



BARGOED
TOWN COUNCIL

Bargoed Police Station
Hanbury Road
BARGOED
CF818XF

Adoption Leave and Pay Policy 2024

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INTRODUCTION

Bargoed Town Council is committed to Equal Opportunities and the principles of work life balance working practices and seeks to ensure that policies and practices meet the requirements of the Equality Act 2010.

SCOPE

The Adoption Leave Policy applies to all employees.

The effective date of this Policy is 1st September 2024.

This Policy supersedes all earlier Schemes and applies to all employees who expect a child to be placed with them on or after 1st September 2024.

GUIDING PRINCIPLES

This Scheme applies to all employees, regardless of their length of service, who expect a child to be placed with them on or after 1st September 2024.

Adoption leave is open to either member of a couple or to an individual who adopts. The leave cannot be split between two adoptive parents. The partner of an individual who adopts, or the other member of a couple who are adopting jointly, will be entitled to leave under the Council's Paternity Leave Scheme.

Adoption leave and Statutory Adoption Pay are not available where the child is not newly matched for adoption, for example when a stepparent is adopting a partner's children.

Adoption leave is available for those adopting a child under the age of 18.

Entitlement to Adoption Pay is based on length of Local Government Service and / or service with Bargoed Town Council, and National Insurance contributions.

An employee on Adoption Leave has the right to continue to benefit from all of their terms and conditions of employment except remuneration, just as if they were still at work.

The Town Clerk must ensure that the employee has access to a copy of this Adoption Leave Policy.

Where the Policy refers to a statutory entitlement, it will apply to all eligible employees.

ADOPTION LEAVE

Notification of Adoption

The employee should initially speak to the Town Clerk to let them know that they are adopting. The employee must then write to the Clerk giving as much notice as possible of their intention to take Adoption Leave. This notification **must be in writing and within 7 days** of being notified by their Adoption Agency that they have been matched with a child for adoption, unless this is not reasonably practical.

The notification must confirm:-

- That they intend to take Adoption Leave;

- When the child is expected to be placed with them;
- When they want their Adoption Leave to start. This date should be no more than 14 days before the date on which the child is expected to be placed for adoption and no later than the date of placement.

Adoption Leave may be granted to an employee who has not given the required notice in exceptional circumstances at the discretion of the Town Council. Such discretion must not be unreasonably withheld.

Prior to the refusal of an application for Adoption Leave, the application must be discussed with the Bargoed Town Council HR & Staffing Committee.

Within the UK a Matching Certificate – Statutory Adoption Leave and Pay, is issued by the relevant adoption agency. The Matching Certificate confirms the name and address of the agency, the date on which the employee was notified that they had been matched with the child, the date on which the agency expects to place the child with the employee. The original Matching Certificate must be sent to the Town Clerk.

The Town Clerk will write to the employee within 28 days of receiving the employee's notification of their leave plans, explaining the date on which they expect the employee to return from Additional Adoption Leave.

An Absence Due to Adoption Leave form (See Appendix 1) must also be sent to the employee for completion and this must be returned to the Town Clerk, together with the Matching Certificate.

It is essential that the Town Clerk receives the Matching Certificate, as no adoption entitlements will be given until the Matching Certificate, or the overseas equivalent, is received. The Town Clerk will also explain to the employee that they have a duty to notify their employer of any changes to their plans.

Employees can change their mind about the date on which they want to start their Adoption Leave provided they give at least 28 days notice, in writing to the Town Clerk, unless this is not reasonably practicable.

Adoption Leave Entitlement

In order to qualify for adoption leave; an employee must have at least 26 weeks continuous local government service or service with Bargoed Town Council ending with the week in which the adopter is notified of having been matched with the child. Part-weeks of employment count as full-weeks employment for the purposes of calculating continuous employment.

In addition the employee must:

- Have been matched with a child to be placed with them by a UK Adoption Agency.
- Have notified the agency that they agree that the child should be placed with them and of the date of placement.
- Notify the Town Clerk of when they want to take their adoption leave within 7 days of the date on which they are notified of having been matched with the child.

