**INSERT LOGO**

**Adoption Leave Policy and Procedure**

**Status of Policy:** Contractual

**Policy applies to:** Employees of the [name of organisation]

**Date Created:** [Insert as appropriate]

**Date of Last Review:**

**Future Review Date:** [3 years]

**1. Introduction**

This policy sets out the contractual and statutory adoption leave rights for eligible employees wishing to take adoption leave. It should be read in conjunction with the policy on Shared Parental leave. The Policy is subject to updates and amendments in line with legislative developments.

**2. Definitions of Terms and abbreviations**

The policy uses the following terms and abbreviations:

**Ordinary Adoption Leave (OAL):** This is the first 26 weeks of adoption leave. The contract of employment continues for this period.

**Additional Adoption Leave (AAL):** This is the second 26 week period and must follow directly on from Ordinary Adoption Leave. The contract of employment continues for this period.

**Compulsory Adoption Leave:** A minimum of 2 weeks must be taken as Adoption leave, by the primary adopter, immediately after the placement of the child. This is included as part of Ordinary Adoption Leave.

**Matching Week:** The week in which the member of staff is notified of being matched with a child for adoption.

**Primary Adopter:** The parent who is nominated as the primary care giver when adopting a child

**Averaging period:** the eight weeks prior to the Saturday which follows the notice of adoption matching. This is the period used to calculate average weekly earnings.

**3. Adoption Leave and Pay Entitlements**

During your adoption leave you will keep all your contractual rights except for pay. Adoption leave – both paid and unpaid - counts towards your period of continuous employment.

Regardless of your length of service with the NAME OF ORGANISATION, you are entitled to up to 52 weeks’ adoption leave. This is made up of 26 weeks’ Ordinary Adoption Leave (OAL) and a further 26 weeks Additional Adoption Leave (AAL).

You may be eligible for Occupational Adoption Pay (see Occupational Adoption Pay below) and/or Statutory Adoption Pay (see Statutory Adoption Pay below) dependent on your earnings and length of continuous service. [NB – delete this paragraph if the organisation does not pay Occuptional Adoption Pay]

You are encouraged to let your employer know what your intentions are regarding your adoption leave, at your earliest opportunity, by discussing your leave and benefits queries in confidence with your manager.

**4. Adoption Leave**

Statutory Adoption Leave is for 52 weeks and is made up of:

* Ordinary Adoption Leave (OAL) – the first 26 weeks.
* Additional Adoption Leave (AAL) – the next 26 weeks immediately after the OAL.

A minimum of 2 weeks must be taken as Adoption leave, by the primary adopter, immediately after the placement of the child. This is included as part of Ordinary Adoption Leave.

Statutory adoption leave can start either:

* from the date your child starts living with you.
* up to 14 days before the date your child is expected to start living with you.

Only one partner in a couple can take adoption leave. The other partner could get paternity leave and the partners may both take Shared Parental Leave (see the organisation’s Shared Parental Leave Policy).

You don’t have to take the full 52 weeks’ leave unless you choose to. However, the primary adopter is legally required to take a minimum of 2 weeks’ adoption leave from the date of the placement of your child. This is called Compulsory Adoption Leave and is taken as part of the OAL.

**4.1 Applying for Adoption Leave:**

It is your responsibility to advise your manager as early as possible when you are in the process of seeking to adopt. The length of time it takes to adopt a child can vary significantly and often little notice of a child’s arrival is given. This will be taken into consideration at all times when discussing leave requirements.

You should tell your manager **within 7 days** of being told that you have been matched with a child, if this is not possible you must tell your manager as soon as possible.

As soon as confirmation has been given that the adoption process has been successful (notification is received of matching) you should complete the Adoption leave application form (Appendix A) and ask to meet with your manager to discuss your leave.

You should use this form for notifying the (name of organisation) that a child has been placed with you for adoption and that you wish to take adoption leave/pay. Please keep a copy of this application form and give a copy to your manager. Please remember that this form must be submitted within 7 days of being matched with your child and **no later than 28 days** before the commencement of adoption leave (see 4.2 below).

When you give your manager your adoption leave application, you will need to also give him/her your matching certificate. The matching certificate includes the following information:

* Name/address of the adoption agency,
* Your name/address,
* The date on which the child is expected to be placed with you,
* The date you were told by the adoption agency that you had been matched with a child.

Your manager will make sure that a change form is completed and forwarded to Payroll, to confirm the dates of your adoption leave and details of your adoption pay.

**4.2 Automatic Start to Adoption Leave**

Very occasionally, an adoption will take place earlier than expected. Where adoption occurs before the agreed adoption leave period was planned to commence, so long as there is a written request and agreement that adoption leave is granted, the leave will commence on the first day of adoption. The line manager should complete a change form with the date that the adoption leave started.

