

# Adoption Leave Policy & Procedure

## 1. Introduction

- 1.1 The London Borough of Havering values the skills and experience of all its employees and also recognises the need to support those adopting a child in the early stages following adoption.
- 1.2 The aim of this policy is to provide a scheme that meets statutory requirements, and supports employees through the period of adoption and adoption leave.

## 2. Eligibility

- 2.1 Adoption leave is applicable to male and female employees, provided they are the main carer of the child and the child's adopter.
- 2.2 The employee must have at least 26 weeks continuous service with the Council leading into the week in which they are notified of being matched with a child for adoption.
- 2.3 The employee must be 'newly matched' with a child for adoption by an approved adoption agency. (Newly matched means that if, for example, a step parent or foster parent is adopting a partners child, they are not eligible for adoption leave).
- 2.4 If the adoption is from overseas, the employee will require a Certificate of Approval from the Secretary of State for Health

## 3. Entitlement

- 3.1 An employee who satisfies the requirements set out in section 2 above shall be entitled to up to 26 weeks Ordinary Adoption Leave (OAL) followed immediately by up to 26 weeks Additional Adoption Leave (AAL)
- 3.2 Ordinary Adoption Leave will normally be paid leave, for individuals who have average weekly earnings at or above the Lower Earnings Limit for National Insurance.
- 3.3 Additional Adoption Leave commences on the day after the last day of OAL and continues for up to an additional 26 weeks. AAL is unpaid leave.
- 3.4 OAL can commence on any day of the week, up to 14 days before the expected date of placement or from the date on which the child is placed for adoption (whether this is earlier or later than expected).
- 3.5 Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 3.6 If the Child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

#### **4. Adoption Pay**

- 4.1 During the period of Ordinary Adoption Leave, eligible adopters are entitled to receive up to 26 weeks Statutory Adoption Pay (SAP). The rate of SAP is the same as the standard rate of Statutory Maternity Pay.
- 4.2 However, as the Council had an Adoption Leave Policy prior to April 2003, the adopter may take advantage of either their contractual rights or their statutory rights, or a combination of the two, depending on which are more favourable.
- 4.3 To determine the exact payments and length of Adoption Leave, employees should refer to the table at Appendix A, 'Your Entitlement to Adoption Leave and Pay'.
- 4.4 To retain payments made in addition to the statutory adoption pay, employees must return to work within a local authority for a minimum period of three months, 13 weeks for teachers, (or the pro-rated full time equivalent for individuals who return to work part-time),. If the employee fails to return to work for the required period they will have to pay back the additional contractual payment.

#### **5. Notification**

- 5.1 Employees must inform the Council in writing of their intention to take Adoption Leave within seven days of being notified by the adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. An application form can be found at Appendix B.
- 5.2 Employees will be expected at this stage to provide their Manager with evidence that they have been matched with a child for adoption either by providing the matching certificate, within one week of issue or if this is not available a letter from the Adoption Agency.
- 5.3 The Human Resources team will respond within 28 days to the employees notification setting out the date upon which they expect the employee to return to work if the full entitlement is taken.
- 5.4 The employee must subsequently give 28 days notification in writing of when he/she wants Adoption Leave to start, unless this is not reasonably practical.
- 5.5 The employee can change their mind about the date they want their Adoption Leave to start, but must give 28 days notice of this alteration unless this is not reasonably practicable.
- 5.6 There is no requirement for the employee to inform the employer of their intention to take AAL, it is presumed that the employee will take such leave if the entitlement arises. There will therefore be no notification requirements over and above the OAL notification requirements

## **6. Return to Work**

- 6.1 An employee will not need to give notice to return to work at the end of either OAL or AAL. However if he/she wishes to return before the end of the leave period, 28 days notice must be given to their manager. Failure to give this notice will mean that the return may be postponed until the end of the 28 day notice period.

## **7. The Right to Return to Work**

- 7.1 An adoptive parent has the right to return to the job in which they were employed under their original contract of employment on terms and conditions no less favourable than those applicable had they not been absent.
- 7.2 If the post has been made redundant during the period of adoption leave, the employee is entitled to be offered a suitable alternative vacancy where one exists. The terms and conditions of employment must not be substantially less favourable than the post in which they were originally employed.
- 7.3 Suitable alternative employment may also be offered in exceptional circumstances, such as a reorganisation whilst the employee is on adoption leave.
- 7.4 Employees who wish to return to work on reduced hours should speak to their manager as soon as possible, so that the needs of the service and of the individual can be considered at the earliest possible stage.

## **8. Annual Leave**

- 8.1 Employees on adoption leave are continuously employed (i.e. there is no break in their contract of employment) and they are entitled to accrue annual leave during Ordinary and Additional Adoption Leave.
- 8.2 Bank holidays will accrue as they fall in the period of Ordinary Adoption Leave providing for substitute days of leave. They will not accrue during the period of Additional Adoption Leave.
- 8.3 Employees are permitted to 'anticipate' the annual leave that will accrue during their Adoption Leave period. Subject to the needs of the service it may be possible to take accrued or anticipated leave before or after the adoption leave period.
- 8.4 Teachers have set leave periods and therefore are not able to 'anticipate' and take annual leave at any other time than the set periods.
- 8.5 During adoption Leave the council will continue its practice of allowing a maximum 5 days carry over between leave years (pro rata for part-time employees). This leave must be taken within two months of the return date.
- 8.6 It should be noted that if the employee resigns during their adoption leave or before returning to work for 3 months, (or the pro-rated full time equivalent for individuals who return to work part-time), they will be liable to repay any leave that has been taken in excess of their entitlement up to the last day of service.

## **9. Adoption Support Leave and Pay**

9.1 Please refer to the Council's Paternity Leave Policy.

## **10. Continuous Service**

10.1 For the purposes of entitlements regarding annual leave, the occupational sickness scheme and adoption scheme, continuous service will include continuous previous service with any public authority to which the Redundancy Payments (Local Government Modification) (Order 1983) applies.

10.2 Where an employee returns to Local Government service following a break for adoption reasons they will be entitled to have previous service taken into account in respect of the sickness and adoption schemes provided that the break in service does not exceed eight years and that no permanent paid full-time employment has intervened. For annual leave calculations, the eight years time limit does not apply provided that no permanent full time employment has intervened.

## **11. Other Entitlements**

11.1 There are other entitlements which may not be applicable to every employee. They are: -

### **11.2 Pension Scheme**

11.2.1 For those in the pension scheme, contributions will be deducted throughout the period of paid adoption leave. Contributions are based on employees rate of pay rather than their full pay.

11.2.3 Any contributions payable whilst on nil pay are deferred until the employee has returned to work. The employee then has 30 days to inform pensions if they wish to repay any contributions. Once calculated, payments can be made in instalments which will be agreed between pensions and the individual.

11.2.4 Teachers have their own pension scheme. If a period of unpaid leave occurs teachers are advised to contact their pensions agency for advice.

### **11.3 Essential Car User Allowance**

11.3.1 Essential car users, intending to return to work will be paid the Allowance at the full rate for the first 26 weeks of paid adoption leave.

11.3.2 Employees not intending to return to work will be paid up until their last day of service.

### **11.4 Car Loans**

11.4.1 Car loans are repayable whilst adoption pay is received. During periods of any unpaid leave the loan is automatically deferred until the individual's return to work.

11.4.2 Employees not intending to return to work will have to pay their car loan in full.

