



SOLIHULL METROPOLITAN BOROUGH COUNCIL

Adoption Leave Policy

This policy sets out the terms of agreement reached by those participating in the Council's Consultation and Negotiating Framework

SMBC can provide information in a range of different ways, for example via the use of large print, audio, summarising large documents, interpretation, translation and British Sign Language interpreting services.

If you require this information in an alternative format or need assistance because English is not your first language, please contact your line manager or nominated Human Resources Advisor in the first instance for further support.

ADOPTION LEAVE POLICY

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Please contact your HR Advisor for further discussion in the application of this policy.

1. INTRODUCTION

Providing a stable home to a child who would otherwise grow up without the care and support of a family is recognised by the Council as a valuable service to the community.

As an Adoption Agency and major employer, Solihull MBC recognises that parents adopting a child will need to demonstrate that they are able to provide a caring and stable environment for the child(ren). This is especially relevant during the initial settling in period which can last a considerable period of time.

In recognition of this the Council provides an Adoption Leave Scheme as well as Shared Parental Leave, Ordinary Parental Leave, Paternity Leave and Adoption Support Leave. All policies can be found on the School's Extranet.

Certain eligibility criteria, which are detailed, must be met to qualify for each of the schemes. For couples, it will be their decision as to which one of them will apply to be the adopter and may be eligible for Adoption Leave. The individual who will not be the adopter may be eligible for Shared Parental Leave, Paternity Leave or Adoption Support Leave subject to meeting the relevant criteria.

The adoption leave scheme will also apply for couples who are in a surrogacy arrangement or are planning to "foster to adopt".

Unless stated, the Adoption Leave schemes do not apply in circumstances where there is a private adoption arrangement, other fostering arrangements, an already established relationship with the child(ren), for example where a stepparent is adopting their partner's child(ren), where a residence order is granted, or where the child of a close relative is being adopted.

Employees requesting Adoption Leave shall be entitled to paid leave before the placement or before the child enters the country, to attend a reasonable number of meetings and hearings in connection with the adoption. Further information about adoption can be found at: www.solihull.gov.uk/adoption and www.first4adoption.org.uk/adoption-support

Further advice in respect of all of the schemes and eligibility can be sought from your HR Adviser. The Adoption Leave Manager's Checklists are available to assist you through the process of supporting your team member before their leave, on leave and their return to work.

Employees who wish to request alternative working arrangements or any other adjustments to their roles because of adoption, may submit an application for consideration under the Council's/school Flexible Working policy.

2. ADOPTION DEFINITIONS

The following outlines some of the terms that are used in this document:

SAP	Statutory Adoption Pay This is 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. Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.
OAL	Occupational Adoption Leave
SAL	Statutory Adoption Leave
OPL	Ordinary Paternity Leave
Average Weekly Pay	The amount payable under the employee's current contract of employment. If there are significant variations in salary, the average salary over 12 weeks prior to the start of the adoption leave will be treated as a week's salary.
LEL	Lower Earnings Limit
ODAL	Ordinary Adoption Leave
ADAL	Additional Adoption Leave
Matching Certificate	A 'matching certificate' letter is issued by the appropriate agency and may be used as evidence for the purposes of Statutory Leave and Pay. It confirms that the named person(s) has (have) been matched with a child for adoption.
Official Notification	(Overseas adoptions) – This is written notification, issued by or on behalf of the relevant domestic authority, to an adopter that they have issued or are about to be issued a Certificate of Eligibility to the authorities abroad, that the adopter has been assessed as suitable to adopt from abroad.
Parental Order	A legal requirement that transfers the rights of the birth mother to a couple who have used a surrogate to have a child.
KIT	Keeping In Touch Day
SAP 1	Form issued to employee by employer of non-payment of SAP and can be taken to local Job Centre Plus.
ADP 1	SMBC - Notification of Adoption Leave Form
ADP 2	SMBC – Confirmation of Adoption Leave Form
Partner	This is the person with whom the employee shares parental responsibility

SAP Rates

	2023/2024 From 2 April 2023	2024/2025 From 8 April 2024
SAP (standard rate)	£172.48	£184.03
LEL	£123.00	£123.00

3. SCOPE

This policy applies to employees employed by us. It does not apply to agency workers, casual staff, contractors, consultants or any self-employed individuals working for the school.

4. STANDARD ADOPTION SCHEME

Employees are entitled to take 52 weeks Adoption Leave regardless of their length of service.

4.1 Eligibility

The employee must:

- Be the nominated adopter, a legal parent under a surrogacy arrangement or a local authority foster parent under a “foster to adopt” arrangement; **and**

For adoptions within the UK

- Have received notification from an adoption agency of a placement with a child.

Or

For adoptions from Overseas

- Completed form SC6 (available from HM Revenue & Customs or www.gov.uk)
- Have received ‘official notification’ issued by or on behalf of the UK Authority.

4.2 Statutory Adoption Pay

Employees who take adoption leave will also qualify for statutory adoption pay, if they have **26 weeks'** continuous service with the Council/school at the relevant date*

*The relevant date

For adoption within the UK, 26 weeks service calculated as at the week in which notification of placement is given by the adoption agency.

For adoption from overseas, 26 weeks service must be accrued by the date that the employee received ‘official notification’ that they can adopt from abroad.

For surrogacy arrangements, you must have been continuously employed by the Council/school for at least 26 weeks by the 15th week before the baby is due.

4.3 Entitlement under Standard Adoption Scheme

Employees are entitled to up to 52 weeks adoption leave.

From the date adoption leave commences employees are entitled to receive 39 weeks Statutory Adoption Pay (SAP).