**4.3 Termination of the adoption placement**

Should the placement be terminated for any reason more than 8 weeks before the end of either the paid or unpaid adoption leave period, you will be entitled to a further 8 weeks of the paid or unpaid leave that remains.

**5. Adoption Pay**

**5.1 Statutory Adoption Pay (SAP)**

SAP is paid by the name of organisation on behalf of the Department of Work and Pensions. You will be eligible for SAP provided that you:

* Earn on average at least £112 a week.
* Give the correct notice (notifying your manager within 7 days of being notified that you have been matched with a child, unless this is not reasonably practicable).
* Provide documentary evidence of the adoption - in the form of a matching certificate from the adoption agency as proof of entitlement to leave/pay.
* Have worked for the name of organisation continuously for at least 26 weeks up to the date when you were matched with your child.

SAP is paid for up to 39 weeks, as follows:

* Higher Rate SAP - 90% of your average weekly earnings (before tax) for the first 6 weeks.
* Lower Rate SAP - £139.58\* or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks

*\*Rate set in 2016*

**NB** average weekly earnings will be calculated based on the averaging period – which is the eight weeks prior to the Saturday which follows the notice of adoption matching.

You may then choose to take the remaining 13 weeks of the 52 weeks’ adoption leave which you are entitled to – this period will be unpaid.

SAP is paid in the same way as your salary/wages (i.e. monthly or weekly). Tax and National Insurance will be deducted.

Payment of SAP does not depend on you intending to return to work for the name of organisation after the end of your adoption leave. If you qualify for SAP you are entitled to receive it and to keep it, even if you do not return to work. We will not ask you to pay back any SAP that you are entitled to.

**5.2 Occupational Adoption Pay** [NB – not all organisations pay Occupational Adoption Pay – if your organisation does not then remove this section – if the organisation does then include the details of the Occupational Adoption Pay scheme below – this should mirror the organisation’s Occupational Maternity Pay scheme]

Occupational Adoption Pay (OAP) is a benefit paid by the name of organisation. It is paid to people who have worked continuously for the organisation for at least one year at the end of the matching week.

If you qualify for OAP, the payment which you will receive is as follows:

Insert details as appropriate – for guidance ONLY , the DBF pays Occupational Adoption Pay as follows:

* 90% of your average weekly earnings (before tax) for the first 13 weeks. (inclusive of 6 weeks’ higher rate and 7 weeks’ lower rate SAP)
* Lower Rate SAP - £139.58\* or 90% of your average weekly earnings (whichever is lower) for the next 26 weeks.

*\*Rate set in 2016*

You may then choose to take the remaining 13 weeks of the 52 weeks’ adoption leave which you are entitled to – this period will be unpaid.

SAP and OAP are paid in the same way as your salary/wages (i.e. monthly or weekly). Tax and National Insurance will be deducted.

As detailed above, payment of SAP does not depend on you intending to return to work for the organisation after your baby is born. If you qualify for SAP you are entitled to receive it and to keep it, even if you do not return to work. We will not ask you to pay back any SAP that you are entitled to.

Please note, however, that if you do not return to employment with the organisation for a minimum of 3 months, at the end of your adoption leave, you will be required to repay any OAP that you have received. OAP gives you 7 weeks pay at the equivalent of higher rate SAP, where SAP alone would have given these 7 weeks at the lower rate. Therefore, you will be required to pay back the difference between higher rate and lower rate SAP for these 7 weeks if you do not return to work.

**6. Appointments relating to the adoption process**

You will need to discuss with your manager any requirements you have for time off for appointments relating to your adoption process.

The primary adopter is entitled to take up to 5 days paid time off in a rolling 12 months for pre-adoption assessments.

The secondary adopter is entitled to take unpaid time off for up to two appointments.

Evidence of appointments may be requested, and it is advisable to give your manager as much notice as possible of your appointments.

**7. Annual Leave**

You will continue to accrue annual leave for the entire period of your adoption leave (paid and unpaid), in accordance with your annual leave entitlement as set out in your contract of employment. Accrual of bank holidays during your adoption leave is dependent on the terms of your contract of employment. Wherever possible, and in agreement with your manager, the annual leave which you accrue up to the start of your adoption leave should be taken before the start of your adoption leave.

At the end of your adoption leave, you will need to agree with your manager how you will take the annual leave you have accrued.

Normally this is done by using all the accrued annual leave immediately following the end of your adoption leave – prior to physically returning to work. If you would like to do this, you will need to give your manager 8 weeks’ notice and agree with him/her the annual leave which you will take.

