopting a family member or stepchild.

5.4 For the purposes of this policy a child is defined as a person under the age of 18.

## **6. Pre-adoption arrangements**

6.1 All adopters are entitled to take up to a maximum of 3 days' paid leave to be taken as necessary (subject to agreement with their manager). The purpose of the leave is to attend meetings with the adoption agency or to deal with legal and technical formalities, which may involve court appearances.

6.2 Where both members of a couple who are adopting are employed by the Council then they will both be entitled to this paid time, i.e. not just the main adopter.

6.3 This can be requested through MiTrent using the 'Pre-Adoption Leave' code.

6.4 Where a couple are either adopting or applying for a Parental Order in a surrogacy arrangement, they are both entitled to take unpaid time off to attend two antenatal appointments with the surrogate mother.

## **7. Notification of intention to take Adoption Leave**

7.1 Employees should let their manager know that they intend to take adoption leave within 7 days of being matched with a child for adoption, unless this isn't reasonably practical. The employee must complete the 'Adoption application form' and submit it via the GMSS portal. They should send a copy of the form to their manager. If they don't have access to the intranet their manager can submit the form for them.

7.2 In the case of surrogate parents applying for a Parental Order, the employee must also complete a 'parental statutory declaration', which is a declaration that you have applied or intend to apply for a Parental Order with your partner within six months of the birth and you expect to be granted it by the court. This must be submitted via the GMSS portal.

7.3 The manager should have a conversation with the employee as to whether they wish the adoption/surrogacy plans to remain confidential until a later date and act accordingly.

## **8. Adoption Leave**

### **8.1 Types of Adoption Leave**

The main adopter is entitled to a period of 52 weeks adoption leave, which is made up of:

- Ordinary adoption leave of 26 weeks (OAL).
- Additional adoption leave of 26 weeks (AAL).

### **8.2 Starting Adoption Leave**

#### **8.2.1 Leave can start as follows:**

- For UK adoptions – up to 14 days before the child is expected to be placed with the employee for adoption. In the case of dual approved prospective adopters, the child will be placed for fostering initially.
- For overseas adoptions – when the child arrives in the UK or within 28 days of this date.

8.2.2 The employee must give notification as detailed in section 7. Within 28 days of the receipt of this the employee will be sent a letter confirming the date that they are expected to return to work (making the assumption that they will take their full entitlement to both ordinary and additional adoption leave).

8.2.3 Employees can change their adoption start date either bringing it forward or delaying it, by whichever is the earlier of:

- 28 days before the date they originally intended to start their leave, or
- 28 days before the new date they want to start their leave

8.2.4 The employee should notify their manager in writing of the new start date and also notify GMSS. It is acknowledged that arrangements may change and so if it isn't reasonably practical to do the above then the employee should notify their manager and GMSS as soon as possible.

## **9. Adoption Pay**

### **9.1 Statutory Adoption Pay (SAP)**

9.1.1 If an employee is eligible, they are entitled to receive a maximum of 39 weeks' statutory adoption pay (SAP) during ordinary and additional adoption leave.

9.1.2 For the first 6 weeks, this is paid at the earnings-related rate of 90% of average weekly earnings (calculated over the relevant period). For the remaining 33 weeks, this is paid at the standard rate (which is set by the

government each tax year), or 90% of average weekly earnings, if this is lower.

9.1.3 An employee will be entitled to statutory adoption pay if they have:

- Worked for the Council for a continuous period of at least 26 weeks at the 'qualifying week'. The qualifying week is normally the week in which the prospective adopter is notified they have been matched for adoption with a child. For Parental Order parents, it is the end of the 15<sup>th</sup> week before the expected week of the child's birth.
- Earned, on average, at least the lower earnings level in the 8 weeks leading up to the date they were notified of a match with a child.
- Notified the Council that they are entitled to statutory adoption pay and when this is to begin.
- Having provided proof of the adoption.

9.1.4 SAP is payable whether or not the employee intends to return to work for the Council after adoption leave. It is also payable if an employee leaves the Council for any reason after the start of the matching week – in this scenario it will be paid from the day after employment ended.

## 9.2 Occupational Adoption Pay (OAP)

9.2.1 If an employee has at least one year's continuous service (see the Continuous Employment Policy for details of what this constitutes) at the end of the week in which they have been notified of being matched with a child for adoption, or for Parental Order parents, at the end of the 15<sup>th</sup> week before the expected week of the child's birth, they are entitled to receive occupational adoption pay. This is provided that they make a commitment to return to work. This is normally paid as follows: the first 6 weeks' pay at the equivalent of 90% of their normal weekly earnings and then for the subsequent 12 weeks they will receive pay at the equivalent of half of their normal weekly earnings.

9.2.2 This is in addition to receiving SAP, if they are eligible, as long as the two combined do not exceed full pay. Please note that for the first six weeks of adoption leave, there will only be one payment of 90% of earnings, if eligible for OAP and SAP.