Employees, whose average weekly earnings are not equal to or greater than the current lower earnings limit for national insurance contributions, will not be eligible to receive SAP. These employees will be provided with a SAP1 exclusion form to take to the Job Centre Plus to claim income support.

Employees who qualify for the Standard Adoption Scheme and SAP will be eligible for:

- First 6 weeks at 90% of normal weekly earnings
- Next 33 weeks at the current rate of SAP
- Final 13 weeks unpaid

Statutory Adoption Pay will be paid at the current rate or 90% of the employee's average weekly earnings before tax (or whichever is lower).

Under the Shared Parental Leave Scheme, an adopter may wish to consider, depending on whether the eligibility criteria are met, to curtail their adoption leave and pay, and elect to convert any untaken balance of leave and pay as shared parental leave and pay with their partner.

4.4 Surrogacy Arrangements

If you are genetically related to the child (i.e. the egg or sperm donor), you can also elect to receive paternity leave and pay, however in these circumstances employees would not be able to receive benefits under this Adoption Scheme as well.

5. ENHANCED OCCUPATIONAL ADOPTION SCHEME

The Council's Enhanced Occupational Adoption Scheme provides additional benefits in accordance with the relevant nationally agreed terms and conditions of employment.

5.1 Eligibility

The employee must:

- Have completed at least 52 weeks continuous local government service at the relevant date* **and**
- be the nominated adopter, a legal parent under a surrogacy arrangement or a local authority foster parent under a "foster to adopt" arrangement **and**

For adoptions within the UK

- Have received notification from an adoption agency of a placed with a child.

Or

For adoptions from overseas

- Completed form SC6 (available from HM Revenue & Customs or www.gov.uk)
- Have received 'official notification' issued by or on behalf of the UK Authority.

***The relevant date**

For adoption within the UK, 52 weeks service calculated as at the week in which notification of placement is given by the adoption agency.

For adoption from overseas, 52 weeks service must be accrued by the date that the employee received 'official notification' that they can adopt from abroad.

5.2 Entitlement under Occupational Adoption Scheme

Employees are entitled to up to 52 weeks adoption leave.

From the date adoption leave commences employees are entitled to receive 39 weeks' adoption pay and 13 weeks is unpaid. This is made up of

Non – teachers*

- First 6 weeks at 90% of normal weekly earnings

Teachers**

- First 4 weeks at full Pay
- Weeks 5 and 6 at 90% of normal weekly earnings

* NJC for Local Government Services – National Agreement

** School Teachers Pay and Conditions Document

All employees

- Next 12 weeks at current rate of Statutory Adoption Pay plus half pay (subject to total pay being no higher than 100% of normal weekly earnings)
- Next 21 weeks at current rate of SAP
- Final 13 weeks unpaid (but see leave entitlement below)

Employees, whose average weekly earnings are not equal to or greater than the current lower earnings limit for national insurance contributions, will not be eligible to receive SAP. These employees will be provided with a SAP1 exclusion form to take to the Job Centre Plus to claim income support.

The employee has two options in relation to the payment of half pay between weeks 7 and 18 of the scheme:

OPTION ONE – To receive the half pay as a lump sum on return to work

OPTION TWO – To receive half pay between weeks 7 and 18 of paid adoption leave with no balance due on return to work

The assumption under the scheme is that the employee intends to return to work at the end of the scheme (see “**Employees not returning to work**” below)

If an employee is ineligible for the Enhanced Occupational Adoption Scheme, then they may qualify for either the Standard Adoption Scheme or Adoption Support Leave Scheme.

5.3 Neonatal Care Leave and Pay

5.3.1 Neonatal care leave

For employees in a surrogacy arrangement, if your baby is born before 37 weeks and is required to stay in hospital for specialist neonatal care for at least 7 days within the first 28 days of birth, you will be entitled to receive neonatal care leave. This is for up to a maximum of 12 weeks and must be taken in the first 68 weeks after the baby’s birth. Neonatal care leave can be taken in days and not necessarily in blocks of one week. It is important that you keep your line manager updated as to when the baby’s specialist care is completed.

Parents will have a day one right to time off from work in these circumstances and would be in addition to any paternity/adoption leave entitlements.

To be eligible for neonatal care leave you need to be the baby’s legal parent, married to the baby’s legal parent, or expected to have the responsibility of bringing up the child.

5.3.2 Neonatal care pay

If you need to take neonatal care leave, the Council/school will ensure you are paid at full pay during this time, up to a maximum of 12 weeks. There is no qualifying period for this enhanced rate. Your normal entitlement to adoption/paternity leave will continue to apply and will not be affected by neonatal leave. This should hopefully provide some peace of mind so that your focus can be on your baby without having to worry about pay or using up your leave.

5.4 Children with disabilities / specialist needs

Knowing that your child has a disability can be life changing. The Council/school will support parents when their child has a disability and/or specialist learning needs and show flexibility and compassion. Our **Carer's policy** details how parents of children with a disability and/or specialist learning needs can request paid time off from work to attend to their caring responsibilities. We would encourage parents to complete a Carers Agreement with their line manager on return to work to document the support that can be put in place to help balance their work and caring responsibilities.

You can find more information [here](#) on how your local Council might be able to help you and your family.

Our Employee Assistance Programme offers practical and emotional support for you and your family 24/7. The details for the helpline and other charities can be found in section 11.

5.5 Pay increments

You will not receive less favourable treatment as a result of your adoption leave. Depending on the date you go on adoption leave and where you are in the Performance Development Review Framework (PDRF) year, it may be necessary for your manager to hold a performance review meeting with you **before** you go on adoption leave if you have worked at least 4-6 months of the PDRF year. This can review your key achievements but also discuss your performance development plan, career goals and possible flexible working options which can help you both to plan for your return from adoption leave.