Exceptionally, it may be preferable to use the accrued annual leave to temporarily reduce your working hours until the accrued leave is exhausted (e.g. be paid for 35 hours per week, but use 2 days’ accrued annual leave per week so that you actually work 21 hours a week until the accrued annual leave has all been taken). If you would like to do this you will need to discuss this fully with your manager, giving 8 weeks’ notice. Your manager will then consider whether this is possible, within the needs of the service.

All accrued annual leave should be taken before any agreed reduction in contractual hours arrangement starts, in order to enable you to return to work within a reasonable time frame.

If you do agree with your manager that you will reduce your hours, your future annual leave entitlement will be pro-rated to reflect the new working hours.

**8. Keeping in Touch days**

In agreement with your manager, you may choose to undertake up to 10 days’ paid work during your adoption leave without bringing your adoption leave to an end. These are known as Keeping in Touch (KIT) days.

KIT days can be used for any work, including training, attending a conference, committee or a team meeting or any activity undertaken for the purposes of keeping in touch with your workplace. They can be undertaken at any stage during adoption leave apart from the first two weeks after the placement of your child. KIT days do not extend the statutory adoption leave period.

If you work a KIT day during your adoption leave, then you will be paid at your normal hourly rate for the number of hours which you work on that day.

If you work for less than a full day, this will count as one KIT day for the purposes of the 10 maximum, although payment will only be made for actual hours worked.

KIT days are completely optional and will only take place if both you and your manager agree that they should. You will not be penalised if you do not want to work KIT days and, equally, you do not have a right to work a KIT day if your manager does not agree.

**9. Return to work**

If you choose to return to work at the end of OAL (i.e. after 26 weeks) then you have the right to return to the same post. If you also take AAL (i.e. if your adoption leave exceeds 26 weeks) then you will normally return to the same post. However, if this is not possible then you are entitled to return to a post on the same, or no less favourable, terms and conditions than those which you enjoyed before your adoption leave.

**9.1 Frequently asked questions about return to work**

**9.1.1 What if I want to work different hours when I return?**

If you want to return to different hours – for example, if you wish to reduce your working hours or work a different pattern of hours – then you will need to discuss this with your manager at the earliest opportunity and at least 8 weeks before your return date.

You may then apply to work flexibly (including a request to work part-time) under the organisation’s Flexible Working Policy by submitting a flexible working request form (provided you have 26 weeks’ service at the date of the application). There is no automatic right to return to work on different/flexible hours but we will give fair and thorough consideration to any request to vary your work pattern.

**9.1.2 Can I return to work earlier than my original adoption end date?**

If you decide that you want to return to work earlier than the end of your full, agreed, adoption leave period then you will need to give your manager at least 8 weeks’ notice, in writing, of your intended date of return. If you do not do this, then we may need to postpone your return for up to 8 weeks or until your adoption leave entitlement has been exhausted.

**9.1.3 What if I decide not to come back to work?**

If you decide that you don’t want to return to work at the end of your adoption leave, you will need to give us notice, as per your contract, before the end of your adoption leave period. If you don’t specify at resignation date, then your resignation will be effective from the date of the end of your paid adoption leave period.

**9.1.4 What if a redundancy situation arises when I’m on adoption leave?**

If a redundancy situation, which could affect your post, arises whilst you are on adoption leave you will be consulted about the redundancy and the continuation of your employment. You will be given priority in respect of suitable alternative employment opportunities.

**9.1.5 What if I’m ill on the date I’m supposed to return from adoption leave?**

If you are unable to return at the end of your adoption leave, due to illness, then you should report your sickness to your manager and submit a medical fit note in the usual way. You will then transfer from adoption leave to sickness absence. Your sickness absence will then be managed in the normal way.

**10. Fixed-term contracts**

If you are on a fixed-term contract which expires after the end of the matching week, then you will qualify for statutory adoption leave and pay in the same way as a permanent employee. Your contract will continue during your adoption leave until the date on which the fixed-term contract expires. Statutory adoption **leave** will come to an end on the expiry of a fixed-term contract, but the right to statutory adoption **pay** (if you are eligible for it) continues and therefore you will remain on the name of organisation’s payroll for the remainder of the pay period for pay purposes only.

**11. Childcare Vouchers/other Salary Sacrifice Schemes [insert only if this is appropriate and available]**

The [organisation] operates a Childcare Voucher Scheme through the provider [insert name of scheme provider]. This is a salary sacrifice scheme, i.e. a proportion of salary can be sacrificed in return for childcare vouchers. The vouchers are exempt from National Insurance contributions.

If you already participate in the Childcare Voucher and/or any other Salary Sacrifice Schemes delivered by the name of organisation, you will need to decide whether to temporarily suspend or opt out of the scheme prior to and during the 8 week period used to calculate your average pay for adoption pay purposes (the averaging period).

