



St Helens Borough Council

Adoption Leave and Pay Guidance

and Procedure for Staff

Introduction

This guidance has been developed to provide further information about the Council's entitlement to Adoption Leave and Pay. It applies to all employees of St Helens Council. The purpose of this guidance is to inform you of your statutory and contractual rights in relation to adoption leave and pay, and also provides relevant information relating to other issues which may arise in connection with your adoption leave in the United Kingdom. For more information regarding the adoption of a child from overseas, please contact People Management.

The remit of this guidance also includes prospective parents in the 'fostering for adoption' system, and intended parents in a surrogacy arrangement who are eligible, and intend to apply for, a parental order.

Our Vision and Values

The Council has co-designed a clear vision for workplace culture and worked together with employees to identify values and behaviours for everyone. These will be at the core of how we work together to deliver our services. Employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment.

Our vision, values and behaviours are underpinned by our Bonds for Working Together at St Helens which outline what employees can expect from working at the Council and what is expected of them.

[Our Culture, vision, values, behaviours and Bonds for Working Together at St Helens](#)



Prior to Commencing Adoption Leave

Time Off for Appointments

Section 128 of the Children and Families Act 2014 inserts a new provision into the Employment Rights Act 1996 (s.57ZJ) allowing you as a primary adopter to take paid time off during working hours to attend any appointment arranged by, or at the request of, the adoption agency for the purpose of having contact with the child or for any other purpose connected with the adoption.

As a primary adopter you may take paid time off under the new provision to attend up to five appointments and each of those appointments may last up to 6.5 hours.

Section 128 of the Children and Families Act 2014 inserts a further provision into the Employment Rights Act 1996 (s.57ZL) permitting you, if you are the primary adopter's partner adopting the child jointly to take unpaid time off during working hours to attend up to two appointments in connection with the adoption process. The amount of unpaid time off work is capped at 6.5 hours' for each of the two adoption process appointments. This right will apply to you, irrespective of length of continuous service of employment.

You will also retain the right, as an employee, to request annual leave to attend any additional adoption appointments, over and above the legal maximum of 5 paid appointments where you are the primary adopter. You should make any requests for annual leave requests in accordance with normal approval procedures.

Where you do not have an annual leave entitlement to utilise, for example if you are a teacher or employed on a term time only basis, special leave and leave of absence provisions will apply.

Entitlements To Adoption Leave and Pay

Adoption Leave

If you are notified that you have been newly matched with a child for adoption, or if you are one of a couple who are jointly notified that you have been matched with a child for adoption, you as an employee have the right to take up to 26 weeks' ordinary adoption leave, followed immediately by up to 26 weeks' additional adoption leave. The right to statutory adoption leave is also available to you if the adoption involves a child from overseas.

The right to adoption leave is available to only one member of a couple who have had a child placed with them for adoption. It is up to the you as adoptive parents to decide which one of you takes the adoption leave. If you are the partner of an individual who adopts, or the other member of a couple who are adopting jointly, you may however be entitled to a period of paid paternity leave.

The adoption leave period may begin from the date of your child's placement for adoption (whether this is earlier or later than expected), or from a predetermined date which can be up to 14 days before the expected date of placement. In the case of a child adopted from overseas, the adoption leave period may begin on the date your child enters Great Britain or from a predetermined date that is no later than 28 days after this date.

Adoption Pay

In order for you to qualify for Statutory Adoption Pay (SAP), certain eligibility criteria must be satisfied. In addition to Statutory Adoption Pay, you may also qualify for Occupational Adoption Pay (OAP).

Entitlement to Occupational Adoption Pay will be dependent on your individual length of continuous local government service, whilst the amount of Occupational Adoption Pay will be determined by reference to your terms and conditions of employment.

Legal Position

Statutory Adoption Pay (SAP) is payable in respect of children newly matched or placed for adoption. You are eligible to receive it regardless of gender. The pay period is for up to 39 weeks and the period of Statutory Adoption Pay remains the same regardless of how many children are placed for adoption as part of the same arrangement.

The criteria for eligibility for Statutory Adoption Pay are as follows:

- You must be the person with whom a child is, or is expected to be, placed for adoption.
- You must have been continuously employed for at least 26 weeks ending with the week in which you are notified of having been matched with the child.
- Over the eight-week period ending with the week in which you are notified of being matched with the child for adoption you must have average weekly earnings which are not less than the Lower Earnings Limit (LEL) for national insurance contributions purposes.

