



Adoption Leave and Pay Policy and Procedure

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Purpose [\(back to top\)](#)

The purpose of the Adoption Leave and Pay Policy and Procedure is to support employees who are adopting a child and also ensure compliance with statutory requirements.

The rights to adoption leave and pay applies to men and women who adopt a child through an approved adoption agency. Where a couple jointly adopts a child, only one of them is entitled to adoption leave; however the partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to [Maternity/Adoption Support Leave](#).

There are different conditions attached to UK adoptions and adoptions from overseas and to avoid confusion, these are dealt with separately in this policy and procedure.

Scope ([back to top](#))

This policy and procedure applies to all employees of Leicestershire County Council employed under the following conditions of service:

- National Joint Council for Local Government Services;
- School Teachers' Pay and Conditions (centrally employed teachers).

This policy and procedure is not applicable to employees based in schools/colleges with delegated budgets.

Principles ([back to top](#))

The Council's commitment to equality of opportunity will be observed at all times during the operation of this procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, gender, marital status, disability, age, sexual orientation, trade union membership or activity, political or religious belief and unrelated criminal conviction.

Roles and Responsibilities ([Back to top](#))

Employee	Complies with adoption leave and pay conditions, notification procedures and deadlines, and submits relevant forms.
Line manager	Instigates administrative arrangements with the Employee Service Centre. Maintains reasonable contact with the employee during adoption leave.
HR Services	Provides advice and guidance on more complex queries about adoption leave and pay.
Employee Service Centre	Is first point of contact for advice to employees and managers on adoption leave and pay and undertakes necessary administration.

PART 1 : UK Adoptions

Eligibility ([back to top](#))

An employee who adopts a child through an approved UK adoption agency is entitled to 52 weeks' Statutory Adoption Leave (SAL) and Statutory Adoption Pay (SAP) provided they have at least 26 weeks' continuous service with the Council ending with the week in which they are notified of being matched with a child for adoption.

Statutory Adoption Leave is made up of:

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- 26 weeks' Ordinary Adoption Leave (OAL) followed by
- 26 weeks' Additional Adoption Leave (AAL).

Notification to manager ([back to top](#))

The employee must give written notification of their intention to take SAL using form [Adopt02](#) no later than 7 days after the date on which notification of the match with the child was given by the adoption agency. The employee must specify:

- the date the child is to be placed with them for adoption; and
- the date they want the adoption leave to start.

The employee can change their mind about the date on which they want the SAL to start provided they give at least 28 days' written notice of the new date or, if that is not possible, they give notice as soon as reasonably practical.

The employee must provide a matching certificate from the adoption agency as documentary evidence of their entitlement to adoption leave and pay.

The manager will then arrange for the Employee Service Centre to write to the employee, within 28 days of receiving their written notification, to confirm the commencement date of the SAL and the date on which the employee is expected to return to work if the full entitlement to SAL is taken. The employee may however choose to [return to work](#) at an earlier date.

Starting Statutory Adoption Leave ([back to top](#))

An employee may start SAL on the day that the child is placed with them for adoption or up to 14 days earlier. SAL can start on any day of the week.

The employee is asked to discuss the timing of the adoption leave with their manager as early as possible in order to facilitate administrative and any cover arrangements during their absence.

Statutory Adoption Pay ([back to top](#))

The employee will receive Statutory Adoption Pay (SAP), which is paid for up to 39 weeks, during the period of their SAL.

PART 2: Overseas Adoptions

Eligibility ([back to top](#))

An employee who adopts a child from overseas qualifies for 52 weeks' Statutory Adoption Leave (SAL) provided they:

- have received official notification from the relevant UK authority of their eligibility to adopt a child from abroad;
- have at least 26 weeks' continuous service with the Council, either ending with the week in which they receive the official notification or by the time their statutory adoption leave is due to begin, whichever is later;
- have given the required notification to the Council; and
- are the child's main adopter.

