

Adoption Scheme – Including Shared Parental Leave

Version: 3.2

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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Related HR links

Maternity, Adoption, Paternity and Shared Parental Leave

Version Control

Version Number	Effective Date	Details of Last Revision
2	1/8/11	
3	1/12/14	Updated onto new policy template and addition of new Shared Parental Leave guidance
3.1	13/4/21	Updated to align with new statutory rates
3.2	14/10/22	Updated to meet accessibility requirements

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Prepared by: HR Team

1. Adoption scheme

1.1 Introduction

- 1.1.1 This policy outlines the rights, obligations, and entitlements (including pay and leave provisions) for Principal Carer's newly matched for adoption. Where a couple jointly adopts a child, the couple must appoint one person as the 'Principal Carer'.
- 1.1.2 An employee who adopts a child and is appointed as the Principal Carer, irrespective of hours worked or length of service has the right to take up to 52 weeks off work for the purpose of adoption leave.
- 1.1.3 However, there is no entitlement to adoption leave where the child is not newly matched for adoption e.g. a spouse/partner is adopting the spouse/partner's children or where the child is already living as a family member and the spouse/partner of a natural parent adopts their partner's child or children.
- 1.1.4 Only one period of adoption leave will be available irrespective of whether more than one child is placed for adoption as part of the same adoption arrangement.
- 1.1.5 The 52 weeks of adoption leave are made up of:
- Ordinary Adoption leave (OAL) of up to 26 weeks, and,
 - Additional Adoption Leave (AAL) of up to 26 weeks (which must be taken consecutively with the Ordinary Adoption Leave period).
- 1.1.6 In addition you may also be eligible to receive:
- Statutory Adoption Pay, and/or
 - Occupational Adoption Pay
- 1.1.7 This policy aims to advise employees, and their managers, of their responsibilities in regard to newly appointed Principal Carers. If you require further information or clarification on any points regarding Adoption Pay / Leave, please contact Human Resources.

1.2 Time off for pre-adoption meetings

- 1.2.1 A Principal Carer who is adopting will be allowed to take reasonable time off without loss of pay as required to attend up to five pre-adoption meetings on production of evidence of appointments to the Council. The secondary adopter will be entitled to take unpaid time off for up to two appointments. A Special Leave form should be submitted to authorise the time off requirements.

2. Adoption leave

2.1 Adoption leave

2.1.1 All employees, regardless of length of service are entitled to take up to 52 weeks of adoption leave. This is made up of:

- Ordinary adoption Leave (first 26 weeks)
- Additional Adoption Leave (the second 26 weeks)

2.2 Notifying the Council of adoption

2.2.1 In order to establish an entitlement to adoption leave, you must notify the Council in writing within seven days of being notified by the approved adoption agency that you have been matched with a child for adoption.

2.2.2 The 'Application for Adoption Leave' (Adopt 1) form should be used for this purpose and given to your Manager / Head Teacher who will forward onto Human Resources.

2.2.3 This notification form must be accompanied with a matching certificate from an adoption agency. The certificate must include basic information on the matching and the expected placement date. The form should be submitted as soon as possible.

2.3 Commencing adoption leave

2.3.1 You can begin your Adoption Leave on any day of the week from:

- The date of the child's placement, even if this is earlier or later than expected, or
- A fixed date which can be up to 14 days before the expected date of placement

2.3.2 Human Resources will respond in writing to your notification within 28 days of receipt of the notification form. This response will advise the principal carer if they qualify for adoption leave and if they do qualify, of the date 52 weeks hence on which the principal carer is expected to return to duty.

2.3.3 The Principal carer can change their mind about the start date of their adoption leave. In such case they must advise their Manager / Head Teacher or nominated officer at least 28 days in advance (unless this is not reasonably practical). A further 'Application for Adoption Leave' (Adopt 1) should be used for this purpose.

3. Adoption pay

3.1 Adoption pay

- 3.1.1 Local Government Employees may be entitled to Statutory Adoption pay, and/or Occupational Adoption pay depending on their length of service and average weekly earnings.
- 3.1.2 Teaching Staff may be entitled to Statutory Adoption Pay (SAP), and/or Occupational Adoption Pay (OAP), depending on length of service and average weekly earnings.
- 3.1.3 Statutory Adoption Pay (SAP) is governed by statute whereas North Ayrshire Council's Occupational Adoption Pay (OAP) provisions are subject to conditions set by the Council.