Depending on the duration of your adoption leave, if your adoption leave crosses into a new PDRF year, or you have worked less than 4 months of the PDRF year it may also be necessary for your manager to set a performance review period with you on your return to work that is outside of the usual corporate timescales. This is so that you have sufficient time to demonstrate your performance and achievements and participate in a meaningful PDR assessment. A reasonable review period might be between 4- and 6-months following return, but this will depend on your role. Any change to pay would be backdated to 1st April in line with other employees.

6. NOTIFICATION OF ADOPTION LEAVE

Adoption leave can commence either:

- From the date the child starts living with the employee
- Or
- Up to 14 days before the date the child is expected to start living with the employee

If you are having a child through a surrogacy arrangement, your adoption leave will start on the day on which the baby is born or the day after if you are at work on that day.

To make administration as easy as possible, the employee is encouraged to discuss the timing of his/her adoption leave with their manager/ Headteacher as early as possible.

6.1 For adoptions within the UK

Employees must notify their manager/ Headteacher of their intention to take Adoption leave within 7 days of being notified by their Adoption agency that they have been placed with a child for adoption unless this is not reasonably practicable. Where an employee qualifies for SAP, 28 days' notice is preferred wherever possible.

6.2 Fostering for Adoption

Employees can commence adoption leave (and pay if eligible) when a fostering for adoption placement is made. If an adopter chooses not to take adoption leave at this point, they may take leave at the point when the child is matched with them for adoption purposes (which may be some months later).

6.3 For adoptions from overseas

Employees must notify their manager/ Headteacher of their intention to take Adoption Leave within 28 days of receipt of the official notification of eligibility for adoption, or within 28 days of the date at which they wish to commence adoption leave, whichever is the later, unless this is not reasonably practicable.

The Notification of Adoption should include:

- The employees name and address.
- The name and address of the adoption agency.
- When the adoption leave will start.
- Expected date of placement of the child, or for overseas adoptions, the date the child is expected to enter Great Britain.
- The date on which the employee was informed by the adoption agency that the child would be placed with then for adoption.

- A copy of the Matching Certificate from the adoption agency, or for overseas adoptions, a copy of the official notification of eligibility for adoption.
- A declaration that the employee has elected to receive SAP and not Statutory Paternity Pay.

Adopters are eligible for only one set of adoption leave (and pay if eligible) per placement.

The form Notification of Adoption Leave in Appendix 1 should be used for this purpose.

6.4 Surrogacy arrangements

If employees are using a surrogate to have a baby, they must inform their manager/ Headteacher of the due date and when they want to start their leave at least 15 weeks before the expected week of birth.

Notification must be in writing and include a written statement ('statutory declaration') to confirm that a [parental order](#)* has been applied or will be applied for within 6 months after the child's birth. Evidence of this will be required and would normally be signed in the presence of a legal professional.

*A parental order will not be granted to a single person who has, or intends to use, a surrogate, to have a child.

If you intend to apply for a parental order and expect to become the child's legal parent in a surrogacy arrangement, you are entitled to paid time off work to accompany the surrogate at up to two antenatal appointments.

6.5 Time off to attend adoption appointments

All prospective adopters are expected to attend a series of meetings such as informal information events, home visits with social workers and preparatory training courses both during the evening and some days. An in-depth assessment is undertaken over a period of months and the applicant is also expected to attend an Adoption Panel at the end of the process. Panels generally meet during the day, but some do meet in the evening. As well as all of these appointments to attend, they may face setbacks along the way too which could lead to further appointments and/or emotional distress.

The purpose of the adoption appointment is to enable you to have contact with the child (for example, to bond with them before the placement) and for any other reason connected with the adoption (for example, to meet with the professionals involved in the care of the child).

Once you have told us that you are adopting a child, you will be entitled to time off work to attend your adoption appointments. All employees adopting a child will be able to take paid time off for up to **five** adoption appointments.

Prospective adopters who adopt a sibling's group or adopt children with complex and specialist needs (these children require specialist care, so adopters may have to undergo specific training to equip them with the appropriate skills), an **additional three** paid adoption appointments may

be granted to acknowledge the extra meetings and training that may be required for this particular need.

Typically, up to one day may be taken to attend each appointment, the actual time as agreed with your manager will depend on the type and duration of the meeting, location and travel time. It would be helpful if you could try to arrange these outside your normal working hours if you can. If not, then you'll get paid time off to attend. Please let your manager know as early as you can when your appointments are and try to arrange them at the start or end of the day if possible. Any additional time needed may require using your annual leave, flexi hours, unpaid leave etc as agreed with your line manager.

Your line manager will approve the leave on a discretionary basis considering the individual circumstances of each case and operational requirements of the school.

The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date on which the child is placed with you for adoption.

We may ask you to provide proof, such as a letter or email from the adoption agency confirming the date and time of the appointment and that the appointment has been arranged by, or at the request of, the adoption agency.

7. DURING ADOPTION LEAVE

7.1 Keeping-in-touch days

Employees can work (or attend training) for up to 10 mutually agreed days during their adoption leave without that work bringing their adoption leave to an end and without loss of a week's statutory adoption pay. These days are known as "Keeping in Touch" (KIT) days. The 10-day maximum is the same regardless of if you work on a full or part time basis.

KIT days are useful for updating or refreshing an employee's knowledge and skills if they are invited to training sessions and professional development events and can help ensure that the logistics are in place for the employee's return to work. It is also a good way of maintaining or re-establishing the employee's relationships with key contacts and colleagues.