Official notification for overseas adoptions

Official notification is written notification issued by or on behalf of the relevant UK authority stating that the authority is either prepared to issue a certificate to the overseas authority dealing with the adoption of the child or has issued a certificate and sent it to that authority. In either case, the certificate confirms that the adopter has been approved by them as being a suitable adoptive parent to adopt a child from overseas.

Notification to manager ([back to top](#))

An employee adopting a child from overseas must give written notification to their manager in three stages that they wish to take SAL, as follows:–

Stage 1

The employee must inform their manager of:

- the date on which they received official notification; and
- the date on which the child is expected to enter the UK.

If the employee already has the necessary 26 weeks' qualifying service when they receive official notification, they must give this information within 28 days of receiving official notification; at this point, they should know approximately when the child is due to enter the UK.

If the employee receives official notification before they have the necessary qualifying service, they must give notice within 28 days of completing 26 weeks' qualifying service; at this point, they should know approximately when the child is due to enter the UK.

Stage 2

In all cases, the employee must give their manager at least 28 days' notice of the actual date they want their SAL to start (this notice can be given at Stage 1 if the employee knows the date). SAL cannot start before the child enters the UK.

The employee can change their mind about the date on which they want the SAL to start provided they give at least 28 days' written notice of the new date or, if that is not possible, they give notice as soon as reasonably practical.

Stage 3 (after the child has entered the UK)

The employee must inform their manager, using form [Adopt02](#), of the date the child entered the UK within 28 days of the child's date of entry. If the employee is also claiming Statutory Adoption Pay (SAP), they will also need to provide evidence of the date of entry.

The manager will then arrange for the Employee Service Centre to write to the employee, within 28 days of receiving their written notification, to confirm the commencement date of the SAL and the date on which the employee is expected to return to work if the full entitlement to SAL is taken. The employee may however choose to [return to work](#) at an earlier date.

If the child does not enter the UK on the expected date, the employee must inform their manager as soon as reasonably practical.

Starting Adoption Leave ([back to top](#))

The employee may start SAL from either the date the child enters the UK or a fixed date (as notified to them by the relevant UK authority) no later than 28 days after the date on which the child enters the UK. SAL can start on any day of the week.

SAL cannot be used to cover the period the employee spends travelling overseas to arrange the adoption/visit the child. The employee should request annual leave or unpaid leave for these purposes.

The employee is asked to discuss the timing of the adoption leave with their manager as early as possible, in order to facilitate administrative and any cover arrangements during their absence.

Changing the start date of SAL

The employee can change their intended SAL start date provided they notify their manager in writing of the new start date on whichever is the earlier of:

- 28 days before their original SAL start date; or
- 28 days before their new SAL start date.

If it is not possible to give this much notice, the employee should give as much notice as reasonably practical.

Statutory Adoption Pay – Overseas Adoptions ([back to top](#))

When adopting a child from overseas, the employee will receive Statutory Adoption Pay (SAP), which is paid for up to 39 weeks, during the period of their SAL provided they:

- have received official notification;
- have at least 26 weeks' continuous service with the Council by either the week they receive the official notification or the time they want payment of their SAP to begin, whichever is the later;
- have given at least 28 days' notice (or as much as is reasonably practical) of the date from which they want payment of SAP to begin; and
- their average weekly earnings are at or above the lower earnings limit for national insurance contribution that applies at the later of either the end of the week in which they receive official notification or the end of the week in which they complete 26 weeks' service.

The employee must provide the following evidence to demonstrate their entitlement to SAP:

- a copy of the official notification at least 28 days before they want their SAP to start;
- a declaration that they are claiming SAP, and not statutory paternity pay; and
- evidence of the child's date of entry into the UK, such as a plane ticket or copies of entry clearance documents – the manager must take a copy of the evidence provided and forward it to the ESC for retention on the employee's personal file.

