

March 2016

HUMAN RESOURCES

Adoption Leave Policy



CONTENTS

	Page
Introduction	3
Qualifying Conditions	3
Pre Placement Leave	4
Adoption Pay and Leave	4
Notification	6
Returning to work	8
Further Information	9

I Introduction

- 1.1 Adoption Leave is available where a member of staff has been newly matched with a child or where a child has been placed with them for adoption. Intended parents in a surrogacy arrangement who have obtained or intend to obtain a Parental Order will also be entitled to adoption leave. Where a couple are adopting jointly they must decide which one will take adoption leave and which one will take paternity leave.
- 1.2 It is anticipated that staff considering applying for adoption would take time to discuss the possible implications of this (particularly in cases of overseas adoptions) in good time with their line manager.
- 1.3 This scheme is applicable to employees of Royal Greenwich except school staff where separate policies exist.

2. Qualifying Conditions

2.1 Statutory Scheme

- Adoption leave is a day one entitlement and employees are no longer required to have a minimum period of continuous service in order to qualify for adoption leave,
- Employees who have been matched with a child may take up to 52 weeks adoption leave, and may be entitled to 39 weeks of statutory adoption pay. If a couple jointly adopt a child, one may take adoption leave and the other parent may be able to take paternity leave or shared parental leave.

To qualify for adoption leave employees must:

- Be newly matched with the child for adoption by an approved UK adoption agency.
- Have been notified by the adoption agency of its agreement to the child being placed in the employee's home and the date of placement.
- Intend to apply for (or have obtained) a Parental Order making them the legal parent of the child.
- The application for a Parental Order must be made within 6 months of the child's birth.

Where the child has not been newly matched for adoption, adoption leave and pay are not available, for example, when a step-parent is adopting a partner's child.

2.2 Royal Greenwich's (enhanced) Scheme - conditions applying to the employee:

In order to qualify for the enhanced scheme, employees should meet the criteria of the Statutory Scheme outlined above, **plus** the following:

- 26 weeks continuous service as at the date of placement. Service with other

Authorities named in the Redundancy Payments Modification Order will count towards the 26 weeks continuous service requirement.

- In any five-year period, the employee may only qualify for two episodes of enhanced adoption leave and pay, and they may not take both in the same year. (If there are further episodes of adoption during this time, the employee may qualify for the statutory scheme only.)

2.3 Parental Orders

A Parental Order transfers legal rights from the birth mother to the employee and their partner when a surrogate is used to have a child.

The employee must be genetically related to a child to apply for a parental order, ie the egg or sperm donor, and in a relationship where you and your partner are either:

- married
- civil partners
- living as partners

Only couples can apply for a Parental Order and only one of the couple will be able to take adoption leave and/or pay in relation to the child, even if both meet the eligibility requirements

2.4 Conditions relating to the child/children

- Under the statutory scheme, the child being adopted **must** be less than 18 years old.
- If more than one child is being adopted at the same time, the employee will only benefit as though they were adopting a single child so that the benefits will not be multiplied in the case of multiple adoptions.

3. Pre-placement leave

3.1 Eligible employees and agency workers with 12 weeks service are entitled to time off to attend adoption appointments in the period between being notified of a match and the child being placed with the family for adoption:

- Single adopters are entitled to paid time off to attend up to 5 adoption appointments.
- In the case of joint adoptions (i.e. a couple who have been jointly matched to adopt the child) one of the adopters is entitled to paid time off to attend up to 5 adoption appointments. The other adopter will be entitled to unpaid time off work to attend up to 2 adoption appointments.
- Up to 6.5 hours is allowed for each appointment.
- Parental Order parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to up to 2 of her antenatal appointments. This is subject to

meeting certain criteria, including a 12 week qualifying period of service where the Parental Order parent is an agency worker.

- Employee should provide their Line Manager with documentary evidence of appointments of pre-placement meetings or court hearings. Also, the Line Manager may require documentary evidence of the duration of, or appointments for, the pre-placement introduction.

