

Adoption Leave and Pay Policy

Purpose

The aim of this policy is to inform employees of their adoption rights and entitlements and to outline The Royal Borough of Kensington and Chelsea's adoption leave and pay procedures.

For information on other types of leave available for parents and carers please see the relevant policy in the A to Z section of the [HR Hub](#) or refer to the combined Family Friendly Policy.

Who does this policy apply to?

The policy applies to all employees of the Council, except those employed in schools under the control of Governing Bodies, for whom procedures adopted by the Governing Body will apply.

Confidentiality

The Royal Borough of Kensington and Chelsea processes personal data collected in accordance with its data protection policy.

Eligibility

Employees who are matched with a child for adoption by an approved adoption agency or are one of a couple who have been jointly matched with a child for adoption are entitled to adoption leave and pay. The right to adoption leave and pay is only available to one member of a couple who have had a child placed with them. Adoptive parents must decide which of them takes this entitlement.

Time off to attend adoption appointments

Prospective adoptive parents have the right to time off for the purpose of having contact with the child or to attend adoption appointments and will not be expected to make this time up. The main adopter 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.

Ante-natal care

If you are a father, partner or civil partner of a pregnant woman, you are entitled to take unpaid leave to attend two appointments. This includes the intended parents if you are adopting or having a baby through surrogacy arrangements.

Adoption leave

There is no qualifying service required to take adoption leave. A maximum of fifty-two weeks adoption leave can be taken and can start from the dates on which the child is expected to be placed with them or on a specific date up to 14 days before this date.

Adoption pay

Adoption pay is payable for a maximum of 39 weeks and can be made up of two elements dependant on meeting the eligibility criteria of each element

1. Statutory Adoption Pay (SAP)
2. Occupational Adoption Pay (OAP)

Statutory Adoption Pay (SAP) is a statutory entitlement

Eligibility

You must have been continuously employed by the Council for at least 26 weeks ending with the week in which you are notified of the match, and be earning before tax, an amount above the Lower Earnings Limit.

How much is paid

First 6 weeks at 90% of average weekly earnings with no upper limit

Remainder of the statutory adoption leave period (up to 33 weeks) at the standard rate or a rate equal to 90% average weekly earnings, whichever is lower

If you don't to work after adoption leave

SAP does not have to be repaid

If you do not qualify for SAP, the IBC will issue you with an SAP1 form which explains why you do not qualify. You should present the SAP1 to the Department for Work and Pensions who will determine whether you qualify to receive maternity allowance. The Council will in these circumstances pay you two weeks' pay.

Occupational Adoption Pay (OAP) is an element that the Council pays over and above the statutory amount, where the eligibility criteria is met

Eligibility

You must have 26 weeks or more local government service into the 15th week before you are advised of the match and also meet the eligibility criteria for SAP.

How much is paid

First 12 weeks full pay

The next twenty weeks at half pay plus SAP
Remainder of the adoption leave up to a maximum of thirteen weeks at the current SAP rate

If you don't return to work after adoption leave

Will be required to pay back the OAP that was received

If you return on a part time basis

You retain your OAP if you remain in post for three months

Requesting adoption leave via the IBC

You must provide at least 21 days' written notification of when you wish your adoption leave and adoption pay to start and the date on which you expect the child to be placed with you for adoption.

Once you have informed your line manager of your leave arrangements you will need to complete the e-form in the 'My Family Leave' app in ESS and upload the matching certificate. In the case of surrogacy adoptions, you should upload your parental statutory declaration (or parental order).

On receipt of the e-form the IBC will write to you confirming your leave dates and entitlements.

Contact during adoption leave

You should discuss with your manager the contact arrangements that will be in place during your period of leave.

The level of contact should take into consideration your right to a private and family life, whilst at the same time, keeping you informed of any significant workplace developments and training opportunities to help you settle back into your job when you return to work.

For example, you may wish to receive newsletters, service information, minutes of relevant meetings and invitations to staff briefings or meetings. You may also wish to agree dates and times of informal one to one meetings or telephone conversations.

Please note, your manager is required to keep you informed of essential corporate information.

Keeping in touch (KIT) days

An employee on maternity or adoption leave is able to work for up to 10 days during their leave without losing any maternity or adoption pay and without bringing their leave to an end.

Work is defined as "any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the Council."

You will be paid your normal rate of pay for the time worked on each KIT day, less any maternity / adoption pay that you received for that day. For example, if you work five hours, then you will be paid five times your normal hourly rate, less any maternity/ adoption pay you receive for that day, so for an employee earning £24,135:

Hourly rate = £24,135 ÷ 365 x 7 ÷ 36 = £12.86

Payment for 5 hours = 5 x 12.86 = £64.30

If SMP/SAP of £28.20 had already been paid, then actual payment would be: £64.30
- £28.20 = £36.10

If you attend work for more than 10 days, then your maternity/ adoption leave will end and your pay may be affected. Each day you attend work counts as a KIT day, even if you don't work a full day. KIT days are not compulsory.

Returning to work

If you wish to return to work earlier than the end of the 52 week period, you must provide 21 days' notice, in writing, of your intended date of return to your manager and provide notification to the IBC via the 'My Family Leave' app in ESS. Alternatively, your manager can do this via the 'Manage Family Leave' app.