- Notify the Town Clerk that they want to receive Statutory Adoption Pay at least 28 days before they want it to begin.

Subject to the qualifying conditions employees are entitled to a total of 52 weeks adoption leave, 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave. This entitlement is in line with the entitlements under the Maternity Leave Policy.

Under Additional Paternity Leave regulations, in certain circumstances, partners can take some of the Adoption Leave entitlement – for further details please refer to the Paternity Leave Policy.

Subject to the qualifying conditions above, all employees are entitled to access the Adoption Leave including employees in same sex relationships, civil partnerships and same sex marriages. This also applies to employees adopting other family members such as grandparents adopting their grandchildren.

Commencement of Adoption Leave

Adoption Leave can start on any day of the week.

If the date of the placement changes, the employee should discuss the earlier date with the Town Clerk and give the appropriate notice. If an employee has started a period of adoption leave before the actual date of placement, and the placement is delayed they cannot stop the leave and start it again at a later date.

After the placement has taken place, employees must notify the Town Clerk, in writing, of the date that the placement took place.

Employees who are adopting a child will be entitled to take parental leave because they will have parental responsibility when they adopt. See the Town Council's Parental Leave Policy. Parental leave may be taken at the end of adoption leave.

Keeping-in-Touch Days (KIT days) and Contacting Employees on Adoption Leave

Whilst an employee is on their Adoption Leave, the Town Clerk must keep in touch, informing them of any work related matters such as significant workplace developments and training opportunities. This will allow for an easier return to work, which will be beneficial to the Town Clerk, the employee and their colleagues.

An employee can work for up to 10 Keeping-In-Touch days (KIT days) during their Adoption Leave period without bringing the Adoption Leave period to an end or losing their Adoption Pay (Statutory or Occupational). This is to enable the employer and employee to keep in touch during their leave.

Part time employees are eligible to work for up to 10 KIT days, however payment will only be made in accordance with their current working pattern.

Employees may work a KIT day during Ordinary or Additional Adoption Leave.

The KIT days do not have to be consecutive. They can be used for training or any other activity, such as a team meeting, that enables the employee to keep in touch with the workplace.

Any work done during Adoption Leave must be by agreement and neither the employer nor employee can insist on it. KIT days will not extend the Adoption Leave period.

Working for part of a day will count as 1 days work, in the sense of using up 1 of the 10 KIT days, not from the point of view of payment.

When the 10 KIT days have been used up the employee will lose a weeks adoption pay for any week in which they do any work under their contract of service.

An employee will be paid for working any KIT days. Payment will be made at the hourly rate for the hours worked on each of the KIT days. The employee's working pattern will be used to calculate the hourly rate. If the employee is receiving Adoption Pay, either Statutory or Occupational, these payments will be offset against any payment made for KIT days. However, the amount of pay for a KIT day should not result in the employee receiving a weekly payment that is lower then the weekly rate of Adoption Pay to which they are entitled.

Under Section 99 of the Employment Rights Act 1996 it will be automatically unfair to dismiss an employee for working or refusing to work during Adoption Leave. Under Section 47C of the Employment Rights Act 1996 employees are also protected from detriment for working or refusing to work during Adoption Leave.

Returning to Work

It will be assumed that an employee will be returning to work on the first working day after their 52 weeks Adoption Leave, at the end of their Additional Adoption Leave unless the Town Clerk has been informed otherwise.

If an employee wishes to return early or only take their Ordinary Adoption Leave they must give at least 8 weeks notice of their intention to return in writing to the Town Clerk.

If an employee fails to provide 8 weeks notice of their intention to return to work before the end of the Additional Adoption Leave, the Council may postpone the return date to ensure that it has received 8 weeks written notice of the return. Full pay will not be reinstated until the member of staff actually returns to duty.

However, in postponing the return to work date the Council cannot postpone it to a date after the end of Additional Adoption Leave.