4. Adoption Pay and Leave

4.1 Adopters will normally be entitled to 26 weeks' ordinary adoption leave (OAL) followed immediately by 26 weeks' additional adoption leave (AAL) – a total of up to 52 weeks' leave, of which 39 weeks attract adoption pay

- The first 26-week period will normally be called “ordinary adoption leave.”
- The second 26-week period is called “additional adoption leave” and it must directly follow the first 26-week period.
- Of these weeks 39 will be paid and the amount of pay mirrors the payments made under the Maternity Policy
- The employee can choose to start their leave:
 - a. from the date of the child's placement (whether this is earlier or later than expected), or
 - b. from a fixed date, which can be up to 14 days before the expected date of placement, but no later than the date of placement (or the following day if still at work on that day).
- The leave can start on any day of the week. The pay can start on the next day following the start of the leave.
- The pay is made up partly of occupational pay and partly of Statutory Adoption Pay (SAP). SAP is paid at the same rate as Statutory Maternity Pay (SMP). See [Guidance on Statutory Adoption Pay](#).
- Where the employee's combined occupational adoption pay and SAP or any dependants' allowances exceeds the pay due in any relevant week, Royal Greenwich will make a deduction equal to the excess amount.

5. Notification

5.1 Pre-placement

Employee should provide the manager with documentary evidence of appointments of pre-placement meetings or court hearings. Also, the manager may require documentary evidence of the duration of, or appointments for, the pre-placement introduction (see [Placement under the enhanced Adoption Benefits Scheme](#)).

a) Informal notification

It is recommended that employees inform their manager of their intention to take adoption leave when they are approved by their adoption agency for adoption. This may be before an employee has received, or needs to submit, their documentary evidence but it will allow their manager time to plan for the intended period of leave.

b) Formal notification

The employee **must** inform their manager when they want to take adoption leave within seven days of the date they are told by their adoption agency that they have been matched with a child. (Where possible, this information should be provided 28 days before the leave starts, however, in practice there is often very little time between the dates they are matched with the child and the child being placed but the employee must provide the notification as soon as possible).

- The information must be given by letter. (Where the employee is entitled to both leave and pay this letter can count as notifying when they want the pay to start as well.)
- The letter must also:
 - i) state the date on which the child is expected to be placed in the employee's home with a view to adoption
 - ii) state the date the employee intends to start their adoption leave. This date should be no earlier than 14 days before the child is due to be placed and no later than the date the child is placed.
 - iii) be accompanied by documentary evidence issued by the adoption agency, which shows that the child will be placed in the employee's home for adoption. (A matching certificate from the adoption agency fulfils the requirements.) The evidence should show:
 - the employee's name and address
 - the agency's name and address
 - the date that the employee was informed they were matched with the child
 - the date the child is expected to be placed in the employee's home (or, if it has already happened, the actual date of placement)
 - the name and date of birth of the child.

The letter should also state that the employee is giving a declaration that they have chosen to receive Statutory Adoption Pay (completion of [Employee's Notification Letter](#) satisfies this requirement).

- Parental Order parents must provide a statutory declaration that they have obtained or have applied for/intend to apply for a Parental Order in respect of the child that they are having with the help of a surrogate

If claiming benefits under the Royal Greenwich's (enhanced) Scheme, the employee must indicate in the letter above whether or not they intend to return to work after adoption leave.

5.2 Notice of intention to take parental leave immediately before or after their adoption leave

Where an employee wishes to take annual or parental leave immediately before or after adoption leave, it would be helpful if they would give notice at the same time as their notice for their adoption leave, but in any event the notice must be no less than that required under the Parental Scheme.

5.3 Notice in relation to pay

To qualify for pay, the employee must give their manager at least 28 days notice of the date on which they wish their pay to begin, unless not reasonably practicable. This notice may be given at the same time as notice for adoption leave under (b) above.

5.4 Notification by the Manager regarding the end of adoption leave

Within 28 days of receiving formal notification of the intended start date for adoption leave (all evidence and compliance with all the stated other conditions), the manager **must** write to the employee and inform them of the date their adoption leave will end. (The [Manager's Notification Letter](#) should be used for this purpose.)

5.5 Reasonable Contact and Keeping in Touch Days

During the Adoption Leave the employer is legally entitled to make reasonable contact with the employee in order to see how s/he is and to keep him/her up-to-date with work matters. In addition the employee may return to work for up to 10 days without losing SAP although there is no obligation on the employer to offer work nor on the employee to accept work.

5.6 Notice Required Before Changing the Date Adoption Leave Starts

The employee may change the date their adoption leave starts by giving notice at least 28 days before the expected date of placement or a predetermined date. If this is not possible the employee should tell their manager as soon as is reasonably practicable.