You have the right to return to either exactly the same job, or in some cases, a similar one. Which right applies depends on when you return. If you return to work:

- after the first six months of leave, you are entitled to return to exactly the same job you were doing before your adoption leave
- after the second six months of leave, you are also entitled to return to exactly the same job, unless there is some reason why this not reasonably practicable. If this is the case, you are entitled to suitable alternative work on similar terms and conditions.

If there are any proposed changes to your role prior to your return to work your manager will consult with you.

Returning part-time

You may request to return to work on a temporary part-time basis. Requests must be made and agreed with your line manager before you return from adoption leave.

Your line manager will consider your request taking into account the needs of the service and your wishes. A part-time arrangement will only be agreed where this can be reasonably accommodated.

Where a part-time return is agreed, the terms will be as follows:

- the arrangement will be up to a maximum of 3 months
- the revised working hours must be at least 18 hours per week, or at least half of the employee's contracted hours if they are working less than full time
- the number of hours worked must increase to the original contractual hours over the 3-month period

During any period of phased return, pay and annual leave entitlement is pro-rated according to the number of hours worked per week.

Requests to work part-time permanently should be made under the [Flexible Working Policy](#)

Resignation

If you wish to resign whilst on adoption leave, you should inform your manager as soon as you are aware that you will not be returning to work. Your last day of service will be the date of your letter of resignation and, if you are still being paid, your salary will cease from this date.

If you have received any occupational adoption pay you are required to return to work for a period of three months at the end of your leave. If you do not, then you will need to repay this money.

Where a resignation means you have been overpaid, the amount will be recovered in accordance with your contract of employment.

Pension

If you are a member of the Local Government Pension Scheme the employer pension contributions will continue to be made and employee contributions will continue to be deducted from your adoption pay.

If you are intending to take a period of unpaid adoption leave you should consult the Council's pension administrator for advice about the possible effects on your pension.

Continuous Service

If you return to local government service following a break for maternity reasons, or reasons concerned with caring for children or other dependants, you are entitled, under paragraph 14.2 of the Green Book to have previous service taken into account in respect of the sickness scheme provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.

For the purpose of the calculation of entitlement to annual leave the eight years' time limit does not apply provided that no permanent full-time employment has intervened.

Adoption FAQs

Q. What happens if I change my mind about when I want to go on adoption leave?

A. Once you have given notice of the date that you intend the leave to begin on, you can subsequently change your mind and vary the date. In this case If you wish to change the date on which you start your adoption leave, you should give as much notice as possible, taking into account the needs of the service, the impact on your pay.

Q. Do I have to take all of the adoption leave I am entitled to if I don't want to take any unpaid leave?

A. No, you do not have to take all of your entitlement. The council encourages you to take at least two weeks' adoption leave after the actual date of placement of your child.

Q. What happens if I have a period of sickness absence before my adoption leave?

A. If you have a period of sickness absence prior to the beginning of the fourth week before the expected week of placement this will be treated as sick leave. If the absence continues after the planned start date of adoption leave, then this date may need to be reconsidered.

Q. Is there anything I need to do while I am on adoption leave?

A. With the agreement of your manager you may, if you choose, work for up to 10 days during your adoption leave. You also need to notify your manager if you choose to return early from your adoption leave (refer to the Returning to Work section).

Q. What happens with my annual leave?

A. Your annual leave continues to accrue during your adoption leave. You may use any accrued leave entitlement within 6 months of your return to work. All leave must be agreed by your manager.

Q. What happens about bank holidays that fall during my adoption leave?

A. You will continue to accrue any bank holidays that fall during your adoption leave. With the agreement of your manager you may take these days after your adoption leave.

Q. Can I take adoption leave as a secondary adopter?

A. Where a couple jointly adopt a child, one of the couple (primary adopter) may claim adoption leave, and the other may claim paid paternity (maternity support) leave, please refer to the maternity support leave policy. For information on Shared Adoption Parental Leave and Pay please refer to the policy.

Q. I am a foster parent who would like to adopt does this policy apply to me?

A. A foster parent can take adoption leave, but only if:

- The child that the employee fostered is then matched with them for adoption by UK adoption agency. Adoption via a court order does not count.
- The child is then actually placed with them for adoption. Adoption leave is not available to special guardianships.

Q. Can I work part-time when I return to work?

A. You have the right to request flexible working on your return from Adoption leave, your line manager must consider this request fairly. Please refer to the 'returning part-time' section above and the Flexible working policy which can be found in the A to Z of policies section of the [HR Hub](#)

You may want to consider using some of the annual leave you have accrued whilst you have been on adoption leave by complementing part-time hours with annual leave in order to be paid full time.

Q. Can I take time off for adoption appointments/meet the child?

A. The main adopter will be able to take off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

Adoption Leave Form

N.B. It will be assumed that you will be returning to work at the end of your adoption leave entitlement. If you wish to return to work prior to the end of your adoption leave entitlement you must write to your manager at least 21 days in advance, giving the precise date on which you intend to return to work.