3.2 Local government employees – adoption pay

- 3.2.1 An employee who has less than 26 weeks' continuous service prior to the week in which they are notified of being matched with a child for adoption may be entitled to support from the benefits agency.
- 3.2.2 Payments for an employee who has more than 26 weeks Continuous Service prior to the week in which he/she is notified of being matched with a child for adoption will be as follows:
 - i. For a first six weeks of adoption leave an employee will be entitled to nine-tenths of a week's pay offset against the payments made by way of Statutory Adoption Pay (SAP), where eligible.
 - ii. For employees intending to return to work, for each of the subsequent 12 weeks the employee will be paid half a week's pay without deduction except by the extent to which the combined pay and Statutory Adoption Pay (SAP) exceeds full pay. For the subsequent 21 weeks the employee will be entitled to Statutory Adoption Pay (SAP).
 - iii. For employees not intending to return to work, payments during the subsequent 33 weeks will be the employee's entitlement to Statutory Adoption Pay (SAP).
 - iv. Payments made by the Council during adoption leave under (ii) above will be made on the understanding that the employee will return to employment with the Council for a period of at least 3 months, which may be varied by the Council on good cause being shown and, in the event of the employee not doing so, he/she will refund the monies paid, or such part thereof, if any, as the Council may decide. Payments made to the employee by way of Statutory Adoption Pay (SAP) are not refundable.
- 3.2.3 If you qualify for Statutory Adoption Pay (SAP), payments will start on the same day as your Statutory Adoption Leave. If the Principal Carer returns to work before the full adoption leave period, then the entitlement to any balance of adoption leave or adoption pay ceases.

3.2.4 The current Statutory Adoption Pay (SAP) rates can be found at gov.uk/adoption-pay-leave/pay.

3.3 Teaching staff – adoption pay

3.3.1 Teaching Staff with less than 26 weeks continuous service, prior to the week in which they are notified of being matched with a child for adoption, are entitled to 52 weeks adoption leave without pay.

3.3.2 A teacher who has 26 weeks' continuous service prior to the week in which they are notified of being matched with a child for adoption will be entitled to Occupational Adoption Pay and Statutory Adoption Pay (SAP) for a period of 39 weeks, provided they submit evidence of adoption and give notification in accordance with the procedures above.

- i. For the first 13 weeks of adoption leave the principal carer will receive Occupational Adoption Pay and Statutory Adoption Pay. Taken together these payments will be equal to the principal carer's normal salary.
- ii. For the next 26 weeks of the adoption leave period the Principal Carer will receive Statutory Adoption Pay, provided that the employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability. The current Statutory Adoption Pay (SAP) rates can be found at gov.uk/adoption-pay-leave/pay.

4. Keeping in touch (KIT) days, shared parental leave in touch (SPLIT) days, and returning to work

4.1 Before your adoption leave starts, your Service will discuss with you any arrangements for Keeping in Touch (KIT) days during either during the ordinary adoption leave or additional adoption leave period. Such days as described below can only apply where there is agreement with you and your Service management as to both the activity and the timing.

4.2 In addition, employees taking Shared Parental Leave (see above for conditions) can work up to 20 days during shared parental leave.

4.3 The Service should discuss with the employee any arrangements for 'KIT' and/or 'SPLIT' days before the adoption leave or Shared Parental Leave period starts. Such days can only apply where there is agreement with the employee and their Service management as to both the activity and the timing. A maximum of 10 KIT days and 20 SPLIT days can be taken.

4.4 A KIT or SPLIT day will be defined as the employee's contracted day (full or part time) for which they will receive an all-inclusive payment based on their normal pay. If there is agreement for an employee to work less than their contracted day, this will count as a day, but payment will be all-inclusive for

the actual time worked. The appropriate manager is required to notify Payroll of such days using memo 'Completed Keeping in Touch Day'.

- 4.5 Notwithstanding any arrangements for KIT or SPLIT days, the Service may make reasonable contact during Adoption/Shared Parental Leave to discuss such issues as the return to work, to be kept informed of other relevant issues e.g. significant workplace developments, training opportunities. Such reasonable contact does not constitute work and does not count towards the 10 KIT and/or 20 SPLIT days.