- 5.7 Although employees are entitled to a possible 52 weeks leave some couples whose children are placed on or after 3 April 2011 may choose to divide the period of leave entitlement between them. If the employee has returned to work, her partner will be entitled to up to six months additional paternity leave (APL) which in many cases will be paid at the same rate and in the same way as SAP. For information on APL please see [Paternity Leave policy](#)

6. Returning to work

- 6.1 The employee will be expected to return to work when they have completed their full 52-week adoption leave period, at the latest. If the employee would like to return earlier than previously agreed, they must complete the form for [Employee's Notification of Return Date when returning early to Work](#).
- 6.2 If there is an interruption of work (such as industrial action) the employee must return when work resumes or, if this is not a normal working day for them, on their next normal working day.
- 6.3 If the employee has taken leave under Royal Greenwich's enhanced scheme they must remain in the employment of Royal Greenwich for at least 13 weeks, or, if the manager allows a return on altered hours a period that equates to 13 weeks at the weekly hours that applied prior to the adoption leave. For example, if the employee worked 36 hours per week prior to adoption leave, and the manager allows a return on 18 hours per week after adoption leave, the employee will be required to return for at least 26 weeks.
- 6.4 If the employee does not remain in the employment of Royal Greenwich for any reason, or does not remain for the full period necessary, they will have to repay all of the enhancement sums paid to them by Royal Greenwich under this Scheme with the exception of:
- pay for the pre-placement leave
 - half of the full pay period received for the adoption leave
 - the Statutory Adoption Pay, if entitled.
- 6.6 Apart from an interruption of work as above if, without prior agreement and for whatever reason, the employee fails to return to work on the due date, they are simply absent and Royal Greenwich's normal rules as to absence, and the reasons for absence, will apply. For example, if the reason for absence is sickness, Royal Greenwich's normal arrangements for managing sickness will apply.

7. Terms and Conditions during and after Adoption Leave

- 7.1 The arrangements in respect of the following shall operate similarly to Royal Greenwich's Maternity Policy:
- The contract of employment
 - Annual leave
 - Public holidays
 - Sickness
 - Improvement in terms and conditions during adoption leave
 - Pensions
- 7.2 **Right to Return**
- **Ordinary adoption leave, i.e. during the first 26 weeks**
- At the end of ordinary adoption leave an employee is entitled to return to the same job

on the same terms and conditions of employment as if they had not been absent, unless a redundancy situation has arisen (see below). If the employee is not given their job back they are entitled to complain of unfair dismissal, regardless of their length of service.

When ordinary adoption leave is immediately preceded by two or more periods of statutory leave which did not include any period of additional maternity leave or additional adoption leave (see below) or parental leave of more than 4 weeks the employee is entitled to return to the same job in which they were employed before their absence.

- **Additional adoption leave, i.e. during the second 26 weeks**

After additional adoption leave, whether or not it was preceded by another period of statutory leave, an employee is entitled to return to the same job on the same terms and conditions in relation to pay as if they had not been absent unless there is some reason why it is not reasonably practicable for the employee to return to the same job in which case, they should be offered a suitable alternative on terms and conditions, which are no less favourable than their original job.

If a redundancy situation has arisen they are entitled to be offered a suitable alternative vacancy on terms and conditions that are not substantially less favourable. If Royal Greenwich fails to offer a suitable alternative vacancy and there is one, the redundancy will be regarded as unfair dismissal. If the employee unreasonably turns down a suitable alternative vacancy, they may give up their right to a redundancy payment. This applies in the case of both ordinary and additional adoption leave.

7.3 Returning to work on altered hours

The employee may exercise their right to request an alteration to their hours of work when returning to work after adoption leave in accordance with the Flexible Working Scheme. Managers will give requests for returning to work on altered hours serious consideration and the exercise of this must take account of the needs of the service.

7.4 Right to a written statement of reasons for dismissal

An employee dismissed during adoption leave is entitled to a written statement of the reasons for their dismissal without having to request it and regardless of their length of service.

8. Further information

8.1 For further information, please contact HR Professional Services.

Version Number	Amendments	Date
1	Previous version released	July 2013
2	2.1 Qualifying Conditions	April 2015