Work done in a KIT Day is any work done under your contract of employment and may include training or any activity undertaken to "Keep in Touch" within the workplace, and/or can be carried out remotely. Any work done on a day during the adoption leave period will count as a whole KIT Day. If, for example, you attend a 3-hour training session to "keep in touch", you will have used one of your 10 KIT days. KIT days cannot be converted into hours to span more than 10 days.

You will receive your normal pay for these KIT days on a pro rata basis, even during unpaid adoption leave. You are paid for the actual hours you work. If you decide to attend a KIT Day whilst you are receiving SAP and/or AAP, then this will be offset against your normal pay for the day. This should not add to more than full pay on any of these days.

If you work more than the allocated 10 days, you will lose your SAP for any work done in that week. Your line manager must inform HR if this situation arises. Your line manager will need to send your KIT dates to the HR Pay & Administration team so that your pay can be adjusted appropriately.

It would be good practice prior to starting adoption leave to have a conversation with your manager to investigate the opportunities and protocol that may arise for any opportunities for KIT days in the future.

Adoption leave will not be extended by working a KIT Day.

7.2 Reasonable contact

You and your line manager, or designated member of staff, are actively encouraged to make reasonable contact during adoption leave to discuss such issues as your return to work, special arrangements to be made or update you on training or job opportunities at work whilst you are on leave.

Reasonable contact does **not** constitute 'work', so does not count towards the ten "Keeping in Touch" days and will not bring your adoption leave period to an end.

7.3 Restructure/ Reorganisation

If, whilst you are on adoption leave, your department is involved in any restructure or reorganisation, you must be informed of this and given the opportunity to become involved in the process in accordance with the Management of Change policy (available on the School's Extranet).

Employees who are on maternity or adoption leave or have recently returned from maternity/adoption leave (protection is for 6 months after returning to work), have priority over other employees who are also at risk of redundancy and are entitled to be offered any suitable alternative vacancy.

If no suitable alternative vacancy exists and the employment is terminated for redundancy, the employee is entitled to notice and a written statement of the reasons for dismissal. A qualifying employee is also entitled to a redundancy payment and any outstanding statutory adoption pay.

7.4 Sickness

Sickness payments will automatically and immediately cease whenever adoption leave commences.

7.5 Shared Parental Leave

You may wish to consider, depending on whether the eligibility criteria are met, to curtail your adoption leave and choose to convert it to Shared Parental Leave and Pay which can be taken by both you and your partner/co-parent.

Shared parental leave enables parents to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and

pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay later.

Please refer to the Shared Parental Leave policy on the School's Extranet for further details.

7.6 Parental leave

There is also an opportunity, dependant on your length of service, for you to take advantage of the right to unpaid parental leave of up to 4 weeks at the end of your adoption leave; the parental leave scheme is on the School's Extranet, or is available from HR.

7.7 Fixed Term Contract Employees

If you are employed on a fixed term contract, your period of adoption leave is dependent on your contract being extended beyond your current fixed term contract end date.

If your contract is to be renewed whilst you are on adoption leave or will continue after you would be due to return from your adoption leave, then you maintain your right to return. However, if the contract is not due to be renewed (e.g. you were covering a period of sickness absence or maternity leave etc) then you may not have the right to return.

If your fixed term contract ends, then your statutory adoption leave will end on the expiry of your fixed term contract. If you qualify for Statutory Adoption Pay, then this will continue to be paid to you.

Please feel free to contact a member of the HR Advisory Team for advice and guidance.

8. PENSIONS, BENEFITS & ANNUAL LEAVE

8.1 Pensions

If you are a member of the Local Government Pension Scheme (LGPS)/Teachers Pension Scheme (TPS)/ NHS Pension Scheme, we will make employer pension contributions during any period of paid Adoption Leave. This will be based on the contribution rate effective at the time and will be based on assumed pensionable pay (APP). APP is calculated on the contractual pay that would have been received if the employee was on normal unreduced pay and is based on 3 months' pay (full months) received prior to the date the employee went on to reduced pay annualised up. The employee will pay contributions on the amount of pay received.

During any unpaid period of SAL or OAL, LGPS employees may elect to buy any, or all 'lost' pension through an Additional Pension Contribution (APC). If this is done within 30 days of returning to work the school shall pay two thirds of the cost of the APC (a shared cost APC) and you will pay the remaining one third. If you make your election past the 30-day deadline the school will not make a contribution to the APC and the full cost has to be met by yourself. Where you choose to stop contributions during the same period this will not count towards reckonable service for pension purposes until contributions are resumed.

You can contact the HR Pensions team for further information on pensions@solihull.gov.uk.

For employees who are members of Teachers Pensions Scheme, with respect to the unpaid period of adoption leave, should discuss this in further detail with Teachers' Pensions on 0845 6066166 or view their website on www.teacherspensions.co.uk.

8.2 Contractual benefits

You are entitled to all normal contractual benefits during paid adoption leave (except normal pay/salary and sick pay – see below). The position during the unpaid period the contractual rights and obligations that will remain are those applicable as if the employee had exhausted occupational sick pay. The main requirements would be:

- **Notice periods**
- **Redundancy payments**
- **Disciplinary and Resolution procedures**
- **Duty of trust and confidence**
- **Duty of good faith**
- **Leave (see below)**

All statutory rights will be upheld.

8.3 Salary sacrifice arrangements

Salary sacrifice deductions cannot operate during a period of Statutory Adoption Pay as SAP cannot be reduced under any circumstances.

If you are in the closed Childcare vouchers scheme, you will continue to benefit from the vouchers when deductions can no longer be made from salary throughout the full adoption leave. This applies even where you are no longer entitled to receive pay.

