



*Cherwell*  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# Adoption Policy

## DOCUMENT CONTROL

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## DOCUMENT APPROVALS

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
<b>CDC</b> Personnel Committee	17 October 2022 (16:00)

## DOCUMENT DISTRIBUTION

This document will be distributed to all employees of Cherwell District Council.

## DATE FOR REVIEW

No later than 1<sup>st</sup> November 2025 but sooner if impacted by legislative changes.

## REVISION HISTORY

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>

## **ADOPTION POLICY A Guide for Employees**

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This policy contains information on adoption leave and adoption pay for UK adoption only.

If you have any queries which are not answered or wish to make an appointment to discuss your own personal situation in more detail, please contact Human Resources.

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## 1 Introduction

The purpose of this policy is to set out the arrangements for adoption leave and pay for employees who are adopting a child through a UK adoption agency, fostering a child with a view to possible adoption or having a child through a surrogate mother.

This policy applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.

This policy does not form part of any contract of employment or other contract to provide services and the Council may amend it at any time.

### 1.1 Who the scheme applies to

In adoption cases or fostering for adoption cases you are entitled to adoption leave if you meet all the following conditions:

(a) You are adopting a child through a UK adoption agency, or you are a local authority foster parent who has been approved as a prospective adopter.

(b) The adoption agency or local authority has given you written notice that it has matched you with a child for adoption, or that it will be placing a child with you under a fostering for adoption arrangement, and tells you the date the child is expected to be placed into your care (**Expected Placement Date**).

(c) You have notified the agency that you agree to the child being placed with you on the Expected Placement Date.

In a surrogacy case, you are entitled to adoption leave if all the following conditions are met:

(a) A surrogate mother gives birth to a child who is biologically your child, the child of your spouse or partner, or the child of both of you.

(b) You expect to be given parental responsibility for the child under a parental order from the court. The child must live with you and you must apply for the parental order within six months of the child's birth.

## 2 Length of adoption leave

The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (**OAL**) and 26 weeks' Additional Adoption Leave (**AAL**). 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.

Where a couple adopts jointly, only one partner can take adoption leave in respect of each adoption. The other partner may be eligible to take paternity leave (please refer to the paternity leave policy) and/or shared parental leave.

## 3 Time off to attend adoption appointments

An adoption appointment is an appointment arranged by an adoption agency (or at the agency's request) for you to have contact with a child who is to be placed with you for adoption, or for any other purpose related to the adoption.

You may take time off to attend an adoption appointment once the agency has notified you that a child is to be placed with you for adoption but before the child is actually placed with you.

Where you and your partner are adopting a child, you must decide between you who will be treated as the primary adopter and who will be treated as the secondary adopter for the purposes of time off. You must tell us your decision the first time you request time off for an adoption appointment. This will affect how much time you can take off.

You would usually choose to be the primary adopter if you intend to take adoption leave when the child is placed with you. You would not be able to take paternity leave if you have elected to be the primary adopter.

You would usually choose to be the secondary adopter if you intend to take paternity leave when the child is placed with you, although you may be able to take adoption leave if your partner is not taking it.

If you are adopting on your own or have elected to be the primary adopter, you may take paid time off to attend an adoption appointment on up to five occasions in relation to any particular adoption. If you are the secondary adopter, you may take paid time off to attend an adoption appointment on up to two occasions only. You must not take more than six and a half hours off for each appointment, including travel and waiting time.

Please give us as much notice of the appointment as possible. You must provide your line manager with a signed statement or an email confirming:

- (a) The date and time of the appointment.
- (b) That the appointment has been arranged or requested by the adoption agency.

We may sometimes ask you to try and rearrange an appointment where it is reasonable to do so. In exceptional circumstances we reserve the right to refuse a request for a particular appointment but we will not do so without good reason.

#### **4 Evidence of entitlement**

You are required to produce a matching certificate as evidence of your entitlement to adoption leave and for Statutory Adoption Pay (**SAP**) purposes. You must provide a copy of this once you have been provided with a copy. It will be issued by the approved adoption agency stating the:

- name and address of the agency;
- name and address of the employee;
- date on which the employee was notified that he/she had been matched with the child;
- date on which the agency expects to place the child with the employee and, if the placement has already occurred, the date of the placement.

