

GUIDE TO ADOPTION PROVISIONS

This guidance applies to all employees with exception to teachers. Teachers should refer to [SNCT Handbook](#).

A guide to:

1. Entitlement to Adoption Leave
2. Entitlement to Paid Leave
3. Notification Procedures
4. Contact During Adoption Leave
5. Effect on Terms and Conditions of Service

SECTION 1 - ENTITLEMENT TO ADOPTION LEAVE

You will be entitled to adoption leave, provided that you:

1. Have been newly matched with a child by an approved adoption agency
2. Are the adopter, ie where a couple (including same sex couples), jointly adopt a child/children, the couple must chose one person to take leave under this scheme, namely the adopter
3. Cease to work for the Council because of adoption from the date of the child's placement or from a fixed date up to 14 days prior to the expected date of placement
4. Satisfy the notification procedure criteria outlined in Section 3

From 5 April 2015, all employees who meet the above criteria are entitled to take up to 52 weeks' adoption leave, regardless of length of service. Adoption leave is a single continuous period and consists of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

In addition, from 6 April 2015 the Children and Families Act (2014) introduced a statutory right for prospective adopters through surrogacy to take time off to accompany the woman carrying the child to two ante natal appointments. This applies to both prospective parents who may do so using flexi leave or annual leave.

SECTION 2 - ENTITLEMENT TO PAID LEAVE

- Employees must have 26 weeks' qualifying service in order to be eligible for any paid leave from the Council and for Statutory Adoption Pay (SAP).
- Employees who are entitled to Ordinary Adoption Leave and Additional Adoption Leave are eligible for the following payments, providing you are entitled to Statutory Adoption Pay.
- Statutory Adoption Pay is payable for a maximum of 39 weeks. The adoption pay period begins immediately you start your adoption leave.

Service	Intention to Return to Work for at Least Three	Payments
Less than 26 weeks' continuous service by the week you are notified of being matched with a child for adoption.	N/A	Nil – see note below
At least 26 weeks' continuous service by the week you are notified of being matched with a child for adoption (OAL & AOL)	No and/or resigned/End of Contract	- 6 weeks @ 100% salary - 33 weeks @ SAP - Remaining period of leave is unpaid
At least 26 weeks' continuous service by the week you are notified of being matched with a child for adoption (OAL & AOL)	Yes	- 6 weeks @ 100% salary - 20 weeks @ 50% salary plus SAP - 13 weeks @ SAP - Remaining period of leave is unpaid
If continuously employed by any local authority since 30 June 1999 with at least 1 year's reckonable service by the week you are notified of being matched with a child for adoption and excluded from SAP	No	- 6 weeks @ 100% salary - Remaining period of leave is unpaid
If continuously employed by any local authority since 30 June 1999 with at least 1 year's reckonable service by the week you are notified of being matched with a child for adoption and excluded from SAP	Yes	- 6 weeks @ 100% salary - 20 weeks @ 50% salary - Remaining period of leave is unpaid

Note

If you are ineligible for Statutory Adoption Leave due to your average weekly earnings being below the Lower Earnings Limit for National Insurance Contributions, you may be able to seek financial support from your local authority, eg Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from your local Jobcentre Plus office or Social Security office.

Entitlement to Statutory Adoption Pay is dependent on the following:

- You must have 26 weeks' continuous service by the week in which the adoption agency tells you that you have been matched with a child for adoption
- Your average weekly earnings must be at least equal to the Lower Earnings Limit for National Insurance Contributions

- You should give your employer at least 28 days' notice of your intention to take adoption leave or have good reason for providing less notice
- You must submit evidence of your entitlement, (e.g. Matching Certificate) at least 28 days before the start of your adoption leave other than in exceptional circumstances
- You cannot get SAP during any week when you are entitled to Statutory Sick Pay
- You are not in legal custody on or after the first day of the SAP pay period
- You cannot get SAP during any week when you work for your employer or start working for a new employer

Definition of Service

- *Continuous Service* is continuous service with any local authority, or other employer deemed by the Council to be appropriate.
- *Reckonable Service* applies only to those employed by the Council or any authority prior to 1 July 1999 and is all previous service with any local authority, or other employer deemed by the Council to be appropriate. This service does not have to be continuous.