If you are in the Cycle 2 Work scheme, repayments will be frozen when deductions can no longer be made from salary until you return to work. Salary sacrifice reductions will therefore re-commence when you return from adoption leave. If you do not return to work, you will be considered an early leaver, and any remaining balance left shall be paid by you within 14 days of your employment ceasing.

The Council might have to stop your participation in a salary sacrifice AVC's arrangement during your adoption leave to comply with the duty to pay you at least the National Minimum Wage.

Please contact the Pay & HR Admin team for more information.

8.4 Other deductions from pay

- **Travel Pass Loans** - repayments will be frozen when deductions can no longer be made from salary until you return to work. Repayments will therefore re-commence when you return from adoption leave. If you do not return to work, you will be considered an early leaver and any remaining balance left on your loan shall be paid by you within 14 days of your employment ceasing.

- **Birmingham Hospital Saturday Fund (BHSF) membership** - should an employee wish to continue with their membership of the health cash plan scheme during their adoption leave, they must make their own arrangements for payments to be made directly to BHSF via direct debit, as this cannot continue to be paid via payroll.
- **Trade Union Membership** - should an employee wish to continue their trade union membership during their adoption leave, they must make their own arrangements for subscriptions to be paid by direct debit as this cannot continue to be paid via payroll. Please contact your trade union for advice on how to do this.
- **Advance Credit Union membership** - if the employee is a member of the Advance credit union and participates in a savings scheme or loan repayments scheme via their salary, arrangements must be made with Advance to make payments direct as they cannot continue to be paid via the payroll during your adoption leave.
- **Purchased additional annual leave** - If the employee has taken the option to purchase additional annual leave, their annual leave allowance will be calculated on a pro-rata basis up until their last day at work before adoption leave plus any additional bought leave. Any outstanding leave must normally be taken before the adoption leave starts. Any balance of monies to be repaid in respect of the days bought will be recovered from the employee's pay when they return from adoption leave.

8.5 Annual Leave

The employees contractual leave entitlement and bank holidays will continue to accrue during adoption leave.

It is important that you discuss your holiday plans with your line manager/ Headteacher in good time before starting your adoption leave. Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave.

It is important that support staff who are on term-time only contracts understand that you will have annual leave to take as you will accumulate annual leave entitlement during your adoption leave. Therefore, the school/line manager should discuss with the HR Advisor the annual leave entitlement that the staff member will need to take. Please use the Term Time Only Guidance on the Intranet/ School Extranet for further details about annual leave calculations and accrual of leave.

If your adoption leave continues into the next holiday year, any holiday entitlement that cannot be reasonably taken before starting your adoption leave can be carried forward to the new leave year but must be taken immediately before returning to work from adoption leave or unless otherwise agreed with your line manager.

Where it has been agreed that you return to work on the basis of reduced hours, you will be entitled to annual leave on a pro-rata basis with effect from the date you return to reduced hours.

For teaching staff

Although teachers do not have a contractual entitlement to paid annual leave nor a specified annual leave year, they are entitled to 28 days' statutory annual leave under the Working Time

Regulations. A teacher must be able to take their annual leave at a time separate to their adoption leave. Most often, however, the 28 days entitlement will have been met during school closure periods either before or after the period of adoption leave.

The annual leave year, for the purposes of establishing annual leave entitlement for teachers on adoption leave, will be 1st September to 31st August to coincide with the academic school year.

Whether you have accrued annual leave will depend on when your adoption leave starts and ends. You need to calculate the number of school holidays you have before and after your leave. If these total less than 28 days, then you may be owed some annual leave.

Teachers do not have a contractual entitlement to paid leave on public or bank holidays. The May Day Bank Holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the bank holiday will be classed as a school closure which counts against the statutory annual leave entitlement of 28 days.

Under the Working Time Regulations, it is not possible for payment in lieu of annual leave that has not been taken except on termination of employment, e.g., if the teacher decides not to return to work following adoption leave. However, it should be noted that a teacher who does not return to their job may be required to pay back any AAP paid – this may be offset by payments due in respect of holiday pay.

9. RETURNING TO WORK

We recognise that returning to work from adoption leave after a significant period of time away from work can be challenging. We will take steps to ensure that your return to work is as smooth as possible and work will be handed back to you on a gradual basis.

Your line manager will be in touch with you at least 8 weeks before returning to work to help you with the transition back to work and make arrangements for your return.

An employee does not need to give notice to the Council/ School if they intend to return to work at the end of the 52 week's scheme. If they wish to return earlier, then at least 8 weeks' notice must be given. If the employee wishes to curtail their adoption leave for the purposes of converting it to shared parental leave, then at least 8 weeks' notice must be given (see the shared parental leave scheme). If they wish to take advantage of the right to unpaid parental leave of up to 4 weeks, after the end of the 52 weeks, then 28 days' notice is preferred (see parental leave scheme for further details).

When an employee returns to work at the end of the Ordinary Adoption Leave (ODAL), they are entitled to return to their substantive post on the same terms and conditions, unless the job has been made redundant or changed for objective business reasons, where a job on no less favourable in terms and conditions must be offered, if available.

When the employee returns to work after a period of Additional Adoption Leave (ADAL), he/she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

If an employee requests alternative working arrangement or any other adjustment to the job on their return to work, for the purposes of childcare, then these will be considered under the Council's Flexible Working policy.

9.1 Employees not returning to work

Employees must give contractual notice of their intention not to return to work. Any over payment of half pay will be recovered from any contractual pay due on termination (e.g. unused leave) but not from any statutory adoption pay (SAP).

