

## **B1 Adoption Policy**

### **1 Policy**

- 1.1 It is the aim of the Council to ensure that as far as possible all employees are able to combine their career and family responsibilities. The Council recognises that parenthood brings additional responsibilities and this policy contains information to ensure that all employees are supported when they are adopting a child or children.
- 1.2 The Council values the contributions of all its employees and every effort is made to support employees who have been matched with a child for adoption or have had a child placed with them for adoption.
- 1.3 The Council recognises that arrangements for cover during the period of adoption leave, as well as arrangements for communication during adoption leave, are important for ensuring smooth transitions at every stage.
- 1.4 The above forms the Council's policy as at November 2010, it should be noted that: -
  - the policy does not confer any contractual rights
  - the Council will retain the right to review the policy at any time. Changes may result from employee, management and trade union feedback and/or from changes in employment legislation. The Council, following consultation with recognised Trade Unions, will implement revisions and updates.
  - The policy will cease on the 1 April 2013.

### **2 Scope**

- 2.1 This policy applies to all Council employees, including Head Teachers, Teachers and Chief Officers.
- 2.2 A Chief Officer is defined as a Deputy Chief Executive, Assistant Chief Executive, Director or a designated Deputy to one of the Directors.
- 2.3 The policy excludes the Chief Executive.
- 2.4 The policy is recommended for implementation by staff directly employed by schools, for example those based in Academies.

### **3 Principles**

- 3.1 The Council will apply this policy fairly and consistently to all employees, whether they work full or part time.
- 3.2 The Council will ensure that this policy is updated to reflect any changes in legislation.
- 3.3 The right to adoption leave is available to men and women married or single, including same sex couples who have a civil partnership.
- 3.4 No employee will suffer detriment of any kind as a result of applying for adoption leave.

### **4 Adoption Leave**

- 4.1 To qualify for statutory adoption leave an employee must meet certain qualifying criteria. The criteria differ for UK, overseas, foster parents and special guardianship adoptions. Full detail can be seen in the Operational Guidelines and a summary is provided below.
- 4.2 For UK Adoptions an employee qualifies for 52 weeks' statutory adoption leave when adopting a child in the UK if he or she:
  - Has been matched with a child to be placed with them by a UK adoption agency.
  - Has notified the agency that they agree that the child should be placed with them and agree with the date of placement.
  - Has been continuously employed for at least 26 weeks into the week in which he or she is notified of having been matched with the child.
  - Notifies the Council when he or she wants to take their statutory adoption leave no more than seven days after being notified that he or she has been matched with a child.
- 4.3 For overseas Adoption Leave an employee qualifies for 52 weeks' statutory adoption leave when he or she adopt a child from overseas if he or she:
  - Has received official notification from the relevant UK authority of their eligibility to adopt a child from abroad.
  - Has worked for the Council continuously for at least 26 weeks by the time he or she has received official notification or by the time their statutory adoption leave is due to begin, whichever is later.
  - Has given the correct notification
  - Is the child's adopter. This is the person who will adopt or has adopted the child or, in a case where the child will be or has been adopted by two people jointly, whichever of the joint adopters has chosen to take statutory adoption leave in respect

of the child.

#### **4.4 Joint and individual adoptions**

- 4.4.1 Where a couple are both employed by the Council and are adopting jointly, they can choose who will take statutory adoption leave and who (regardless of gender) will take statutory paternity leave. He or she cannot both take statutory adoption and paternity leave.
- 4.4.2 If an employee is adopting individually, only this person is eligible for statutory adoption leave - although their partner (regardless of gender) may be eligible for statutory paternity leave.

#### **4.5 Surrogacy**

- 4.5.1 An employee who becomes a parent through an arrangement with a surrogate mother is not normally entitled to statutory adoption leave. However, on becoming a parent, the employee may take parental leave, if he or she qualifies, and / or annual leave.

### **5 Notification and confirmation of adoption leave**

#### **5.1 Qualify for adoption leave – UK**

To qualify for statutory adoption leave an employee must notify their line manager, in writing, no more than seven days after being matched with a child:

- that the employee intends to take statutory adoption leave
- when it is intended to start the leave
- the date the child is expected to be placed with the employee for adoption

## **5.2 Qualify for adoption leave - Overseas**

- 5.2.1 When an employee adopts a child from overseas he or she must give written notice, in three stages, that he or she intends to take statutory adoption leave. The detail of this is contained within the Operational Guidelines.

## **5.3 Confirmation of statutory adoption leave**

- 5.3.1 The Council will respond to the employee's notification of the date he or she wish their statutory adoption leave to start within 28 days, confirming the date their statutory adoption leave will end.

# **6 When adoption leave can begin**

## **6.1 UK adoptions**

- 6.1.1 An employee can choose to begin their statutory adoption leave and statutory adoption pay on either of the following:
- the date on which the child is placed for adoption
  - a pre-determined date no earlier than 14 days before the expected date of placement and no later than the expected date of placement

## **6.2 Overseas adoptions**

- 6.2.1 Employees may choose to start their statutory adoption leave from either the date the child enters the UK or a fixed date no later than 28 days after the date the child enters the UK. The leave can start on any day of the week.