Refer to the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 for guidance.

Additional Adoption Leave – Salary Payments

Employees entitled to Additional Adoption Leave who intend to return to work may elect to receive payment of 50% salary during adoption leave for up to 20 weeks or suspend payment until their return.

Should you elect to receive payment of 50% salary during your adoption leave and subsequently decide not to return or you return for less than 3 months, you will be required to refund to the Council a proportion of the amount of half pay paid to you for the 20-week period. The proportion will be determined with reference to the percentage of the period worked in the three-month period.

Definition of Normal Pay

Normal pay during adoption leave is normal basic pay plus any contractual payments, ie night working, shift working, or standby working. If you are in receipt of half pay plus SAP, the Council will pay a sum equal to half normal pay, so that this sum when added to the SAP does not exceed your full normal pay.

During Adoption Leave, unlike your salary, what is being paid to you is based on weeks not months which may fluctuate, depending upon when you start your adoption leave.

SECTION 3 – NOTIFICATION PROCEDURES

The following sets out the obligations on both the employee and the employer

Timescales	Employee Obligations	Employer Obligations
Not later than 7 days after being notified by your adoption agency that you have been matched with a child for adoption	Where practical, provide at least 28 days' written notification of your intention to commence adoption leave and submit a Matching Certificate received from your adoption agency to your Line Manager/Employee Support. If you are unable to provide 28 days' notice, you should notify your Line Manager/Employee Support as soon as reasonably practical.	Respond to you in writing, confirming your leave and pay entitlements normally within 14 days where practical but, in any event, within 28 days. Line Manager will forward your Matching Certificate to the Payroll & Reward Team to ensure SAP is paid, where applicable.
	Refer to Application Form for Adoption Leave and/or Pay	Refer to Standard Letter A
During adoption leave Two months' written notice required	Should you wish to return before the end of the adoption leave to which you are entitled (date confirmed in letter from employer) you are required to give at least two months' written notice to your Line Manager/Employee Support.	Line Manager/Employee Support will consider your request and confirm whether your proposed date is acceptable. If insufficient notice is given, your return may be deferred by up to two months.
At least 28 days before your intended return date	Should you wish to Request to Work Flexibly, at least 28 days' notice should be given to your Line Manager using the Flexible Working Application Form	Your Line Manager will consider your request and respond to you in accordance with the Council's agreed application process and timescales.

SECTION 4 - CONTACT DURING ADOPTION LEAVE

Keeping in Touch (KIT) Days

KIT days have been designed to help ease your eventual return to work from adoption leave and make it easier for you to keep in touch with the Council during this period. This means you carry out up to 10 days' paid work during your adoption without bringing your leave to an end, and without affecting your SAP. This could be useful for where managers wish to hold briefings on major changes within your service or bring all employees together for training.

KIT days can only be arranged by mutual agreement between you and your line manager and can be used for any work done under your contract of employment. KIT days can be worked before or after the matching process.

If you decide to undertake KIT days, whether you only work a few hours or a whole day, it will still be counted as one day for "KIT" purposes and you will be paid for the hours actually worked. For example, it cannot be agreed that you will work 20 half days.

KIT days are often useful to help trial childcare arrangements. The payment that you receive for a KIT day will be determined by the stage you have reached during your adoption leave. TOIL may be used where possible, as an alternative.

Reasonable Contact

In addition to KIT days, the Council has the right to make reasonable contact with you during adoption leave. You are therefore encouraged to maintain reasonable contact with your Line Manager and Employee Support. Such contact could involve talking about return to work plans or updating staff about what has been happening in the workplace.

In addition, you can expect your Line Manager to forward you copies of newsletters and to notify you of any significant changes that may impact on you on your return. Examples of significant changes would include organisational changes within your Service, changes in your team/section and changes to working practices.

SECTION 5 - EFFECT ON TERMS AND CONDITIONS OF SERVICE

Assessment for Adoption

All employees who wish to be considered as prospective adopters are eligible for reasonable time off work with pay to participate in the adoption assessment process.