#### **5 Notice of intention to take adoption leave**

##### **5.1 Adoption or fostering for adoption cases**

You will be required to notify your manager in writing of your intention to take

adoption leave within seven days of being notified by the adoption agency or local authority of the match with a child for adoption or where this is not reasonably practicable, as soon as reasonably practicable. You will need to tell your manager:

- when the child is expected to be placed;
- when you want your adoption leave to commence.

The Adoption Leave Notification Form (Appendix 1) should be utilised for this purpose. If you wish to change the date of commencement of your adoption leave you will need to tell your manager at least 28 days in advance of the new commencement date (unless this is not reasonably practicable).

OAL can start on any day of the week, this can either be:

- the date on which the child is placed for adoption; or
- a predetermined date which can be up to 14 days prior to the Expected Placement Date.

We will then write to you within 28 days to inform you of the date you would be due to return to work (**Expected Return Date**) assuming you take your full entitlement to adoption leave.

## 5.2 Surrogacy cases

In a surrogacy case, you must tell us in writing of your intention to take adoption leave and give the expected week of childbirth (**EWC**). You must give this information by the end of the 15th week before the EWC, or if that is not reasonably practicable, as soon as is reasonably practicable.

We will write to you within 28 days of receiving your notification, to confirm your Expected Return Date assuming you take your full entitlement to adoption leave.

When the child is born you must tell us the date of birth.

In a surrogacy case, OAL will start on the day the child is born, unless you are at work, in which case it will start on the following day. You cannot change the start date.

## 6 End of child placement during adoption leave

If adoption leave has started and you are notified that the placement will not take place, or the child placement ends during adoption leave or the child dies during adoption leave, your entitlement to adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which you were notified of the placement not taking place, or the date of the child's death, or the child is returned to the adoption agency after placement unless your entitlement to leave or pay would have ended earlier in the normal course of events.

In a surrogacy case, adoption leave is disrupted where you do not apply for a parental order within the relevant time, or the court does not grant a parental order and the time limit for appeal or further application has expired, or where the child dies. In such circumstances adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which disruption occurred, unless your entitlement to leave or pay would have ended earlier in the normal course of events.

## 7 Statutory Adoption Pay (SAP)

Entitlement to adoption pay is determined by various factors, including length of



service and earnings, and therefore Human Resources in conjunction with payroll will assess your eligibility and entitlements on an individual basis.

### 7.1 **The right To SAP**

You are entitled to a maximum of 39 weeks' SAP providing that you:-

- have been continuously employed for at least 26 weeks ending with the week in which the agency notified you that you had been matched with the child (**Qualifying Week**) and are still employed by us during that week;
- comply with the notice requirements at paragraph 5 above, including producing evidence of the adoption in the form of a matching certificate;
- give 28 days notice of when you wish the SAP to commence (unless this is not reasonably practicable);
- have average weekly earnings during the eight weeks ending with the Qualifying Week of not less than the lower earnings limit for the payment of National Insurance contributions set by the government; and
- have stopped working for the Council.

If you satisfy all of these conditions, you qualify for SAP.

### 7.2 **Non entitlement to SAP**

If you are not entitled to SAP or if your circumstances change and you stop getting SAP, payroll will inform you that the Council cannot pay you SAP. You should then contact your local Social Security office or JobCentre Plus office for further information about entitlements to alternative benefits.

### 7.3 **Changes in circumstances**

You cannot continue to receive SAP if:

- the child placed for adoption becomes 18 years of age;
- you start work for an employer who did not employ you prior to the commencement of adoption leave;
- you return to work;
- you are taken into legal custody (this means that you have been detained, usually arrested or in prison); or
- you are ill or die.

You (or a person acting for you, if applicable) are responsible for informing your manager if your circumstances change in any of the ways described above.

### 7.4 **The rate of SAP**

SAP is payable for a maximum of 39 weeks. The rate of SAP will be:

- a) First six weeks: SAP is paid at the **Earnings-related Rate** of 90% of your average earnings over the Relevant Period.
- b) Remaining 33 weeks: SAP is paid at the **Prescribed Rate** which is set by the government for the relevant tax year, or the Earnings-related Rate if this is lower.