- Where you are adopting with your partner, you must have elected to receive Statutory Adoption Pay.
- You must have ceased to work for your employer (i.e. you are taking adoption leave).

Statutory Adoption Pay is payable for up to 39 weeks, with the first six weeks payable at 90% of your average weekly earnings. The remaining 33 weeks are payable at a rate set by the Government for the relevant tax year, or at 90% of your average weekly earnings, if this figure is lower than the Government's set weekly rate. SAP is treated as earnings and is therefore subject to PAYE and national insurance deductions.

You should inform your line manager and People Management when you want to take statutory adoption leave within seven days of having been notified by the adoption agency that you have been matched with a child for adoption. Where possible you should give 28 days' notice of when you want the Statutory Adoption Pay period to start. However, where this would result in the beginning of the pay period being later than the date of placement, the beginning of the pay period is the date of placement.

You can choose to begin your Statutory Adoption Pay period on:

- the day on which the child is placed with you for adoption or, where you are at work on that day, on the following day;
- a predetermined date, specified by you, which is no more than 14 days before the date on which the child is expected to be placed with you and no later than that date.

You may change the date on which you wish the adoption pay period to begin, provided that you inform the Council of the new date at least 28 days prior to this new date or, if that is not reasonably practicable, as soon as is reasonably practicable

Statutory Adoption Pay is payable whether or not you intend to return to work after your adoption leave.

If you do not qualify for statutory adoption pay, People Management will provide you with a SAP1 exclusion form within 28 days of the notification of the adoption matching date.

Contractual Position

All Employees other than those employed as Teachers

Less than a year's service

You are required to give notice to your manager of your intention to take adoption leave within 7 days of being notified by the adoption agency that you have been matched with a child for adoption, unless this is not reasonably practical. Where you have less than a year's local government service at the point that you notify your manager of your intention to take adoption leave, you will not qualify for Occupational Adoption Pay.

In these circumstances, you may still be entitled to Statutory Adoption Pay provided that you (i) will have been continuously employed by the Council for at least 26 weeks ending with the week in which you are notified of having been matched with the child, and (ii) that your average weekly earnings are not less than the Lower Earnings Limit for national insurance contributions.

Further advice regarding whether you qualify for Statutory Adoption Pay can be obtained from People Management.

More than a year's service

If you have more than a year's local government service at the point that you give notice to your manager of your intention to take adoption leave you will qualify for Occupational Adoption Pay. There are two options available in respect of Occupational Adoption Pay:

Option A

Option A provides you with 18 weeks' Occupational Adoption Pay as well as any Statutory Adoption Pay to which you may also be entitled.

- 6 weeks at 9/10ths of average weekly earnings, followed by
- 12 weeks at half pay plus Statutory Adoption Pay (if eligible), followed by
- 21 weeks of Statutory Adoption Pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

Where you are entitled to receive both Statutory and Occupational Adoption Pay, the total amount of adoption pay payable to you will not exceed the Occupational Adoption Pay element. Further advice regarding this is available from People Management.

If you choose Option A, you will be required to return to your post at the end of the adoption leave period for a minimum of 13 weeks. Where you receive the half pay element of Occupational Adoption Pay, and subsequently fail to return to work for the required period of 13 weeks, you will be required to repay the half pay element to the Council.

Option B

Option B provides you with the following adoption pay:

- 6 weeks at 9/10ths of average weekly earnings, followed by
- 33 weeks of Statutory Adoption Pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

If you choose Option B, there is no requirement for you to return to your post at the end of the adoption leave period. You may wish to choose this option if your intention to return to work following adoption leave is unknown at the commencement of the adoption leave.

Where you choose Option B, and subsequently return to work following the period of adoption leave, you will be entitled to receive 12 weeks' half pay as if you had chosen Option A. In these circumstances you would need to remain in your post for a minimum of 13 weeks to retain the right to the half pay element.