Employees who have received payments under the half pay part of the scheme (during weeks 7-18) will be asked to repay the amount in question if either they fail to resume work or resume work for a period of less than 13 weeks.

In exceptional circumstances only, where you are not able to complete all of your 13 weeks' employment on return to work for reasons outside of your control (for example, due to family illness, redundancy etc), you will be required to repay part of the enhanced occupational adoption pay. For example, if you work 7 weeks of the 13 weeks, you will repay the difference of 6 weeks (6/13ths of the 50% of the half pay paid to you).

N.B. The required 13 calendar weeks does **not** include periods of parental leave or shared parental leave.

If you return to work on different hours following a flexible working request, you will still need to complete 13 calendar weeks upon return, based on your new hours.

If you have more than one contract of employment with the Council and only return to one of these contracts, you will not be required to pay back any half pay, provided you complete 3 months service in at least one of the contracts.

If you are based in an SMBC school, you can return to another maintained school within the Solihull Council Local Authority on return from adoption leave and will not have to repay the 12 weeks half pay (provided you have completed 13 weeks' employment upon return – see above).

However, if you return from adoption leave and work within a different Local Authority, you will no longer be entitled to the 12 weeks half pay. Occupational payments will therefore need to be repaid.

If you move to or from an Academy, you will need to check with the Academy or Human Resources about adoption pay. This is because the Academy is the employer and may have arrangements that differ from those contained within this policy.

9.2 Unable to return to work- medical reasons

If you are unable to attend work at the end of your adoption leave because of sickness, then you will need to produce a medical certificate and normal reporting and contractual arrangements for sickness absence will apply (see the Sickness Absence Management Policy on the Intranet / School's Extranet).

9.3 Part Time and Flexible Working

The Council offers a variety of flexible working arrangement options to adoptive parents. Any changes in working arrangements can be agreed on a short-term or long-term/permanent basis.

It is acknowledged that once a child moves into their new family home, the parents and child will have regular meetings with social workers that they are legally required to attend. The child will likely have experienced trauma and will need more time to begin the bonding process with their new parents. Therefore, sometimes a temporary change in working hours may be beneficial and should be discussed with your manager. Short-term requests can be agreed locally and do not need to follow the formal Flexible Working policy.

All employees have the right to **request** flexible working. This request must be in writing and should identify the proposed hours, work pattern or working arrangement and the intended start date of this new work arrangement.

However, it is not an automatic right for you to work flexibly as there can be circumstances where your department cannot accommodate your desired working arrangement.

The aim of the request is to facilitate discussion and encourage both yourself and your manager to consider flexible working arrangements and find a solution that suits you both.

If you are considering requesting a change to your working hours when you return from adoption leave, then it is recommended that you speak to your manager and complete the flexible working form as soon as possible. It can take up to two months to consider your request and to make a decision, so it is important to plan ahead.

The Flexible Working policy and form are available on the School Extranet site. You can also contact your HR Advisor for further advice.

9.4 Career Breaks

The school's Career Break scheme is available if you want to apply for an unpaid break from work following your period of adoption leave.

The Career Break scheme guidance can be found on the School's Extranet.

9.5 Assistance with childcare costs - Childcare vouchers / Tax-Free Childcare Scheme

The Government closed the Childcare Vouchers scheme to new entrants in 2018 and so employees are no longer able to join the Edenred scheme. Existing members will continue to receive childcare vouchers as they do now as long as their child remains eligible*, they stay with the same employer, and they have had a salary sacrifice adjustment to their pay and received vouchers within any 12-month period.

**Eligibility will end 1st September after the child's 15th birthday, or 1st September after their 16th birthday if they are disabled.*

For existing members of the Edenred scheme, information on the scheme can be found on www.childcarevouchers.co.uk in the parent section or by contacting the Edenred helpdesk by calling 0800 247 1233.

For new parents, or parents who did not join the voucher scheme, the government offer a form of childcare funding support for working parents, called **Tax-Free Childcare (TFC)**. Tax-free childcare gives eligible families up to £2,000 free per child towards childcare costs. Tax-free childcare is a government-backed scheme which helps parents with the cost of childcare. The scheme gives eligible families an extra 20% towards childcare costs. The scheme's available to parents of children up to and including the age of 11 (or until they turn 17 if you've children with disabilities).

Some people who are currently receiving childcare vouchers might be better off claiming tax-free childcare instead. If you're thinking of switching, it's important you see how much you'd get which each scheme before switching, as you can't go back to vouchers once you've moved over to tax-free childcare.

To find out more about which option is best for your own circumstances, there is a useful document on the Edenred website: '[A parent's guide to childcare vouchers and tax-free childcare](#)'.

For more information and eligibility criteria on the government's Tax-Free Childcare scheme please visit <https://www.childcarechoices.gov.uk/> or <https://www.gov.uk/tax-free-childcare>.

10. DISRUPTION OF ADOPTION

Additional time off may be granted for extra appointments required in the situation of a placement crisis or the process breaking down to prevent a placement ending, at the discretion of the line manager.

If, after the employee has begun their adoption leave, the expected placement does not occur, or, once the child has been placed, the placement ends unexpectedly, the employee's adoption leave will end eight weeks after the end of the week (for these purposes, a week starts on a Sunday) in which the adopter is notified that the placement will not be made or the child is returned. Where the employee's adoption leave is due to end within eight weeks of the end of the week in which the event occurs, the employee will return to work on the scheduled end of the adoption leave.

In these sad and distressing situations, compassion and flexibility will be shown to the employee. Compassionate leave may also be appropriate and may help a returning employee to come to terms with the loss of an adopted child.