### 7.5 **Payment of SAP**

You will receive SAP at the same time and in the same way as your normal salary would be paid. SAP is subject to income tax and National Insurance contributions. Any deductions which are lawfully made from pay, for example pension contributions, trade union subscriptions etc, will also be made from SAP, if applicable.

## **8 Occupational Adoption Pay**

### **8.1 Entitlement to occupational adoption pay**

You qualify for occupational adoption pay if you have completed a minimum of one year's continuous local government service at the beginning of the 11th week before the week of placement.

### **8.2 The rate of occupational adoption pay**

For the first six weeks of your adoption leave you will be entitled to 9/10ths of a week's pay offset against payments made by way of SAP.

For the next 12 weeks you will receive your entitlement to the Prescribed Rate SAP and half pay. However, if your half pay plus SAP comes to more than your full pay, it will be reduced accordingly.

You will then receive the Prescribed Rate SMP for the remainder of your period of adoption leave (up to a maximum of 21 weeks).

### **8.3 Conditions attached to receiving half pay**

You will receive 12 weeks' half pay (as set out at [8.2] above) on the understanding that you will return to work for the Council **for at least three months following your period of adoption leave**. Should you not do so, you may be required to pay back all or part of the 12 weeks' half pay. You do not have to pay back any payments made to you by way of SAP.

If you are unsure about your intention to return to work after your adoption leave, the Council will retain your half pay until you do return, provided that you inform Human Resources of your request for half pay to be withheld until your return before you start your adoption leave.

### **8.4 Calculation of a week's pay**

For the purposes of occupational adoption pay, a week's pay is calculated in one of the following ways depending upon your working hours:

- Normal working hours - where your normal working hours do not vary with the amount of work done in the period, a week's pay is the amount payable to you by the Council under your current contract of employment for working your normal working hours in a week.
- Variable working hours - where there are no normal working hours, a week's pay is your average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

As the amount of adoption pay is based upon your contract of employment in force during your adoption leave, it would consequently change if, for instance, a pay award was implemented during this period.

### **8.5 Payment of occupational adoption pay**

During your adoption absence, the payments due to you will be paid in exactly the same way as you normally receive your salary.

If you have certain payments deducted from your salary, for example, car loan, Council Tax, rent, etc, these will continue to be deducted from any payments made to you.

Payroll will inform you if you need to make alternative arrangements at any time during your adoption leave to ensure that you do not fall into arrears.

## **9 The contract of employment during adoption leave**

Employees are entitled to benefit from their normal terms and conditions of employment, except for the terms relating to salaries and wages, throughout adoption leave.

### **9.1 Terms and Conditions: Annual Leave**

Your entitlement to annual leave remains unaffected by adoption leave.

**Subject to agreement by your manager, you should take your accrued annual leave prior to the commencement of your adoption leave.** Any holiday entitlement for the year that cannot reasonably be taken before starting your adoption leave can be carried over to the next holiday year and must be taken within three months of returning to work unless your line manager agrees otherwise.

### **9.2 Terms and Conditions: Local Government Pension Scheme**

Pension contributions will be deducted in the normal way from any payment you receive during your adoption leave. Any employee contributions you make will be based on the amount of any adoption pay you are receiving.

Any absence, which is unpaid as a result of adoption leave, will be treated as a break in service for occupational pension purposes unless you choose to pay voluntary contributions. These contributions will be based on the reduced remuneration that you were entitled to receive immediately before the unpaid period.

You must write to Payroll and state your intention to pay voluntary contributions no later than 30 days after your return to work. You may pay these contributions as a lump sum or in instalments. For further advice please contact Payroll.

### **9.3 Contact with work during adoption leave**

You and your employer are entitled to have reasonable contact with each other to ensure that you are kept up to date with departmental changes, vacancies and any other matters relevant to the employees. The mode of contact should be confirmed and agreed prior to the commencement of adoption leave. Contact during adoption leave does not bring that period to an end. Reasonable contact does not constitute 'work', and would not therefore count towards the 10 "keeping in touch" days.