An employee can change their mind regarding their date of return to work, providing they give at least 8 weeks notice before whichever is earlier of the date on which they now intend to return or the date on which they had intended to return.

The notice requirements also apply where the Council has postponed an employee's return because they returned to work before the end of their 8 week notice period, and they wish to change the return date.

Failure to return to work following a period of OAL or AAL without producing a fit note or any acceptable explanation will be regarded as the repudiation of an employee's conditions of employment with effect from the date that they would have returned to work.

Right to Return to Work

Subject to having complied with the notification requirements:

An employee is entitled to return to work at the end of their Ordinary Adoption Leave, to the same job, on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen.

An employee, who has completed a period of Additional Adoption Leave, will return to the same job on the same terms and conditions unless there is some reason, other than redundancy, why it is not reasonably practical for the Council to take them back in their original job. If this situation arises they are entitled to be offered suitable alternative work.

Where an employee returns to local government service following a break for adoption reasons, or reasons concerned with caring for children or other dependants, provided no other permanent full time employment has intervened they are entitled to the following:

For a break of up to 8 years – previous service will be counted for calculating entitlement to holiday, sickness and maternity.

If the break is longer than 8 years – previous service will be counted for calculating entitlement to holidays only.

Part-Time Work and Flexible Working

Under Flexible Working legislation the Council shall take all reasonable steps to accommodate requests from staff to return on less or different hours following a period of Adoption Leave. Employees have no automatic right to return to work on reduced hours and such requests shall be considered in light of operational and organisational considerations. Please refer to the Council's Flexible Working Policy for details.

Failure to Return to Work

If an employee does not wish to return to work at the end of a period of Adoption Leave, they must give their Manager notice in the usual way.

If an employee does not return for a period of at least 12 weeks they will be required to repay the half pay element of their Adoption Pay.

ADOPTION PAY

General Information

Statutory Adoption Pay is paid in line with HMRC rules and regulations.

Statutory Adoption Pay increases in April each year.

Statutory Adoption Pay is payable for 39 weeks and is treated as pay, therefore tax, National Insurance contributions and (where appropriate) pension contributions etc will be deducted in the usual way.

An employee who does not qualify for Statutory Adoption Pay providing they have sufficient service and average earnings will qualify for Occupational Adoption Pay.

An employee who qualifies for Statutory Adoption Pay who leaves their job for any reason (including dismissal) is still entitled to Statutory Adoption Pay. However, if they start to work for a different employer, one they were not employed by in the qualifying week, they will not be able to receive Statutory Adoption Pay for any week they do any work for the new employer. If the contract ends before pay starts, pay shall begin 14 days before the expected date of placement or if the contract ends within those 14 days, pay begins the day following the last day of work.

No extra Adoption Pay is payable for multiple births.

Entitlement to Adoption Pay

Entitlement to Adoption Pay is dependent on employees having achieved sufficient continuous local government service or service with Bargoed Town Council leading into the week in which they are notified of being matched with a child for adoption, an employee may be entitled to Statutory Adoption pay, and / or Occupational Adoption Pay or no pay.

Employees accrue their first adoption payment on the 7th day after their Adoption Leave start date and every 7 days thereafter. This will be paid on a monthly basis but it means that monthly salaries will vary depending on the number of payment dates in the month.

An employee will qualify for **Occupational Adoption Pay (OAP)** if they have at least 1 years continuous local government service or service with Bargoed Town Council leading into the week in which they are notified of being matched with a child for adoption.

An employee will qualify for **Statutory Adoption Pay (SAP)** if they have at least 26 weeks continuous service with Bargoed Town Council leading into the week in which they are notified of being matched with a child for adoption.

An employee will qualify for a payment equivalent to **Statutory Adoption Pay** if they have at least 26 weeks continuous local government service leading into the week in which they are notified of being matched with a child for adoption.

Please refer to Appendix C – the Adoption Summary, which explains the entitlements to Statutory Adoption Pay.

There is no entitlement to OAP or SAP for employees with less than 26 weeks local government service or service with Bargoed Town Council leading into the week in which they are notified of being matched with a child for adoption.