All Teachers Employed in Accordance With The Conditions of Service for School Teachers in England and Wales

Less than a year's service

You are required to give notice to your manager of your intention to take adoption leave within 7 days of being notified by the adoption agency that you have been matched with a child for adoption, unless this is not reasonably practical. Where you have less than a year's local

government service at the point that you give notice to your manager of your intention to take adoption leave, you will not qualify for Occupational Adoption Pay.

In these circumstances, you may still be entitled to Statutory Adoption Pay provided that you (i) will have been continuously employed by the Council for at least 26 weeks ending with the week in which you are notified of having been matched with the child, and (ii) that your average weekly earnings are not less than the Lower Earnings Limit for national insurance contributions during the relevant period.

Further advice regarding whether you qualify for Statutory Adoption Pay can be obtained from People Management.

More than a year's service

If you have more than a year's local government service at the point that you give notice to your manager of your intention to take adoption leave, you will qualify for Occupational Adoption Pay. There are two options available in respect of Occupational Adoption Pay:

Option A

Option A provides you with 18 weeks' Occupational Adoption Pay as well as any Statutory Adoption Pay to which you may also be entitled.

- 4 weeks at full pay, followed by
- 2 weeks at 9/10ths of average weekly earnings, followed by
- 12 weeks at half pay plus Statutory Adoption Pay (if eligible), followed by
- 21 weeks of Statutory Adoption Pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

Where you are entitled to receive both Statutory and Occupational Adoption Pay, the total amount of adoption pay payable to you will not exceed the Occupational Adoption Pay element. Further advice regarding this is available from People Management.

If you choose Option A, you will be required to return to your post at the end of the adoption leave period for a minimum of 13 weeks.

In accordance with School Teachers' Conditions of Service, where your employer agrees, if you are a full-time teacher you may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where the employer agrees, if you are a part-time teacher you may return to work on a different part-time basis for a period which equates to 13 weeks part-time service relating to your previous contract.

Where an employee receives the half pay element of Occupational Adoption Pay, and subsequently fails to return to work for the required period of time, you will be required to repay the half pay element to the Council.

Option B

Option B provides you with the following adoption pay:

- 4 weeks at full pay, followed by
- 2 weeks at 9/10ths of average weekly earnings, followed by
- 33 weeks of Statutory Adoption Pay (if eligible), followed by

- up to 13 weeks of unpaid leave.

If you chose Option B, there is no requirement for you to return to your post at the end of the adoption leave period. You may wish to choose this option if your intention to return to work following adoption leave is unknown when you commence adoption leave.

If you choose Option B, and subsequently return to work following the period of adoption leave, you will be entitled to receive 12 weeks' half pay as if you had chosen Option A. In these circumstances you would need to remain in your post for a minimum of 13 weeks to retain the right to the half pay element. In accordance with School Teachers' Conditions of Service, where your employer agrees, if you are a full-time teacher, you may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where your employer agrees, if you are a part-time teacher, you may return to work on a different part-time basis for a period which equates to 13 weeks part-time service relating to your previous contract.

Procedure

Notification Requirements

There are a number of notification requirements with which you are required to comply, in terms of both the amount of notice to be given and the form in which such notice should be provided. Further details can be found below.

Commencement of Adoption Leave

You must provide, in writing, evidence of your entitlement to adoption leave and Statutory Adoption Pay, consisting of:

- your name and address;
- the name and address of the adoption agency;
- the date on which the child is expected to be placed for adoption or, where the child has already been placed for adoption, the date of the placement;
- the date on which you were informed by the adoption agency that the child would be placed with you for adoption;
- the date on which you expect the payment of Statutory Adoption Pay to begin;
- a declaration that you have elected to receive Statutory Adoption Pay and not Statutory Paternity Pay (Adoption).

This information and declaration must be provided at least 28 days before the date on which it is expected that the liability to pay Statutory Adoption Pay will begin or, if that is not reasonably practicable, as soon as it is reasonably practicable. The Council accepts that sometimes there is very little time between when the adoption agency informs you that you have been matched with a child and the date of placement.

Where you choose to begin the Statutory Adoption Pay period on the day on which the child is placed for adoption (or the following day where you are at work on that day), you must provide further notice as soon as is reasonably practicable to confirm the date the child is placed for adoption.