### **9.4 Working during adoption leave**

For the purposes of this provision, '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 workplace. You may ask or be asked to come to work for up to 10 "keeping in touch" days during the adoption leave period without bringing that period to an end as a result of carrying out the work.

Working for part of a day will count as one day. This is not compulsory and must be discussed and agreed with your line manager. The adoption leave will not be extended due to the fact that you have carried out some work in this period.

You will not lose your right to SAP as a result of working up to 10 days. You will be paid at your normal basic rate of pay for time spent working on a “keeping in touch” day and this will be inclusive of any adoption pay entitlement. To claim for hours worked you will need to submit a Payment Claim Form (*Appendix 2*)

## **10 Flexible working arrangements**

The Council will deal with any requests by employees to change their working patterns (such as working part-time) after adoption leave on a case-by-case basis. There is no absolute right to insist on working part-time, but you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business. It is recommended that you review the flexible working policy before any formal request for flexible working is made. You may wish to explore this with your line manager either before or during your adoption leave, however, it is helpful if requests are made as early as possible.

## **11 Return to work after adoption leave**

### **11.1 Notice required for return to work**

If you intend to return immediately after the end of your full adoption leave entitlement, you do not need to give advance notice of your return. Your expected date of return will be your next normal working day after the end of your 52 week adoption leave (i.e. your first normal working day of the 53rd week).

However, should you wish to return to work earlier than the end of your entitled adoption leave or if you wish to change your date of return from adoption leave, you must give your manager at least eight weeks' notice of your return date. If you do not provide this notice, the Council may postpone your return date for a period of up to eight weeks after you gave notice, or until the end of the adoption leave period, if this is sooner.

### **11.2 Employees who do not wish to return to work after adoption leave**

Should you decide that you do not wish to return to work after your adoption leave, you must provide your line manager with a written statement of your resignation giving the notice required by your contract of employment.

### **11.3 Sickness at the end of adoption leave**

If you are unable to attend work at the end of your adoption leave due to sickness, the normal contractual arrangements for sickness absence will apply.

### **11.4 Rights on return to work after OAL**

You are entitled to return to the same job on the same terms and conditions of employment as if you had not been absent.

### **11.5 Rights on return to work after AAL / parental leave**

If you have taken any period of AAL, or have combined your adoption leave with more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

ADOPTION LEAVE NOTIFICATION FORM		
Name of employee		
Department		
Job Title		
Line Manager		
I am adopting a child and wish to apply for statutory adoption pay and statutory adoption leave.		
I declare that:-		
<input type="checkbox"/>	I enclose the matching certificate as evidence of the adoption;	
<input type="checkbox"/>	I intend to apply for a parental order and expect the order to be granted (in surrogacy cases)	
<input type="checkbox"/>	I have given 28 days notice of when I wish my Statutory Adoption Pay to commence (or where this is not reasonably practicable as much notice as possible); and	
<input type="checkbox"/>	I will have been continuously employed by Cherwell District Council for at least 26 weeks ending with the week in which the agency notified me that I had been matched with the child  <b>or</b> I will have been continuously employed by Cherwell District Council for at least 26 weeks by the 15th week before the baby is due (in surrogacy cases)	
<input type="checkbox"/>	I will have stopped working for the Council wholly or partly because of the adoption.	
Dates for Pay and Leave		
I am adopting a child and was provided with the matching certificate on:	Date:	
The baby is due to be born on (relevant to surrogacy cases):	Date:	
The adoptive child is expected to/did actually start living with me on:	Date:	
I would like my adoption pay and adoption leave to commence on:	Date:	

Signed Employee:		Date:	
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**Appendix 2**

<b>ADOPTION KIT DAY PAYMENT CLAIM FORM</b>
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Name of employee	
Department	
Job Title	
Line Manager	

I wish to claim for _____ hours worked on _____
These hours represent <b>one day</b> of the <b>ten</b> maximum that I can take without bringing my adoption leave to an end. I understand that working for part of a day will count as one day. This payment is made in addition to any SAP owed.

I have now worked _____ days during my adoption leave
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Signed Employee		Date	
Signed Line Manager		Date	

<b>PAYROLL USE ONLY</b>			
Date Received		By	
Date System Updated		By	