## **6.3 Changing the start date of statutory adoption leave**

- 6.3.1 The employee can change the intended statutory adoption leave start date as long as the Council is notified, in writing, of the new start date. This must be by whichever is the earlier of:
- 28 days before their original statutory adoption leave start date
  - 28 days before their new statutory adoption leave start date

## **7 Contact and work during adoption leave**

- 7.1 During the statutory adoption leave period the Council will keep in reasonable contact with the employee. In addition, an employee can come to work as a way of keeping in touch with workplace developments. The employee will be kept informed of promotion opportunities and other information relating to their job that employees would normally be made aware of if at work, for example redundancy situations.
- 7.2 Employees may, in agreement with their line manager, work for up to ten days - known as Keeping In Touch (KIT) days - under their contract of employment during their statutory adoption leave period without it affecting their right to statutory adoption leave or pay.

## **8 Terms and conditions during adoption leave**

- 8.1 Adoption leave is made up of 26 weeks' ordinary adoption leave followed by 26 weeks' additional adoption leave. An employee's contract of employment continues throughout both ordinary adoption leave and additional adoption leave unless either the Council or the employee expressly ends the contract of employment or the contract expires.
- 8.2 During both ordinary and additional adoption leave an employee has a statutory right to continue to benefit from all the terms and conditions of employment, which would have applied to him or her, had they been at work. The only exceptions are terms relating to wages or salary - though the Council is still obliged to pay statutory adoption pay if the employee is eligible.
- 8.3 Statutory adoption leave does not break continuity of employment. The entire adoption leave period counts towards an employee's period of continuous employment for the purposes of entitlement to other statutory employment rights.
- 8.4 An employee continues to accrue both their full annual leave entitlement throughout both ordinary and additional adoption leave.
- 8.5 During any period that an employee is on additional adoption leave but not receiving any adoption pay the Council does not make any employer contributions to the pension scheme.
- 8.6 The Council and the employee will agree on how much he or she will be paid for a KIT day. This will in most cases be their normal daily rate of pay.

## **9 Employee notification of change of planned return date from adoption leave**

- 9.1 Unless the employee has notified the Council otherwise, the date on which he or she returns to work will normally be the first working day 52 weeks after their statutory adoption leave began.
- 9.2 If an employee wishes to return to work before or after the planned return date, notice must be given at least eight weeks before the new return date - although the Council may accept less or no notice depending on the circumstances.
- 9.3 If the employee attempts to return to work earlier than planned without giving notice, the Council will normally postpone their return until after the eight weeks have elapsed. However, the Council will not postpone the return to a date later than the end of the 52-week statutory adoption leave period. If the employee still comes to work during the period of postponement, payment will not be made.
- 9.4 An employee who does not wish to return to work after their statutory adoption leave must give notice of this. This will be the usual notice of resignation as required by the contract of employment, however, as long the date on which it is wished to terminate the contract is specified, which can be the date due back at work after statutory adoption leave, the leave continues until the contract end date.
- 9.5 An employee is entitled to return to the same job that he or she had before going on statutory adoption leave, if only ordinary adoption leave, i.e. the initial 26-week period of leave, is taken.
- 9.6 An employee who returns to work during or at the end of their additional adoption leave is entitled to return to the same job on the same terms and conditions of employment as if there had not been an absence. However, if it is not reasonably practicable to return to their old job, the Council will offer a job:
- that is both suitable and appropriate
  - on terms and conditions that are no less favourable than those for their original job

- 9.7 An employee on statutory adoption leave is entitled to benefit from any general improvements to the rate of pay, or other terms and conditions, which are introduced for their grade or class of work whilst absent on adoption leave.
- 9.8 If a redundancy situation arises at any stage during an employee's adoption leave, the Council may not be able to continue employment under the existing contract of employment. In these circumstances, the Council will offer, before that contract ends, any suitable alternative vacancy, where one is available.
- 9.9 The dismissal of an employee will be automatically unfair if he or she is dismissed or selected for redundancy in preference to other comparable employees - solely or mainly because he or she:
- has taken adoption leave
  - has benefited from the terms and conditions of employment to which he or she was entitled to during that leave
  - fails to return from adoption leave on time because the Council failed to give any or adequate notification of the end date of the leave.
- 9.10 However, a dismissal may be potentially fair if, on the employee's return from additional adoption leave, the Council:
- could not offer him or her their old job back
  - offered him or her suitable alternative employment which is unreasonably refused

## 10 Adoption pay

- 10.1 Statutory adoption pay is paid for 39 weeks and usually covers the first 39 weeks of an employee's adoption leave. Eligibility criteria must be met to qualify for statutory adoption pay and this is detailed in the Operational Guidelines and differs for UK and Overseas adoptions.
- 10.2 The employee will be paid ***the lower of:***
- the standard weekly statutory rate, or
  - 90 per cent of their average weekly earnings (AWE).

## 11 Operational Guidelines

- 11.1 Full detail relating to the management of the Adoption Policy can be found in the accompanying Operational Guidelines.