5. Returning to work after adoption leave

5.1 Returning after full period of leave (52 weeks)

- 5.1.1 You will have been notified of the date you are expected to return to work after your adoption leave. You are not required to give the Council any notification of your return to work unless you wish to return before that date.
- 5.1.2 Your Manager is required to confirm in writing to payroll using the 'Return to Work after Adoption Leave' (Adopt 4) Memo that you have returned to work, even if annual leave days are to be taken consecutive to the Adoption Leave period.

5.2 Early return to work (before 52 weeks)

- 5.2.1 If you wish to return to work before the end of your Adoption Leave entitlement of 52 weeks you must give the Council at least 28 days' notice, in writing, of your early return to work.
- 5.2.2 You should, where possible, use form 'Adoption Leave - Early Return to Work' (Adopt 2) for this purpose. Failure to provide such notification may result in the Council postponing your return to work to such a date that will give the Council 28 days' notice subject to this not being later than the end of the 52-week period of maternity leave, i.e. the return-to-work date previously notified by the Council.

5.3 Early return to work and shared parental leave

- 5.3.1 Once an employee returns to work, entitlement to Adoption Leave ceases, and any further periods of Shared Parental Leave (Section 7) will be paid at the prevailing rate of Statutory Adoption Pay (SAP), subject to maximum pay entitlements (Section 2).

6. Termination of placement

6.1 Local government employees

- 6.1.1 If the child's placement ends during the adoption leave period already granted, the principal carer would be able to continue adoption leave for a

period not exceeding 8 weeks after the end of the placement. Notification of intended return should be in accordance with the above.

6.2 Teaching staff

- 6.2.1 Where the adoption placement ends, for any reason, during the adoption leave, the employee will notify the Council. Where the adoption placement ends within the first 26 weeks of Adoption leave the employee will be entitled to remain absent from work until the end of the 26th week period. When the adoption placement ends after the 26th week of adoption leave the employee will be entitled to remain absent on adoption leave for up to 8 weeks after the placement until the end of the adoption leave period, whichever is sooner. Notification of intended return should be in accordance with the above.

7. Shared parental leave

7.1 Eligibility

- 7.1.1 Employees notified of a match can chose to share parental leave. If an eligible employee proposes to return to work early without using their full 52-week entitlement to adoption leave by giving proper notification of an early return in accordance with the rules set out above (Section 5), they may be eligible to share up to 50 weeks of their outstanding adoption leave (and outstanding SAP) to their spouse, civil partner or partner, to be taken as shared parental leave (and pay where entitled).
- 7.1.2 An adoptive parent seeking to take Shared Parental Leave must have worked for the Council for at least 26 weeks at the end of the 15th week before the week in which the child is to be matched, and still be employed in the first week that Shared Parental Leave is to be taken (known as the 'continuity of employment test').
- 7.1.3 The employee's partner has to pass the 'employment and earnings test' of working for 26 weeks in the 66 weeks leading up to the matching date and have earned above the maternity allowance threshold of £30 a week in 13 of the 66 weeks.
- 7.1.4 To qualify for Shared Parental Pay the employee must, as well as passing the 'continuity of employment' and 'employment and earnings' tests above, also have earned an average salary of the lower earnings limit or more (currently £120) for the 8 weeks' prior to the 15th week before the matching date.
- 7.1.5 It is the principal adopter who decides whether to continue on adoption leave or opt to take Shared Parental Leave.

7.2 Pay / timescales

- 7.2.1 The adoptive parent can share their leave with only one other person. The earliest that shared parental leave may start is 2 weeks after the date on which the employee's child is matched and it must end no later than 12 months after the date of matching. The principal adopter must take the first 2

weeks as Adoption Leave and agree to reduce their remaining adoption leave entitlement. Shared Parental Leave for the adopter's partner will be paid at the current rate of Statutory Adoption Pay (SAP).

- 7.2.2 The minimum period of shared parental leave is one continuous week, and the maximum period is 50 weeks. The employee sharing the leave does not require to return to work immediately as part of the sharing arrangement and can take time off at the same time as their partner, but the total shared time must not exceed 50 weeks.