Any information given to line managers and HR is confidential. Colleagues will only be told about the disruption of the adoption if this is what you want. Your line manager will discuss your wishes with you. You can also access support by approaching your HR Advisor, a workplace Wellbeing Lead or the Employee Assistance Programme to discuss counselling for you and your family.

11. FURTHER SUPPORT

11.1 Employee Assistance Programme

Solihull MBC offer a free and confidential information, support and counselling service for employees, the Employee Assistance Programme run by Health Assured. The service gives employees a place to turn for support any time of day or night, 365 days a year. Support is available for whatever issues you might be facing; personal or work-related problems including parenting issues, stress, depression, medical issues, marriage and relationship issues, financial and tax problems and more. To use the confidential service employees can contact the freephone number **0800 028 0199**, or via the live web chat facility or request a call back via the website: [Wisdom \(healthassured.org\)](https://www.healthassured.org). You will need to create a new account with an email address and password of your choice. The website also features WisdomAI which is a search engine which combines their counsellor's knowledge with the latest artificial intelligence to help you find answers fast.

There is also the **'Wisdom'** Mobile App that offers employees access to online webinars, podcasts, factsheets and tailored programmes online, allowing them to take control of their wellbeing independently, or alongside their counselling support. The Wisdom app provides an enhanced set of wellbeing tools and features designed to improve your mental and physical health by using personal metrics to set goals and achievements. It is available on the Apple Store and Google Play store and you will need to use the **employer code which is MHA109491**.

11.2 Trade Unions

If you are a trade union member, you can seek help and guidance from your trade union representative.

11.3 Employee Wellbeing pages of Intranet

The Employee Wellbeing section of the extranet has links to lots of local and national resources charities and campaigns and a suite of wellbeing tools. A Wellbeing Action Plan can be a useful tool to identify what helps you to have good wellbeing at work, what might trigger you to have poor wellbeing and how you can manage your wellbeing more effectively.

11.4 Other sources of support

The Council has many policies/arrangements aimed at enabling you to balance work and home life both now and in the future and include:

- *Adoption Support Scheme* (Where employee does not qualify for adoption leave or paternity leave)
- *Flexible working*
- *Shared Parental leave* (information on shared parental leave and pay for second adoptive parent)
- *Carers policy*
- *Career break scheme*

- *Leave of Absence policy (details time off in emergencies etc)*

External links:

[Solihull Council's Parenting Support Team](#) provides a range of supportive groups and workshops for parents and carers in Solihull, taking place both face-to-face and virtually, and all free of charge.

[Childcare Choices](#) Information on childcare costs

Family & Childcare [Daycare Trust](#) Information on childcare

[Gingerbread](#) Information for lone parents

[Working Families](#) Information for working families and carers

[The Rainbow Project](#) – advice for LGBTQ+ families on adopting and fostering

The charity [Contact](#) has advice and information for families with disabled children.

12. DATA PROTECTION

When managing your adoption leave and pay, the Council/school processes personal data that has been collected in accordance with its data protection policy. Data collected from the point at which you inform the Council/school that you are pregnant is held securely and accessed by, and disclosed to, individuals only for the purposes of managing your adoption leave and pay.

APPENDIX 1

Frequently Asked Questions

1. Where an employee is adopting 2 children, will the employee be entitled to 2 periods of Adoption Leave?

The Paternity and Adoption Leave Regulations 2002 state that an employee's entitlement to adoption leave will not be affected by the placement of more than one child as part of the same arrangement. Where more than one child is placed with an employee as part of the same placement (e.g. twins or siblings of different ages) the employee will be entitled to only one period of adoption leave.

However, if another child is placed with the employee soon after the placement of the first child (i.e. a new placement under a separate matching certificate), provided that the employee satisfies the qualifying conditions, they will be entitled to another period of adoption leave. In these circumstances, the adoption leave relating to the second child will supersede the first period of leave. For example, if the second period of leave begins one month after the first period, the first period will come to an end after one month and the employee will be entitled to a further 52 weeks' adoption leave from that point.

If the employee qualifies for statutory adoption pay in relation to both children, the adoption pay relating to the first child is not brought to an end by entitlement to adoption pay relating to the second child. The employee will be entitled to two payments during any weeks where the two periods of adoption pay entitlement overlap.

2. Do employees have a statutory right to time off work prior to the commencement of the adoption to attend placement meetings?

Yes, employees have a statutory entitlement to take paid time off to attend up to 5 adoption appointments. Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to 5 adoption appointments. The statutory position is that the other person can elect to take paid time off to attend up to 2 adoption appointments, but the Council have enhanced this to 5 appointments.

Prospective adopters who adopt a siblings group or adopt children with complex and specialist needs (these children require specialist care, so adopters may have to undergo specific training to equip them with the appropriate skills), an **additional 3 appointments** may be granted to acknowledge the extra meetings and training that may be required for this particular need.

3. I am a non-teacher what will I be paid under the statutory scheme? (see question 7 if your average weekly earnings are less than £123 per week).

- First 6 weeks at 90% of normal weekly earnings
- Next 12 weeks at the current rate of Statutory Adoption Pay (SAP) plus Half pay (but usually subject to total pay being no higher than 100% of normal weekly earnings)

- Next 21 weeks at current rate of SAP
- Final 13 weeks unpaid (see leave entitlement below).

4. I am a teacher - what will I be paid?

- First 4 weeks at Full Pay
- Weeks 5 and 6 at 90% of normal weekly earnings
- Next 12 weeks at the current rate of Statutory Adoption Pay (SAP) plus Half pay (but usually subject to total pay being no higher than 100% of normal weekly earnings)
- Next 21 weeks at current rate of SAP
- Final 13 weeks unpaid (see leave entitlement below).