In addition to the written notification outlined above, you are required to bring the original Matching Certificate from the Adoption Agency to People Management as soon as possible after you receive it. Please note that People Management will be unable to process any statutory or occupational adoption payments until the original Matching Certificate has been seen, and a verified copy taken, by a member of People Management. People Management will formally respond in writing to your notification of your adoption leave plans within 28 days, confirming the date on which you are expected to return to work if you take the full 52-week entitlement to adoption leave.

Return to work following Adoption Leave

You may return to work at any time during ordinary adoption leave or additional adoption leave, provided that you give the appropriate notification. Alternatively, you may use your full period of adoption leave entitlement and return to work at the end of this period.

If you wish to return before the full period of adoption leave has elapsed, you must give at least 21 days' notice in writing to People Management of the date on which you intend to return. This notice requirement ensures that there is sufficient time for People Management to reinstate normal salary arrangements for you.

Employment Rights during Adoption Leave

During ordinary adoption leave and additional adoption leave, all terms and conditions of your contract except normal pay will continue. Salary will be replaced by Statutory Adoption Pay or Occupational Adoption Pay if you are eligible.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue.

Keeping in Touch (KIT) Days

You may work for up to 10 days without bringing the period of adoption leave to an end, but work during adoption leave will not have the effect of extending the adoption leave period beyond the legally prescribed maximum period of 52 weeks. These days are referred to as 'Keeping In Touch' (KIT) days.

If you undertake any work whilst on a KIT day, payment will be received at the normal rate of pay for the day, inclusive of any Statutory Adoption Pay (SAP) due for that day. You are under no obligation to work during adoption leave, and the Council is under no obligation to offer work.

In addition to KIT days, the Council is entitled to make reasonable contact with you during adoption leave. This may be to discuss your plans to return to work, or perhaps any changes in the workplace. You are also entitled to make reasonable contact with the Council, for example, to discuss any arrangements for the return to work.

Annual Leave

During the period of adoption leave you will continue to accrue annual leave and bank holidays in line with your contractual provisions. Where a period of adoption leave spans two leave years, you should aim to take the leave entitlement from the first leave year prior to commencing adoption leave. Leave entitlement from the second leave year will be available for you to use upon return from adoption leave.

Where you carry over leave from one leave year to the next as a result of a period of adoption leave, you will be required to use the carried over amount of leave within 3 months of your return from adoption leave, in accordance with the Council's Working Time Policy Statement.

Pension

Pension contributions will continue to be made by the Council during the period when you are in receipt of pay, including Occupational Adoption Pay or Statutory Adoption Pay, but not during any period of unpaid adoption leave.

You are able to continue to make your own individual pension contributions during a period of adoption leave.

Further details regarding pension payments during adoption leave are available from People Management.

Right to return to role following Adoption Leave

In accordance with employment legislation, you have the right to resume working in the same job if returning to work from ordinary adoption leave (after 26 weeks' adoption leave).

If you return to work after a period of additional adoption leave, that is, following a period of adoption leave which lasts for a duration of between 27 and 52 weeks, you are legally entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

The Council's practice generally is to allow you to return to your own job following adoption leave, irrespective of the amount of adoption leave taken. The only exception to this will be in cases where a Service Review has been undertaken whilst you have been on adoption leave and your original post no longer exists. In these circumstances the provisions of the Council's Organisational Change and Transformation Policy will apply.

If you decide during adoption leave that you do not wish to return to work, you should give written notice of resignation to the Council as soon as possible and in accordance with the terms of your contract of employment.

Right to request flexible working

Full consideration will be given to requests from employees who wish to change their working pattern. You should submit your request as far in advance of your desired start date as practicable, to allow adequate time for the request to be fully considered and, where appropriate, the necessary arrangements put in place.

Further information about the right to request flexible working and the process involved can be obtained from People Management.

Childcare Vouchers

From 4 October 2018, childcare voucher schemes closed to new applicants. You may be able to get tax-free childcare instead.

You can keep getting vouchers if you've joined a scheme and your salary has been adjusted before the scheme closed in October 2018, as long as:

- you stay with the same employer and they continue to run the scheme
- you do not take an unpaid career break of longer than a year

Employment Rights in a redundancy situation

Further information regarding employment rights in a redundancy situation is contained within the Council's Organisational Change and Transformation Policy and is also available from People Management.

Further Information

Any questions relating to this guidance and procedure, can be obtained from People Management.