

ADOPTION (& SURROGACY) LEAVE

1. Introduction

Hackney supports employees in achieving a balance between their lives at work and their lives away from work. This forms part of the Council's commitment to improving services and increasing opportunities for all. **Adoption (and Surrogacy) Leave** is one of the family leave options available to Council employees.

As well as adoption, the provisions also cover eligible employees having a child through surrogacy. Although not an adoption, the provisions refer to Adoption Leave and Pay. This is in order to retain the terminology used in the statutory position to avoid confusion.

2. Qualifying Criteria

2.1 Adoption Leave

For **Adoption and 'Fostering to Adopt'** - The employee must be newly matched with the child by an adoption agency, which must be recognised in the UK.

For **Surrogacy** – The employee must have applied, or be intending to apply, for a Parental Order in relation to the child.

All eligible employees are entitled to **Adoption Leave** totalling 52 weeks, regardless of their length of service or number of hours worked.

2.2. Occupational and Statutory Adoption Pay

- (1) To qualify for **Occupational and Statutory Adoption Pay** an employee must meet the qualifying criteria for adoption leave (2.1) and in addition must:
- Have at least 26 weeks continuous service with Hackney by:
 - **Adoption and 'Fostering to Adopt'**: the end of the week the official notification was received;
 - **Surrogacy**: the date the baby is expected to be born.
 - Earn at least the lower earnings limit (LEL) for National Insurance Contributions

3. Exclusions (employees who don't qualify):

- 3.1 Private adoptions do not qualify e.g. a foster parent adopting a foster child, or a step-parent adopting their partner's child.

4. Adoption Leave

4.1 The total leave entitlement is 52 weeks, made up as follows:

- 26 weeks Ordinary Adoption Leave; *and*
- 26 weeks Additional Adoption Leave:

4.2 Additional Adoption Leave begins the day after Ordinary Adoption Leave ends i.e. the Adoption Leave is a continuous 52 week period.

5. Adoption Pay

5.1 To qualify for Statutory Adoption Pay, the employee must meet the qualifying criteria in Section 2 (above) and earn at least the lower earnings limit (LEL) for National Insurance Contributions. Employees who do not meet the LEL will be issued a form SAP1 form to take to their local council.

5.2 To qualify for Occupational Adoption pay, the employee must return to work for a period of at least 3 months.

Qualifying employees may receive up to 39 weeks adoption pay as follows:

Weeks 1 – 6	9/10 of a week's pay (Statutory Adoption Pay)
Weeks 7 – 24	Half pay plus Statutory Adoption Pay – where the employee has declared in writing they will plan to return to work for at least 3 months; otherwise statutory adoption pay
Weeks 25 – 39	Statutory Adoption Pay.

***Note: current SAP can be found at <https://www.gov.uk/employers-maternity-pay-leave>**

5.3 Where an employee does not return to work in Local Government for at least 3 months at the end of their adoption leave, then qualifying employees (as 2.2 above) will receive: Weeks 1 – 39 Statutory Adoption Pay.

Any overpayment because an employee has not returned will be recovered. Employees may opt to wait until they are certain about returning before receiving Occupational Adoption pay in order to avoid a debt.

6. Adoption Appointments

6.1 For **Adoption and 'Fostering to Adopt'** - The main adopter can 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.

For **surrogacy** both parents will be entitled to take unpaid time off for up to two appointments.

6.2 If requested, the employee must produce a document that confirms:

- That they would like to take either paid or unpaid time off;
- The date and time of the appointment;
- That the appointment has been arranged by or made at the request of the adoption agency; or
- In the case of joint adopters, a signed declaration that they have elected to take time off.
- In the case of intended parents (surrogacy), the appointment in question is made on the advice of a registered medical practitioner, registered midwife or registered nurse

7. Contractual entitlements (other than pay)

- 7.1 Contractual entitlements (other than pay) will continue throughout the entire period of adoption leave, including entitlements to annual leave and Bank Holidays.
- 7.2 Accrued annual leave and bank holidays can be taken before commencing adoption leave or at the end of the adoption leave (as agreed with the line manager) but not during the adoption leave.
- 7.3 Hackney does not normally allow more than a 5 day carry over of annual leave into a new leave year. Employees should take their annual leave before going on adoption leave or get agreement in advance, if the carry over will be more than 5 days, to avoid losing any leave. Time awarded for Bank Holidays (during the adoption leave period) may be carried forward.