5. When do I notify my manager/ Headteacher that I wish to take adoption leave?

Within 7 days of the adoption placement being notified unless it is not practical to do so.

6. Can I alter my adoption leave arrangements?

Yes, but you should give at least 28 days' notice of the change of start date, or, if that is not possible, as soon as reasonably practicable.

If you change your adoption leave start date, we will write to you within 28 days of the start of your adoption leave confirming the revised date on which you must return to work if you take your full 52-week entitlement to adoption leave.

7. I am having a child placed with me under a fostering for adoption arrangement. When can I start my leave?

You may start your leave as soon as the child is placed with you under the fostering to adopt arrangement. Alternatively, you may choose to delay your adoption leave until the child has been 'matched' for adoption. For the purposes of taking leave the relevant notification/ matching certificate will need to be provided. Adoption leave cannot be split between fostering to adopt placement and the actual adoption, and you will only be eligible for one set of adoption leave per placement.

8. What if my average weekly earnings are less than £123?

To qualify for SAP your average weekly earnings must be enough for you to pay National Insurance. If your earnings are below the SAP rate, then the Council will issue you form SAP1 explaining why you can't get Statutory Adoption Pay.

9. Do I need to notify my manager/ Headteacher when I intend to return to work?

Only if you wish to return before the expiry date of the 52 weeks adoption leave. If this is the case, then 8 weeks' notice must be given. If you are planning to convert your adoption leave to shared parental leave, then 8 weeks' notice must be given.

10. I have a second job with another employer, if I continue working for them will this affect my adoption pay?

No, each employment is treated separately for statutory adoption pay and leave purposes.

11. Does taking strike action affect my entitlement to SAP?

If you have 26 weeks' continuous service at the end of the qualifying week, but have taken strike action during those 26 weeks, the week in which you take the action does not count towards you qualifying for SAP. Therefore, you will not be entitled to SAP until you return to work and trigger the entitlement. Periods spent on strike do not break continuity for the purposes of qualifying for statutory adoption pay and leave. However, the number of days between the last working day before the strike and the day on which work resumes will not count.

12. Will a stepparent who adopts their partner's child qualify for statutory adoption leave?

No, a stepparent who adopts their partner's child will not qualify for statutory adoption leave. Statutory adoption leave is available only where a child has been newly matched with an adoptive parent by an adoption agency, placed with a parent in a "foster to adopt" situation, or where a parental order is issued in relation to a child born under a surrogacy arrangement.

APPENDIX 2



SMBC - NOTIFICATION OF ADOPTION LEAVE

Surname:	Forenames:	School:	Employee No:
Address:		Work Tel No:	
Home Tel No:		Date of Commencement with the Council/School	

Thank you for informing the Council that you are adopting a child. Please complete this form and return it to me as soon as possible but at least 28 days before starting adoption leave in order to establish your entitlements.

1. I wish to confirm that I am taking leave of absence to adopt a child and will be stopping work on:

Day	Month	Year

2. The expected date of placement/ or date the child is Expected to enter Great Britain

Day	Month	Year

3. I enclose a copy of the matching certificate issued by the Adopting agency/ or official notification of eligibility of adoption/ fostering for adoption

YES NO

Note: If not sending the certificate at this time, please forward as soon as possible

- 4. Will you have 12 months continuous local government service at the date you are notified of the adoption match? (If YES, please read this section. If NO, go to (5) overleaf)**

You appear to qualify for the Council's Enhanced Occupational Adoption Leave Scheme, which provides for half pay on top of your statutory adoption pay (SAP) between weeks 7 and 18 of your paid adoption leave. You must return to work following paid or unpaid adoption leave, otherwise you will have to repay the extra salary. You have two options as to how this pay is received. Please tick the appropriate box.

OPTION ONE – To receive the half pay as a lump sum on your return to work.

OPTION TWO – To receive half pay between weeks 7 and 18 of paid adoption leave with no balance due on your return to work.

Note: If you fail to tick one of the options, the Council will pay the Option One arrangement.

The Council will assume you will be returning to work after 52 weeks adoption leave. I will advise you when I acknowledge your request, of the notice you must give if you wish to return earlier. **[Now, sign declaration below]**

5. Will you have more than 6 months but less than 12 months continuous local government service at the date of notification of a match? (If YES, please read this section. If NO, go to 6 below)

You appear to qualify for the Council's Standard Adoption Leave Scheme. You will be entitled to 52 weeks leave and the Council will assume that you will be returning to work after this leave. The first 39 weeks is paid and the final 13 is unpaid. I will advise you when I acknowledge your request, of the notice you must give if you wish to return earlier.

[Now, sign declaration below]

6. Employee Declaration

I wish to apply for adoption leave starting on the date at Section 1 above and confirm that:

- I am the person who will have principal responsibility for the day-to-day care of the adopted child.
- I have received a copy of Solihull MBC Adoption Scheme

Your Signature:

Date:

**DATA PROTECTION
FAIR PROCESSING NOTICE**

All information supplied on this form may be held and used as detailed below:

The form will be passed to the Human Resources department to process your adoption leave and to ensure that you receive the pay and other benefits to which you are entitled. The line manager will also retain a copy of the form to manage the adoption leave absence and to allow effective workforce management.

The information you provide may be shared with third parties such as other Local Authorities, the Department of Work and Pensions (DWP), HMRC and pension scheme providers.

For further information about how we use your information please refer to the Council's Data Protection Policy on the Intranet/School's Extranet and Privacy Statement on www.solihull.gov.uk.