9.2.3 However the 12 weeks' half pay can be paid to the employee in 3 ways:

### **Option 1 – 12 week scheme**

- 90% of pay for 6 weeks followed by
- 50% of pay for 12 weeks followed by

### **Option 2 – 33 week scheme**

- 90% of pay for 6 weeks followed by
- 18.18% of pay for 33 weeks

### **Option 3 – deferred scheme**

Payment deferred until the employee returns to work after Adoption leave. This may be preferred by those who are unsure as to whether they will return to work (see below).

9.2.4 However consideration must be given as to whether SPL will be used and if this is the case once the adoption leave period has been curtailed then the employee will not be eligible to claim any outstanding OAP (unless they defer payment of OAP until after their return to work). The preferred option for payment of OAP should be detailed on the Adoption Leave application form.

9.2.5 To be able to keep OAP, the employee must return to work for 3 months after adoption leave. If the employee is also taking shared parental leave, they instead must return to work for 3 months after shared parental leave. If an employee is undecided about returning to work, they can choose to defer being paid the OAP until after their return.

### **9.3 Shared parental leave**

9.3.1 Shared parental leave will be available to the main adopter and their partner, however this is only an option if the main adopter curtails their adoption leave and pay (see Shared Parental Leave policy).

### **9.4 Effect of Childcare Benefit scheme on calculation of SAP/OAP**

9.4.1 The Council's Childcare Benefit scheme is a salary sacrifice scheme whereby an employee's gross salary is reduced by up to £55 per week, and in return the Council agrees to pay an element of childcare costs directly to an approved childcare provider. Further information on the Childcare Benefit scheme is available on the intranet and from our provider, Kiddivouchers on 0800 612 9015 or via their website: [www.kiddivouchers.com](http://www.kiddivouchers.com). The scheme number is S319983B.

9.4.2 If an employee is part of the scheme, and based on their personal circumstances, they are considering whether or not to continue in the scheme during adoption leave, they should be aware that the timing of opt-out from the scheme may affect the levels of SAP and OAP they are entitled to receive. This is because SAP is worked out based on the average of an employee's earnings during the 8 week period prior to the Saturday of the week in which the matching takes place, whereas OAP is based on an employee's salary immediately prior to the commencement of adoption leave.

9.4.3 Therefore if an employee's salary during the above reference periods is subject to a reduction due to the Childcare Benefit scheme, this will be reflected in either the SAP or OAP that is received (or both if it is not cancelled prior to the employee going on adoption leave). If an employee is not in the scheme 8 weeks prior to their matching date, they cannot then join the scheme until they return from adoption leave. Further information is available from GMSS.



## **10. Keeping in touch**

### **10.1 Communication during adoption leave**

10.1.1 The Council may make reasonable contact with employees from time to time during adoption leave. In the same way, the employee may make contact with their manager.

10.1.2 This contact may be to discuss such issues as whether the planned return to work date has changed, or is likely to do so, and flexible working arrangements that would make the return to work easier.

10.1.3 The Council must keep employees informed of promotion opportunities, job vacancies, significant workplace developments and training opportunities, together with any information relating to the job that the employee would normally be made aware of if they were in work.

10.1.4 This contact can be made in any way that best suits both parties; for example, it could be by telephone, by e-mail, by letter, a visit to the workplace, or in other ways.

10.1.5 What is classed as 'reasonable' contact will vary according to the circumstances and individual preferences. It may therefore be a good idea for the employee and their manager to discuss the arrangements for staying in touch, before the adoption leave starts. This might include agreements on the way in which contact will happen, how often it will take place, who will initiate the contact, reasons for making contact and the types of things that could be discussed.

### **10.2 Keeping in Touch (KIT) Days**

10.2.1 Employees may undertake up to 10 days' work ('keeping in touch' days) during their adoption leave, without bringing adoption leave to an end, without losing any SAP and without extending the period of adoption leave. Working for part of a day will count as one day i.e. if an employee works for 2 hours, they will receive payment for 2 hours work (please see below regarding the payment terms), but this will count as 1 full 'keeping in touch' day.

10.2.1 Working these days must be by agreement between the employee and their manager; there is no requirement for an employee to undertake work and nor is there any requirement for the Council to provide work.

10.2.2 If an employee wishes to undertake KIT days and their manager is in agreement, they will need to agree what activities will be undertaken on these days. Work undertaken during adoption leave may include training, attending meetings or any activity carried out for the purposes of keeping in touch with the workplace.

10.2.3 When an employee has a KIT day, they will continue to receive SAP for the week in which they work. In addition, they will be paid for any work undertaken under their contract of employment. Payment will be made at their normal contractual hourly rate of pay. SAP for the day will not be offset against any pay due, unless where work is undertaken during the period where OAP is received, where the total payment made including any work undertaken must not exceed the normal contractual hourly rate of pay.

10.2.4 The employee's manager should complete and submit the KIT day form via the GMSS portal so that payment can be made. They should also monitor the number of 'keeping in touch' days undertaken and ensure that the maximum 10-day limit is not exceeded.