Part 3 – General information for all employees

Pre-Adoption Leave (back to top)

The Council allows employees up to 5 days' paid [pre-adoption leave](#) in certain circumstances. Further details can be found on CIS.

Statutory Adoption Pay (SAP) (back to top)

During SAL, an employee will be paid Statutory Adoption Pay (SAP) provided that their average weekly earnings are not less than the lower earnings limit for National Insurance contributions.

SAP is payable for up to 39 weeks of SAL at a rate set by the government for the relevant tax year, or at 90% of the employee's average weekly earnings if this figure is lower than the government's set weekly rate.

SAP is treated as earnings and therefore subject to income tax and National Insurance contributions.

Pensions ([back to top](#))

For an employee who is a member of either the Local Government Pension Scheme or the Teachers' Pension Scheme, pension contributions will continue to be deducted each month from their salary during the **paid** period of their SAL. Contributions will be based on the levels of pay applicable at the various stages of adoption leave.

When an employee enters a period of unpaid adoption leave, it will not be possible to collect pension contributions.

➤ **Teachers' Pension Scheme**

For members of the Teachers' Pension Scheme, pension contributions cease at the end of the paid period of adoption leave and membership of the scheme is suspended. For further information, employees should contact Teachers' Pensions, Mowden Hall, Darlington, DL3 9EE or visit their website <http://www.teacherspensions.co.uk/contact/contactus.htm>. Alternatively they may contact the Employee Service Centre on 0116 305 8815, email eschelpdesk@leics.gov.uk.

➤ **Local Government Pension Scheme**

For members of the Local Government Pension Scheme, it is possible to make up 'missing' contributions on their return to work so that the period of service concerned can be counted for pension purposes. An employee wishing to make up their contributions must notify the Pensions Section of their decision by completing and returning the Adoption Absence Option form **within 30 days of their return to work**. The outstanding contributions can be paid either as a lump sum or, by agreement, in instalments.

Continuous service ([back to top](#))

For employees employed under the conditions of service of the National Joint Council for Local Government Services, SAL counts towards the employee's continuous service for the purposes of calculating a redundancy payment, occupational sick pay and annual leave entitlement.

For employees who have a break in local government service for maternity reasons or reasons concerned with caring for children or other dependants, previous service can be taken into account in respect of occupational sick pay and any future maternity leave provided that the break in service is not more than 8 years and the employee has not undertaken any other permanent full-time paid employment. For the purposes of entitlement to annual leave, the 8 years time limit does not apply provided that the employee has not undertaken any other permanent full time paid employment.

Contact during adoption leave ([back to top](#))

Keeping-in-touch (KIT) days

Keeping-in-touch days are intended to help the employee keep in touch with their workplace during adoption leave and can also help ease their eventual return to work. KIT days can be used, for example, for attending a training course, team meeting or Personal Development Review meeting, or to participate as a member of an interview panel.

An employee may undertake up to, but not exceeding, 10 KIT days during their SAL without bringing their adoption leave to an end or affecting their SAP (see note below). KIT days can be worked separately or in a block, and either as full or part days, by agreement between the employee and their manager.

The employee is paid at their normal rate of pay for the hours/days worked as KIT days and this will be offset against their SAP. The hours worked should not exceed the employee's normal weekly contracted hours. The manager is responsible for completing and certifying a form for payment of the hours/days worked.

IMPORTANT NOTE If an employee has worked 10 KIT days and then does further work for the Council during their adoption leave, they will lose SAP for each week in which they work. If an employee works their 10th KIT day and then does a further day's work in the same week, they will lose SAP for that week. In this context, a week means any period of 7 days e.g. if the employee's SAP started on a Thursday, a week will run from Thursday to Wednesday.

The Council cannot require an employee to undertake KIT days and an employee does not have any entitlement to be offered them. The amount and type of work that is to be done should be mutually agreed between the employee and their manager, subject to the above provisions.