8. Commencement of Adoption Leave

The adoption leave period may begin:

8.1 For **Adoption and **'Foster to Adopt'**:**

- From the date of the child's placement – whether earlier or later than expected; *or*
- From a pre-determined date which can be up to 14 days before the expected date of placement

Or, where adopting a child from overseas:

- The date the child enters Great Britain
- A pre-determined date which is no later than 28 days after this date.

8.2 For **surrogacy the leave period begins from the date the baby is born. If the baby is born while the employee is at work, then the leave can start from the next day.**

9. Notification

9.1 For **Adoption** and '**Foster to Adopt**':

Employees must notify their manager in writing of their intention to take adoption leave within seven days of being notified of the match by the adoption agency; advising:

- The date the child is being placed with them
- The date the leave will start
- Whether or not they intend to return to work following the adoption leave.

9.2 The notification must be accompanied by the following evidence:

- Name and address of the adoption agency
- The date the employee was notified they would be matched with the child
- The date the agency expects to place the child
- Matching certificate completed by the adoption agency.

Note: Managers should not ask for details relating to the child, including the child's name.

9.3 For **surrogacy**:

Employees must notify their manager in writing of their intention to take leave advising:

- The date that the leave is expected to start (which is the date the baby is expected to be born)
- The period of time he or she intends to take.

This notification must be made either during or before, the 15th week before the date the child is expected to be born.

If requested, the employee must provide (within 14 days of receiving the request) a declaration confirming that:

- The leave is being requested for the intended purpose
- That he or she meets the qualifying conditions
- That he or she will be applying for a parental order, with an appropriate other person.

9.4 In all cases the line manager will write to the employee within next 28 days of their notification, informing the employee of the date they are to return if they take the full 52 weeks entitlement.

10. Notification of a change

10.1 For **Adoption** and '**Foster to Adopt**': The employees may change their mind about the date they start their adoption leave, so long as they notify their manager of the start date at least 21 days before the leave will now start.

11. If the placement ends during the Adoption leave

- 11.1 The employee may choose to remain on adoption leave for up to 8 weeks after the end of the week in which:
- They are notified the placement will not be made
 - The child dies
 - The child is returned to the adoption agency

This also applies in the case of surrogacy.

12. Keeping in touch days

- 12.1 Employees may work (or attend training) for up to 10 days during their adoption leave without bringing the adoption leave to an end or losing Statutory Adoption Pay. Adoption leave will not be extended by the number of days worked. The Council will 'top up' pay to 'normal pay' for hours worked. 'Keeping in touch days' are entirely voluntary and requires agreement from both the employee and employer.
- 12.2 Where an employee works part of a day, then this is a whole keeping in touch day used.
- 12.3 'Keeping in touch' days are not prorata for part-time employees i.e. an employee who works fewer than 5 days per week is still entitled to 10 'keeping in touch days'.

13 Returning from Adoption Leave

- 13.1 When returning after **Ordinary Adoption Leave** (the first 26 weeks of the adoption leave), the employee is entitled to return to the same job he/she had when he/she went on adoption leave. This must be on that same terms and conditions, as if he/she had not been away.
- 13.2 When returning from **Additional Adoption Leave** (the following 26 weeks of adoption leave), the employee is entitled to return to the same post on the same terms and conditions. However, if this is not reasonably practicable, then suitable alternative employment must be found. This must be on the same terms and conditions as if he/she had not been away.
- 13.3 Where a redundancy situation arises (during either ordinary or additional adoption leave) the employee is entitled to be offered a suitable and appropriate vacancy (if one exists).

14. Returning earlier than expected.

- 14.1 An employee may return to work earlier than initially notified but must give at least 8 weeks notice of the new return date (preferably in writing). If 8 weeks notice is not given, the Council may delay the return date by 8 weeks in order to prepare for the return, so long as this is not later than the initially notified date.

15. Not returning on the expected date.

- 15.1 If the employee is unable to return to work because of sickness absence, then normal sickness absence rules apply.
- 15.2 If the employee is not able to return from adoption leave for other reasons, then he/she must contact his/her line manager as soon as possible. Not returning to work after 52 weeks of Adoption Leave (without contact and approval), will be seen as unauthorised absence.

16 Requesting flexible working

- 16.1 The employee may request part-time or flexible working arrangements, which will be considered in line with the flexible working policy.

17. Resigning while on adoption leave

- 17.1 Employees who resign while on Adoption Leave must give notice in accordance with their contract of employment. If the notice period is longer than the remaining Adoption Leave, he/she may be required to return to work to complete the notice period.

Employees who do not return to work for at least three months must repay the 18 weeks (weeks 7 – 24) of half pay.

18. Adopting more than one child.

- 18.1 Adoption leave entitlements are the same regardless of the number of children adopted at any one time.

