

# Adoption Policy

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<b>Governance Committee</b>		<b>Date approved</b>	
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**Strategic Alignment**  
*Improving the Council’s Resource Base – A Workforce Strategy that is built around the needs of the Council (as a single resource base) to deliver the priority outcomes, ensuring future workforce requirements, new skills and innovative approaches, and succession planning are recognised.*

<b>Consultation process</b>		
<b>Stakeholders</b>	Contacts identified for each service	
	<i>Joint Trade Unions</i>	
<b>Distribution</b>		

### Change record

<b>Date</b>	<i>15/02/2019</i>	<b>Author</b>	<i>Lindsay Millar, <a href="mailto:Millarl@northlan.gov.uk">Millarl@northlan.gov.uk</a></i>
<b>Change made</b>	<i>Extended paternity leave provisions</i>		

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## **1. Introduction**

The following adoption provisions apply to all employees of the Council regardless of their hours of work and contractual status, with the exclusion of those employed under the Scheme of Salaries and Conditions of Service for Teaching Staff in School Education, for whom separate provisions are in place.

## **2. Legislation**

This policy takes into account and incorporates those principles detailed within the:

- a) Shared Parental Leave Regulations 2014
- b) The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2008
- d) Sex Discrimination Act 1975 (Amendment) Regulations 2008
- e) Work and Families Act 2006
- f) Employment Act 2002
- g) The Adoption Act (Scotland) 1978
- h) The Adoption Agencies (Scotland) Regulations 1996
- i) The Paternity and Adoption Leave Regulations 2002
- j) The Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002
- k) Statutory Shared Parental Pay (General) Regulations 2014
- l) Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014

## **3. Principles**

The Council recognises the need for adequate adoption leave provisions to provide support and encouragement to all employees who wish to adopt.

## **4. Scope**

The policy will only apply to:

- a) Adoptions involving children aged up to 18 years;
- b) An employee who has been approved to become an adoptive parent by a local authority or recognised agency/voluntary organisation;
- c) Adoptions arranged by a local authority and/or a recognised agency/voluntary organisation; and

- d) Inter country adoptions that have the approval of all relevant parties.

The policy will not apply to:

- e) Fostering, long term or otherwise; and
- f) Guardianships.

Employees of the Council recognised as adoptive parents are entitled to maintain their contractual benefits, apart from pay, and discretionary non-cash benefits during their period of adoption leave.

## **5. Entitlements**

### **Leave Entitlements**

The following leave entitlements will apply to an employee regardless of his/her length of continuous service.

#### **5.1 Pre-Adoption Leave**

An employee is entitled to up to 2 weeks paid Pre-Adoption Leave that can be taken flexibly to attend to the formalities of the adoption. An employee will be entitled to this leave irrespective of the fact that he/she may subsequently withdraw from the adoption process.

Where both adoptive parents are employees of the Council, both will be eligible for Pre-Adoption Leave.

#### **5.2 Adoption Leave**

An employee who will be the principal carer for the adopted child is entitled to a block period of Adoption Leave of up to 52 weeks at or around the date of placement of the child.

Where both adoptive parents are employees of the Council, only one of the partners will be eligible for Adoption Leave.

#### **5.3 Adoption Support Leave**

An employee who will not be the principal carer will be entitled to 5 days paid Adoption Support Leave which can be taken flexibly at or around the date of placement of the child.

Where both adoptive parents are employees of the Council, only one of the partners will be eligible for Adoption Support Leave.

### **5.3.1 Entitlement to Pay**

Where an employee has less than 26 weeks continuous service by the end of the week they are notified they have been matched to a child, he/she has no entitlement to payment whilst on Adoption Leave.

Where an employee has more than 26 weeks continuous service by the end of the week they are notified they have been matched to a child, he/she will be paid as follows:

- a) For the first six weeks, 90% of a week's pay, this figure is inclusive of any Statutory Adoption Pay to which the employee is entitled during this period;
- b) For the following 12 weeks, 50% of a week's pay plus Statutory Adoption Pay, where the employee is entitled. However, the combined amount cannot exceed his/her full pay;

This payment of 12 weeks half pay will be made on the understanding that an employee will return to Council employment for a period of at least three months. If an employee does not return, she will have to repay to the Council 12 weeks half pay.

An employee not intending to return to work for three months will receive Statutory Adoption Pay, where entitled, during these 12 weeks.

- c) During the subsequent 21 weeks, Statutory Adoption Pay, where the employee is entitled.

Any further period of leave will be without pay

## **6. Keeping in Touch Days**

If mutually agreed by the manager and employee, an employee can do up to 10 days paid work during the period of statutory adoption leave, without losing statutory payments or bringing adoption leave to an end. There is no obligation on the employee to do this and it is important to note that keeping in touch days are distinct from keeping in contact with the employee.

## **7. Service**

The Council will regard any period of Pre-Adoption Leave, Adoption Leave and Adoption Support Leave as continuous service.

## **8. Right to Return**

At the end of the period of Adoption Leave, an employee will have the right to return to his/her substantive post, with no detrimental effect to his/her conditions of service.

In exceptional circumstances, if an employee's substantive post is no longer available, the Council's policies on redundancy and redeployment will be applied as appropriate.

## **9. Notification**

### **Pre-Adoption Leave**

An employee must provide his/her manager with reasonable written notice prior to taking any of his/her entitlement to Pre-Adoption Leave.