If an employee is not entitled to OAP or SAP (or equivalent payment) the Town Clerk will issue an SAP1 form where appropriate.

ADDITIONAL INFORMATION

Introductory Periods and Court Appearances

Paid time off will be granted to an employee for introductory periods with the child/children prior to the adoption. Paid time off will also be granted for appearances at court, as appropriate; documentary evidence of these appointments must be provided to request paid time off.

Sickness Absence

Employees are not eligible to receive Statutory Sick Pay (SSP) while they still have an entitlement to Statutory Adoption Pay (SAP) (39 weeks), therefore if an employee reports sick when returning from a period of Adoption Leave, the SSP will not commence until the SAP has been exhausted.

If an employee is ill at the end of a period of adoption leave, they must follow the Council's Sickness Absence Procedure in the normal way.

Superannuation / Pension

During any period of paid adoption leave (including any period when only Statutory Adoption Pay (SAP) is paid), an employee must continue to pay pension contributions on the actual pay that is being received. Pension benefits will continue to accrue as if the employee was working normally on full pay.

An employee can choose to pay optional contributions for any period of unpaid adoption leave beyond the 39 weeks Statutory Adoption Pay period. The employee would have to elect to buy back the "lost" pension within 30 days of returning to work. The amount payable would be determined in accordance with guidance from the Government Actuarial Department (GAD).

If an employee, before going on adoption leave was paying additional contributions to increase pension benefits then these remain payable. They are calculated on the rate of pay that would have been received if not on adoption leave. The additional pension benefits will then accrue in full.

Employees will accrue pension for any KIT days worked.

If an employee requires any further details on the Scheme please contact the Greater Gwent Pensions Section at Torfaen County Borough Council on 01495 766266 or alternatively visit the website www.gretergwentpensions.co.uk.

Annual Leave

Adoption Leave does not affect annual leave entitlement and existing conditions of service apply. Therefore an employee will be entitled to their full annual leave provision during the period of their Adoption Leave.

An employee may end their Adoption Leave and immediately commence annual leave, without having to physically return to work. This must be agreed with the Town Clerk in the normal manner.

If an employee's Adoption Leave spans two leave years and they have not used all of their annual leave prior to commencing their Adoption Leave they will be able to carry any remaining annual leave into the new year.

Bank Holidays

Adoption Leave does not affect Bank Holiday entitlement and existing conditions of service apply. Any employee who is on Ordinary or Additional Adoption Leave will receive a day back in lieu.

Employees may return to work and immediately commence accrued Bank Holiday leave. This must be agreed with the Town Clerk in the normal manner.

Increments / Pay Awards

Adoption Leave does not affect incremental salary increases. If a pay award is implemented within the Adoption Leave period, it will be reflected in the Adoption Pay.

Fixed Term Contracts

The Adoption Leave Policy and its associated provisions cover employees on fixed term contracts. If the fixed term contract ends immediately before or during the adoption period, the future of the post will be decided after considering the operational requirements of the Town Council and its services.

DISRUPTION OF ADOPTION

Where the adoption is disrupted or fails to take place the employee's Ordinary Adoption Leave will end 8 weeks after the end of the week in which the disruption occurred.

A disruption will occur in the following circumstances:

The employee is notified, before the placement, that it will not now occur

- The child dies
- The child is returned to the adoption agency
- The child ceases to live with the adopter

For these purposes, a week is a period of 7 days beginning on a Sunday. For example, if the child ceases to live with the adopter during the 10th week of an employee's Ordinary Adoption Leave, the employee's leave ends immediately after the 18th week of the Ordinary Adoption Leave period.

If an employee begins a period of adoption leave before the placement of the child and is then informed that the placement will not be made or during adoption leave, the child dies or returns to the Adoption Agency, the employee's leave will normally finish 8 weeks after the end of the week in which the disruption took place. An employee must give the Town Clerk 8 weeks notice if they are returning to work earlier than expected because of a disruption.