Reasonable contact during adoption leave

A manager is entitled to make reasonable contact with an employee during their SAP e.g. to discuss their plans for returning to work or whether the employee might be seeking to change their hours of work or pattern of working. The employee will also need to be kept up to date about any changes that may be taking place in the organisation.

Details of job vacancies are available on the Council's website. If an employee is unable to access the website and would like to receive a copy of the Council's Vacancy Bulletin, this can be arranged by their manager on request.

Returning to Work (back to top)

An employee may take the full 52 weeks' SAL and if so, must return to work on the due date. If they do not return at the end of SAL, this will be treated as unauthorised absence (unless they are ill and provide a medical certificate before the end of the SAL).

An employee may return to work earlier than the end of their SAL, at any time during their OAL or AAL, provided they give 8 weeks' written notice of the date they intend to return.

If an employee returns to work at the end of their OAL, they are entitled to return to the same job on the same terms and conditions.

If an employee returns to work at the end of their AAL, they are entitled to return to the same job, but if that is not reasonably practicable, to another suitable job on comparable terms and conditions.

If the employee decides not to return to work during their SAL, they must give written notice of their resignation, in accordance with the terms of their contract of employment.

If the child's placement is terminated

If after the employee's SAL has begun, the expected placement does not occur, or once the placement has started, the child dies or is returned to the adoption agency, the employee is entitled to SAL and SAP for up to 8 weeks after the placement ends. The employee is also required to give 8 weeks' written notice that they will be returning to work earlier than intended.

Statutory right to request flexible working (back to top)

As a parent of a child age under 16 years, the employee has a statutory right to request flexible working, which could be returning on reduced hours, on a different working pattern or to a different work location.

Detailed information about the [Statutory Right to Request Flexible Working](#) is available on CIS.

Annual Leave, Public Holidays and Concessionary Days (back to top)

An employee is encouraged to take any outstanding annual leave that they have earned, but not yet taken, before starting SAL.

During SAL, an employee will continue to accrue annual leave together with any public holidays and concessionary days that fall during this period.

An employee may take in full the leave that they have accrued during the period of SAL. However, the employee is not permitted to carry forward excess leave beyond the first year after their return into subsequent annual leave years.

Essential Car User Allowance and Car Leasing (back to top)

An employee with essential car user status will continue to receive the essential car user lump sum throughout their SAL period.

If the employee participates in the Council's lease car scheme, they must notify ESPO of their SAL at the earliest opportunity. The employee may retain their lease car during SAL, but must contact the Employee Service Centre to set up a direct debit payment to cover their monthly contributions during the **unpaid** period of their SAL.

Child care vouchers (back to top)

Child care vouchers are a "salary sacrifice" scheme. They are paid through the employer and are a way of saving money on child care fees as a percentage of the employee's payment is exempt from income tax and National Insurance contributions.

The Council's child care vouchers scheme is provided and administered by an external provider. Further information is available on CIS.

If an employee already participates in the Council's child care vouchers scheme, they will continue to be eligible to receive child care vouchers during SAP, including the last 13 weeks of Additional Adoption Leave (which are unpaid).

Employees not eligible for statutory adoption leave and pay (back to top)

An employee will not be eligible for SAL or SAP if they have:

- arranged a private adoption;
- become a special guardian;
- adopted a stepchild; or
- had a child through surrogacy.

However, an employee who is adopting a child who does not qualify for SAL or SAP may if they wish:

- apply for unpaid leave in the form of a [career break](#); or

- request annual leave or a short period of unpaid leave, in which case the normal procedure for requesting leave should be followed.

Glossary of terms and abbreviations ([back to top](#))

AAL	Additional Adoption Leave.
Adopt02	Formal application form for adoption leave and pay.
Adoption Absence Option Form	Form to elect to pay LGPS pension contributions during adoption leave.
KIT Days	Keeping-in-touch Days.
OAL	Ordinary Adoption Leave.
SAL	Statutory Adoption Leave.
SAP	Statutory Adoption Pay.