## 11. Terms and conditions

11.1 All the terms and conditions of employment remain in force during OAL and AAL, except for the terms relating to pay. See the table below which details the arrangements.

<b>Annual Leave</b>	<p>Holiday entitlement will accrue as normal during adoption leave.</p> <p>The Council's annual leave year normally runs from 1st April to 31<sup>st</sup> March and so adoption leave may span two annual leave years. If this is the case and an employee is not able to take their remaining annual leave before 31st March, they will be able to carry forward any outstanding days.</p> <p>Where employees work a non-standard working pattern such as term time working, annual leave arrangements are likely to be different. In these scenarios advice should be sought from GMSS.</p>
<b>Bank &amp; Public Holidays</b>	<p>Employees are entitled to additional days in lieu of public and bank holidays that fall during adoption leave.</p>
<b>Critical Car User Allowance</b>	<p>During adoption leave, eligible employees will receive critical car user allowance in full, as normal.</p>
<b>Car Lease</b>	<p>Employees will be expected to continue to pay for their car during adoption leave, however due to the reduced earnings during this period, instead of salary sacrifice, other arrangements may need to be agreed. Employees should contact GMSS prior to taking Adoption Leave to discuss this.</p>
<b>Pay increases</b>	<p>Whilst normal salary is not payable during OAL and AAL, any pay increase effective from any time starting from the qualifying week (8 weeks' prior to the Saturday of the week in which the matching takes</p>

	place) until the end of adoption leave (OAP and AAP) will be paid retrospectively as a lump sum to make up any difference between SAP / OAP already paid and the amount payable as a result of the pay rise.
<b>Pension</b>	When you return to work you can elect to make Additional Pension Contributions (APCs) to 'buy-back' the lost pension.  You should contact the Pensions Officer for advice.

## **12. Adoption placement ending**

12.1 If, after starting a period of adoption leave, the adoption ends for one of the following reasons, the employee isn't entitled to the full adoption period and pay. The adoption leave and pay may continue for up to 8 weeks after the date of the event which disrupted the adoption.

- The employee is notified that the child will not be placed.
- The child is placed and the placement ends.
- In the case of dual approved prospective adopters, the placement doesn't proceed to formal adoption.
- The child dies.

## **13. Returning to work**

### **13.1 Expected return date**

13.1.1 The Council will assume that adopters intend to return to work immediately after the end of the ordinary and additional adoption leave periods. If this is the employee's intention, they do not have to give notice of their return and they just return to work on the agreed date.

### **13.2 Returning early**

13.2.1 If an employee decides to return before the end of their period of ordinary and additional adoption leave, they must give their manager 21 days' notice. Where less than 21 days' notice is given, the Council may postpone the return to ensure 21 days' notice, but not beyond the end of the adoption leave period.

### **13.3 Returning late**

13.3.1 If an employee wishes to return later than the end of the OAL and AAL periods then they should either:

- Request paid annual leave.
- Request parental leave (unpaid).
- Request a Career Break (unpaid).

13.3.2 The above will all be subject to appropriate approval.

13.3.3 If an employee is not able to return to work due to sickness or injury, the normal rules of the Attendance Management Policy will apply and the employee's manager should be notified.

#### 13.4 Not returning

13.4.1 If an employee decides at any stage that they are not going to return to work, they need to give written notice of this intention. The amount of notice to be given will depend on their contract of employment. The contract of employment will not end automatically if they do not return to work.

13.4.2 If an employee does not return to work after the end of their adoption leave and they have not given their manager a valid reason, their absence will be considered unauthorised.

13.4.3 If it is not possible for an employee to return to work because of e.g. industrial action or another interruption to the work, they may return when work resumes, or as soon as is reasonably practical after that date.

#### 13.5 Return if Parental Order not granted

If a parental order is not applied for within six months of the birth of the child, or is refused by the court, adoption leave and pay will come to an end, at either 6 months after the birth of the child or when the employee is notified that the parental order has been refused. The employee must notify GMSS in these instances and arrange with their manager to return to work.

#### 13.6 Rights on return

13.6.1 At the end of the OAL period employees are entitled, where possible, to return to the same job on terms and conditions no less favourable. However at the end of an AAL period the entitlement is to return to a similar job on terms and conditions no less favourable. We would hope in most cases that employees would be able to return to the same job.

13.6.2 If a reorganisation takes place while an employee is on adoption leave, they should be fully consulted and will be managed in accordance with the Organisational Change Framework.

#### 13.7 Change of working pattern

13.7.1 Employees are entitled to request a flexible working pattern on their return from adoption leave. Their manager is required to give such requests serious consideration. If the request is agreed, it will form a permanent change to the employee's terms and conditions to incorporate the new working pattern. The Flexible Working Requests Procedure should be followed.

14. **Review**

- 14.1 This policy will be periodically reviewed in order that that it remains appropriate to the Council's operation, is best practice and meets legal requirements.