### **Adoption Leave**

#### ***Commencement of Adoption Leave***

An employee must give his/her manager, within 7 days of being notified they have been matched to a child or as much notice as is reasonably practical in the circumstances, notice of his/her intention to take adoption leave. The notice must be in writing and must state:

- a) The expected placement date, if known;
- b) The date he/she wants the adoption leave to commence; and
- c) If an employee has more than 26 weeks continuous service at the relevant point, he/she must also confirm his/her intention, or otherwise, to come back to work at the end of his/her adoption leave for at least three months in order to receive his/her full entitlement to pay.

An employee must also provide his/her manager with evidence of his/her intention to adopt. This should include the name and address of the local authority or the recognised agency/voluntary organisation arranging the adoption, the date on which he/she was notified that he/she had been matched to a child and also evidence of the intention of the local authority and/or a recognised agency/voluntary organisation to place a child with him/her.

## **Return to Work**

An employee must decide when he/she wants to return to work. This must be no later than the last day of the 52<sup>nd</sup> week from the date his/her Adoption Leave period commenced.

If an employee wishes to return earlier he/she must provide his/her manager 56 days notice of the date he/she wants to return.

If he/she does not give the required notice, the Council can postpone his/her return to a date that will ensure the 56 days notice required in order to conclude any temporary arrangements that have been made. If he/she is not in receipt of pay, this extended period of leave will be unpaid. However, his/her return cannot be postponed beyond the latest date his/her adoption leave period can end.

## **Placement Ends**

Where the child's placement ends during the adoption leave period, an employee will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement or until the adoption leave period ends, whichever is earlier.

## **Adoption Support Leave**

An employee must provide his/her manager with as much notice as is reasonably practical in the circumstances prior to taking any of his/her entitlement to Adoption Support Leave.

## **10. Ordinary/Occupational Paternity Leave and Statutory Pay**

In addition to adoption support leave, Ordinary paternity leave and statutory pay (adoption) may be available for an employee who is one of two parents jointly adopting a child, or the husband / partner of someone adopting a child individually (including same-sex partner or civil partner), subject to certain criteria. There is a different criteria for adoptions within the UK from those cases of adoption from outside the UK.

Ordinary paternity leave (adoption) is time off to support the other adopter or to care for the child.



Ordinary paternity leave (adoption) for Council employees is one week, which has to be taken as one complete week of leave. This can be taken up to 8 weeks (56 days) after the date the child is placed with the adoptive parent. An employee will be paid, if eligible, Ordinary Statutory Paternity Pay however this will be topped up to full pay.

In addition to the above, eligible employees will be entitled to two additional week's occupational paternity leave paid at full pay. Occupational paternity leave must be taken and completed within 12 months of the child being placed.

Occupational paternity leave must be taken in blocks of no less than one week (subject to exigencies of the service). An employee can apply for occupational paternity leave by requesting this through myself. This will be recorded as special leave – occupational paternity leave.

An employee cannot take OPL for any purpose other than supporting the adopter and/or to care for the child. OPL is not meant to be used to cover any time spent travelling overseas to arrange the adoption or visit the child.

## **11. Shared Parental Leave and Pay**

Shared parental leave (SPL) is designed to afford principal carers and coparents more flexibility in how to share the care of their child in the first year following adoption.

The option to use SPL will apply to co-parents who meet the eligibility criteria (below), for children who are placed for adoption on or after 5 April 2015.

An employee who chooses to take up to 52 weeks adoption leave is defined as the Principal Carer. Co-parents are defined as spouses, civil partners, partners of the principal carer or a co-adopter.

SPL does not alter a principal carer's entitlement to 52 weeks adoption leave. However, in order to take SPL, the principal carer must have served 8 weeks' notice of his/her decision to end (curtail) his/her adoption leave or adoption pay early. The remaining leave will be available as SPL. The remaining weeks of pay may be available as Statutory Shared Parental Pay (ShPP).

To qualify for SPL a principal carer must be entitled to adoption leave, or statutory adoption pay, and must share the main responsibility for caring for a child with the co-parent. In addition, they will be required to follow a two step process to establish eligibility.

## **Step 1 – Continuity test**

A principal carer or co-parent seeking to take SPL must have worked with the same employer for at least 26 weeks at the end of the 15<sup>th</sup> week before the week in which the child is placed and is still employed in the first week that SPL is to be taken. The other co-parent has to have worked for 26 weeks (can be discontinuous) in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold in thirteen of the 66 weeks. Details of the salary values concerned can be found at <https://www.gov.uk/adoption-pay-leave/overview>

## **Step 2 – Individual eligibility for pay**

To qualify for Statutory Shared Parental Pay the principal carer or co-parent must, as well as passing the continuity test, have earned an average salary of the lower earnings limit or more for 18 weeks prior to the 15<sup>th</sup> week before the Expected Week of Childbirth.

SPL may be taken at any time within the period which begins on the date the child is placed for adoption and ends 52 weeks after that. Leave must be taken in complete weeks and may be taken either in a continuous period or in up to 3 separate (discontinuous) blocks (subject to exigencies of the service). The Council is not obliged to accept applications for discontinuous blocks.

The minimum period of leave must be one week. Eight weeks notice is required of an intention to take a block of SPL.

## **Shared Parental Leave in Touch (SPLIT) days**

SPLIT days will be available to both parties during SPL. These are in addition to the Keeping in Touch days outlined in section 6.

If mutually agreed by the manager and employee, an employee can do up to 20 days paid work during the period of his/ her SPL (please be aware that the principal carer must take at least 2 weeks adoption leave before starting SPL) without losing statutory payments or bringing SPL to an end. There is no obligation on the employee to do this and it is important to note that SPLIT days are distinct from keeping in contact with the employee.