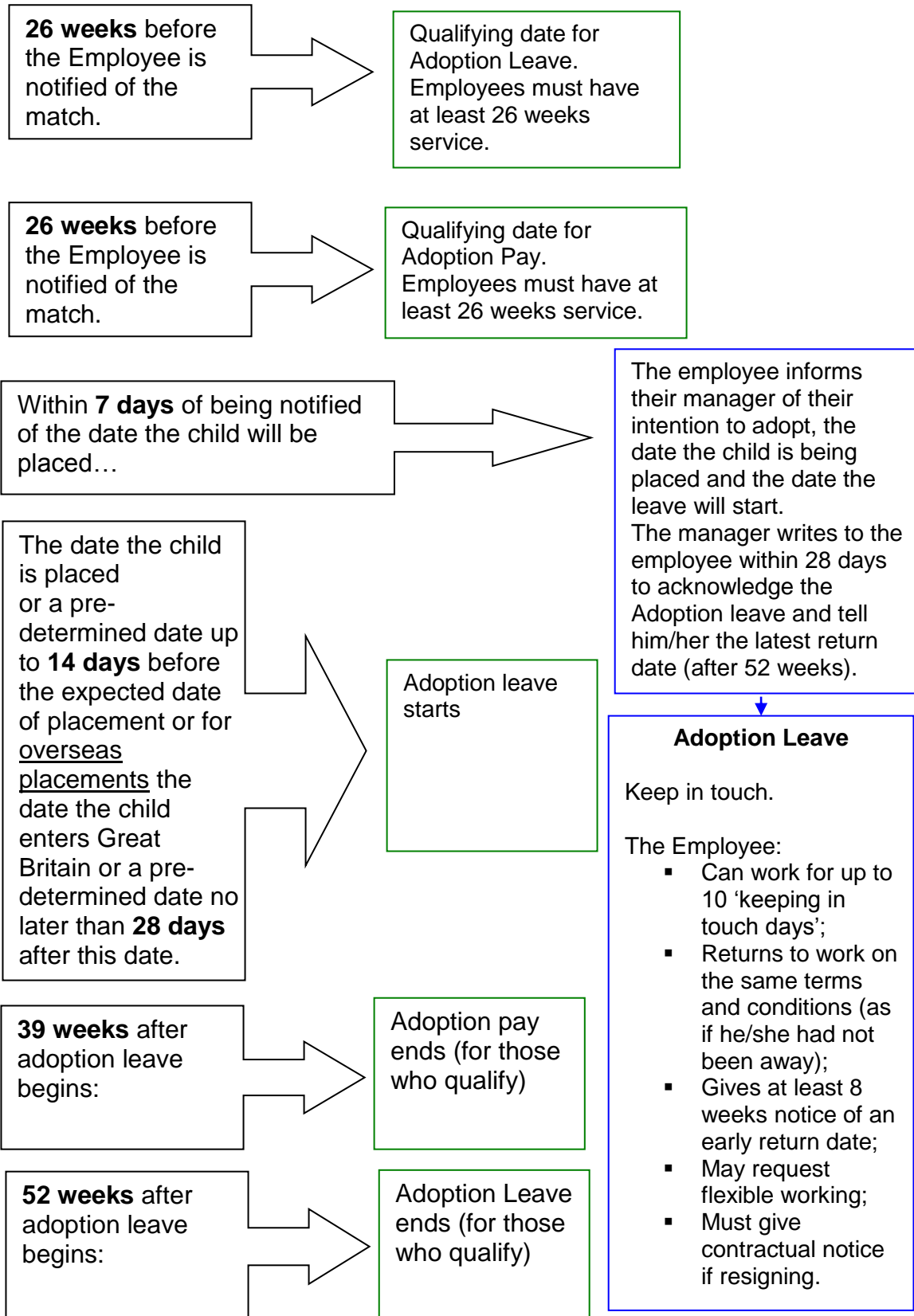
19. Employees who earn less than the lower earnings limit.

- 19.1 Employees who meet the other conditions but earn less than the lower earnings limit (LEL) for National Insurance Contributions, can still take unpaid adoption leave and might qualify for Income Support while on leave.
- 19.2 Employees who meet the other qualifying conditions will receive contractual adoption pay provided they return to work for a period of three months. Contractual adoption pay is as follows:

Weeks 7 – 24 Half pay

If employees do not return to work for at least three months, he or she must repay the 18 weeks (weeks 7 – 24) of half pay.

Key Dates for Adoption Leave and Pay



Key Dates for Adoption Leave and Pay – Surrogacy (Parental Order)