- Where possible, appointments should be arranged outwith your normal hours of work. However, where time off work is necessary, you may be required to

produce evidence from your adoption agency stating that you have applied to be considered as an adoptive parent. You must also produce evidence of all pre and post adoption acceptance appointments.

- **Annual Leave**

All employees will accrue annual leave during adoption leave. Prior to going on adoption leave, your proportionate annual leave (and public holiday entitlement) will be calculated up to the end of the 26-week Ordinary Adoption Leave period. This may be taken before your adoption leave starts or on your return.

Annual leave and authorised public holidays accrued during the unpaid Additional Adoption Leave period may only be taken upon your return to work.

All annual leave should be taken following discussion with your line manager, generally within the current leave year (where time allows) or at the earliest opportunity within the following leave year.

- **Public Holidays**

All employees will be entitled to a day off in lieu for each authorised public holiday that falls within your entire adoption leave period. An authorised public holiday is one to which you would normally be entitled, ie one that is observed by your employee group.

Any days off in lieu of public holidays should only be taken upon your return to work following discussion with your line manager. Generally any days off in lieu of public holidays should be taken within the current leave year (where time allows) or at the earliest opportunity within the following leave year.

- **Pension Contributions**

You will continue to pay pension contributions during your paid period of adoption leave.

If your authorised unpaid leave lasts less than 31 days, your member contributions will be deducted as normal from your salary in that calendar month and the relevant employer's contributions will be paid. There is no need for you to complete any paperwork.

If your authorised unpaid leave lasts more than 30 days, you have the option to buy back any lost pension when you return to work. If you wish to buy back any lost pension when you return to work, you must complete an [Additional Pension Contribution Form](#) which is available on our [Retirement and Pensions page](#) on the Council's website and submit it to payrollandreward@pkc.gov.uk

in order to obtain a written statement showing the total amount of lost pensionable pay during your period of absence. If you complete this process within 30 calendar days of your 'return to work' date, Perth & Kinross Council will contribute to the cost of missed pension contributions, with the split being 1/3rd employee, 2/3rds employer. Your 'return to work' date for this purpose is the first working day after the period of unpaid leave so it is important that you act early to benefit from the cost sharing provision. To start this process, please read the [Guidance Notes](#) and send the completed Application to the Payroll & Reward Team.

It is possible to complete this process outwith the 30-calendar day period, however no contribution will be made by Perth & Kinross Council, resulting in you being liable for the full amount.

- ***Right to Request to Work Flexibly***

On returning to work from adoption leave, you may wish to consider changing the hours that you work, the times when you work, or you may wish to work at home for all or part of your working time.

Requests to work flexibly should be made to your Line Manager, using the Flexible Working Application Form. You should allow as much time as possible for your Line Manager to consider your application and for any necessary arrangements to be put in place prior to your return, if your request is approved.

- ***Career Breaks***

Career breaks may be linked onto the end of a period of adoption leave. However, employees who choose to take a career break following the end of their unpaid Additional Adoption Leave and have received payment of 50% of their salary during this period will be required to return to work for the 3-month period prior to the commencement of the career break.

- ***Adoption Benefit on Resignation***

If you qualify for Additional Adoption Leave but do not intend to return to work and you submit your resignation, the Council will pay adoption pay for 6 weeks @ 100% salary and 20 weeks @ SAP. This is provided your resignation takes effect no earlier than 14 days prior to the date of placement.

- **Other Benefits**

During Ordinary Adoption Leave and Additional Adoption Leave periods, you are entitled to the same terms and conditions of employment as if you had not been absent. You have the right to return to the same post. For further details of this provision, you should consult with Human Resources.

- **Special Provisions**

- Where a child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.
- Where an employee is eligible for Adoption Leave but has chosen instead to terminate their employment, and the child's placement ends, the employee shall be entitled to return to employment with the Council, although not necessarily to the same post, grade or salary, provided that:
 - o a suitable vacancy exists; and
 - o they give their Line Manager/Employee Support at least 28 days' notice in writing of the proposed date of their return to work which must be within the relevant adoption leave period.