Continuation in a Salary Sacrifice scheme during this period will result in reduced OAP and SAP – because it reduces your overall average weekly pay. If continuing in any salary sacrifice scheme would reduce your average weekly pay below the threshold to qualify for SAP, then this could also affect your entitlement to SAP. Therefore, it is essentialthat you communicate your decision about whether to continue in a scheme to the relevant Salary Sacrifice scheme administrator, and to your manager, prior to the 8 week pay reference period so as not to unintentionally affect your adoption pay entitlement.

SAP cannot be sacrificed. SAP must be received in full. During adoption leave, any existing membership of the Childcare Voucher salary sacrifice scheme will cease and you will need to formally agree to suspend your membership of the salary sacrifice scheme during your adoption leave.

You may, if you wish, continue to pay for Childcare Vouchers during the Occupational Adoption Pay Period – if you are eligible for this, but would need to suspend your membership, as soon as the OAP period ceased. [Remove this paragraph if the organisation does not pay Occupational Adoption Pay]

Advice can be sought from insert name of Childcare Voucher Scheme provider.

If you wish to join or re-join the Childcare Voucher Scheme at the end of your adoption leave you will need to contact [name of Childcare Voucher Scheme provider] to discuss this and also advise your manager, at least 8 weeks before your return to work.

**12.** **Pension Contributions [insert this where appropriate and available]**

Adoption leave is treated as pensionable service and the organisation will continue to make XX% contributions on your behalf into the pension scheme based on your usual salary. The name of organisation will continue to take your employee contribution rate of XX%, based on your usual salary, from your adoption pay, during the paid part of your adoption leave unless otherwise instructed by you.

**13. Privacy and Data Protection Statement**

In accordance with the GDPR (General Data Protection Regulation), employees have a right to access information that XX may hold on them. This includes information regarding any HR processes undertaken (e.g. flexible working applications, grievances, disciplinary action etc), or information obtained through monitoring processes (e.g collation of information about number of days sickness absence). The way in which information about an employee will be used is outlined within the XX Privacy Notice, copies of which are available from XX.  XX is committed to being transparent about how it collects and uses personal data and to meeting its data protection obligations. To this end, XX undertakes that the employee will be made aware of any information regarding them that is gathered as part of a HR process.

As a data subject, each employee has a number of rights (outlined in the Privacy Notice).

If you would like to exercise any of these rights, please contact the XX Data Protection Officer.

**Appendix A**

**STAFF - CONFIDENTIAL**

**ADOPTION LEAVE/PAY APPLICATION FORM**

You should use this form for notifying the name of organisation that a child has been placed with you for adoption and that you wish to take adoption leave/pay. Please keep a copy of this application form and give a copy to your manager. **NB** this form must be submitted within 7 days of being matched with your child and no later than 28 days before the commencement of adoption leave.

|  |  |
| --- | --- |
| To: Manager | Name:      |
| Job Title:       |
| Department:       |
| Date of commencement of employment with organisation\*       |
| \*If this is not one year of continuous service, please detail your employers for the past two years: |

**A – Adoption Leave**

|  |  |
| --- | --- |
| 1. Date on which the child is expected to be placed (a matching certificate confirming this date should be attached or supplied as soon as possible after the submission of this form) |       |
| 2. Adoption leave start date (this can be up to 14 days before the date when child is expected to start living with you.) If you wish to change this date then, normally, 28 days notice of the revised start date will be required.  |       |
| 3. Intended return to work date *NB this date cannot be any earlier than two weeks after the placement of the child**(once chosen, this date may only be varied on giving 8 weeks’ written notice. If you do not complete this section, then you will need to give 8 weeks’ written notice of your intended return date).* |       |

I am aware that I have the right to return to work following the placement of my child, and that if I have not indicated otherwise, the name of organisation will assume that I am going to take my full leave entitlement and return to work on its expiry.

# B – Adoption Pay

I have read the Adoption Policy and believe that I am entitled to:

|  |  |
| --- | --- |
| 4. Occupational Adoption Pay (OAP) and Statutory Adoption Pay (SAP) | [ ]  |
| 5. Statutory Adoption Pay (SAP) only | [ ]  |

|  |  |
| --- | --- |
| Signed by applicant:       | Date:       |

**C – Manager’s agreement**

|  |  |
| --- | --- |
| 7. I confirm that I have discussed the dates above with the applicant and have agreed the adoption leave *(please tick to confirm action)* | [ ]  |
| 8. I confirm that I have authorised any related annual leave *(please tick to confirm action)* | [ ]  |

|  |  |
| --- | --- |
| Signed by Line Manager:       | Date:       |