7.3 Request / authorisation

- 7.3.1 An employee opting for Shared Parental Leave must notify the Council of their entitlement to Shared Parental Leave and complete an Application for Shared Parental Leave at least 8 weeks before an intended period of shared parental leave. Each eligible employee can give up to 3 separate notices of intention to take shared parental leave. Each notice can be for a block of leave, or the notice may be for a pattern of "discontinuous" leave involving different periods of leave. If an employee requests discontinuous blocks of leave in a notification, the Council may refuse and require that the total weeks of leave in the notice to be taken in a single continuous block.
- 7.3.2 The HR Guide to Shared Parental Leave provides further information on sharing leave and pay.

8. Terms and conditions during adoption leave

8.1 Salary sacrifice scheme

- 8.1.1 Employees who adopt a child are entitled to the same terms and conditions during Ordinary Adoption Leave and Additional Adoption Leave. As a result if you continue to be in salary sacrifice scheme, North Ayrshire Council will meet the cost of the continued benefit for the duration of your adoption leave.

8.2 Annual leave / public holidays – local government employees

- 8.2.1 Annual leave will accrue during the period of adoption leave for Local Government Employees.
- 8.2.2 On the Principal Carer's return to work from adoption leave, that period of leave will be taken into account in calculating the employee's annual leave entitlement for each leave year in which adoption leave falls.
- 8.2.3 Where a Principal Carer returns from adoption leave with accrued annual leave, where possible they should endeavour to take these holidays before 31st January in any year. However where this is not practical the principal

carer may, in consultation and agreement with their Director/Manager/Head of Service or nominated officer, take their annual leave after 31st January.

- 8.2.4 On return from adoption leave, the Principal Carer will be entitled to a day in lieu for each fixed public holiday that coincided with the paid 52 weeks of Ordinary Adoption leave (OAL).
- 8.2.5 A Principal Carer who gives written notice to the council that they do not intend to return to work at the end of their adoption leave, will be made a payment in lieu of leave accrued during this period.

8.3 Annual leave / public holidays – teaching staff

- 8.3.1 Teaching Staff will continue to accrue annual leave in accordance with Section 5 (Annual Leave) of the SNCT handbook during the period of her/his adoption leave.
- 8.3.2 Adoption leave will either fall within one leave year or span two leave years. Statutory leave will be provided by the Council for each leave year spanned by the period of adoption leave.
- 8.3.3 An employee on adoption leave which spans two leave years will receive at the end of the first leave year a statement which notifies:
 - a) the leave taken up to the start of the adoption period and the leave accrued during the adoption period in that leave year (contractual entitlement minus leave taken),
 - b) the balance to be carried forward into the next leave year.
- 8.3.4 On return from adoption leave the employee will take any remaining statutory leave in that leave year. Where it is not practicable to take that leave in full or in part any balance will be carried forward but must be taken as leave. The timing of this leave will take account of the needs of the service and,
 - a) in the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term, or
 - b) in the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.
- 8.3.5 The balance of annual leave accrued during adoption leave that is being taken as paid leave will be taken at the end of the adoption leave period, following the employee's return to work. The timing of this leave is subject to the overriding needs of the service and,
 - a) in the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term, or
 - b) in the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.

8.3.6 Where an employee gives written notice to the council that she/he does not intend to return to work at the end of the AL period, the council will make a payment in lieu of leave accrued during this period. This is in accordance with the provisions in Section 5 of the SNCT handbook (Annual Leave).

8.4 Rights on return to work

8.4.1 On resuming work, the Principal Carer is entitled to return to the same job as they occupied before commencing adoption leave on the same terms and conditions of employment as if they had not been absent.

8.4.2 Where, by reason of redundancy, it is not practicable to allow the principal carer to return to work in their post as defined above, they will be entitled to be offered a suitable alternative vacancy where one exists provided that:

- a) The work to be done in that post is suitable and appropriate to the circumstances, and
- b) That the capacity and place of employment and terms and conditions of employment are not substantially less favourable than if the principal carer had been able to return to the job which they were employed prior to their absence.

8.4.3 Suitable alternative employment may also be offered in exceptional circumstances, other than redundancy e.g. a general re-organisation, where these exceptional circumstances would have occurred if the principal carer had not been absent and necessitate a change in the post in which they were employed prior to their absence.

- a) That the work to be done is suitable and appropriate to the circumstances; and
- b) The capacity and place of employment should not be less favourable than if the principal carer had been able to return to the job in which they were employed prior to the absence.

8.4.4 A temporary employee who is a principal carer will not have the right to return to work where their contract would have expired during the adoption leave period but will be entitled to payments in lieu of accrual of leave.