Payment of Statutory Adoption Pay continues for 8 weeks after the end of the week in which the disruption took place or the end of the paid period of adoption leave if that is sooner. An employee must give the Town Clerk 8 weeks notice if they are returning to work earlier than expected because of a disruption.

ADOPTING A CHILD FROM OVERSEAS

The provisions of the Scheme shall apply to any employee who adopts a child from abroad with the following amendments.

To qualify for Adoption Leave and Adoption Pay, an employee who adopts from overseas **must have received** an official notification. The law defines official notification as a written notification, issued by or on behalf of the relevant domestic authority, that the authority is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

Employees may choose to start their adoption leave from:-

- The date that the child enters the UK
- From a fixed date (as notified to their employer) up to 28 days after the date the child enters the UK.

Adoption leave cannot be used to cover the period employees spend travelling overseas to arrange the adoption or visiting the child.

Employees must inform the Town Clerk, in writing, of the date on which they receive the official notification and the date the child is expected to enter the UK, within 28 days of receiving the official notification. Employees must tell the Town Clerk no later than 28 days after the child's entry into the UK, the child's date of entry into the country. As soon as an employee becomes aware that they are not going to be adopting the child, they must inform the Town Clerk

In order to claim Adoption Pay, employees must provide the Town Clerk with: -

- The original of the official notification, 28 days before they wish to claim Statutory Adoption Pay, as evidence of their entitlement.
- A declaration that they are not also claiming Statutory Paternity Pay.
- Further evidence of the date of entry, such as a plane ticket or copies of entry clearance documents within 28 days of the child entering the UK.

Copies of these documents should be given to the Town Clerk for retention on the employee's personal file.

INTERPRETATION OF THE POLICY

In the event of a dispute relating to the interpretation of the scheme, the Bargoed Town Council HR and Staffing Committee will make the final decision on interpretation.

REVIEW OF THE POLICY

Policy approved by the HR & Staffing Committee 9th July 2024. A review of this Scheme will take place when appropriate. Any amendments will be consulted on with all the relevant parties. However, in the case of amendments relating to legislative requirements, the Scheme will be amended and reissued.

APPENDIX 1

ABSENCE DUE TO ADOPTION LEAVE

Employee Name	
Employee Role	

I wish to confirm that I am adopting a child and the anticipated week of placement is the week commencing _____.

I have read the Council's Adoption Leave Policy and am aware of the provisions.

1.* I do not wish to take advantage of the Adoption Leave provisions under the Adoption Leave Policy and conditions of service under which I am employed, nor do I wish to take advantage of my right to return to work under the Policy. I therefore wish to terminate my employment and claim my 39 weeks Statutory Adoption Pay entitlement.

☐

2.* I intend to take advantage of the Adoption Leave provisions under the Adoption Leave Policy. A Matching Certificate confirming the adoption **is attached/will be forwarded** as soon as possible (please delete as appropriate).

☐

I intend to return to work following my period of Adoption Leave. I understand that should I decide to return to work prior to the end of my additional adoption leave (AAL), written notification of my intended return date must be provided at least 8 weeks prior to that date.

3.* I intend to take advantage of the adoption leave provisions under the Adoption Leave Policy.

☐

At this stage I am not sure if I will be returning to work but nevertheless wish to retain my right to return under the provisions of the Council's Adoption Leave Policy. I understand that should I decide to return to work prior to the end of my Additional Adoption Leave (AML), written notification of my intended return date must be provided at least 8 weeks prior to that date.

* Tick appropriate box, indicating acceptance of 1, 2 or 3.

I acknowledge that I have read and understand the Council's Adoption Leave Policy and I recognise my obligations under the Scheme.

I also note that if I indicate to Bargoed Town Council my intention to return to work after a shorter period than 52 weeks I must give 8 weeks written notice.

I understand that if I do not return to work for a period of at least 3 months after the end of my Adoption Leave entitlement that the monies paid to me in excess of Statutory Adoption Pay during the 12 weeks half pay period will be repayable to the Town Council.

Signed: _____ Date: _____