



Medway Council Adoption Policy

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1.0 Introduction

- 1.1 The council wishes to encourage and support all employees who are considering and taking part in the adoption process.
- 1.2 To assist prospective adoptive parents the council grants additional leave and pay to supplement the employee's statutory entitlements.

2.0 Equalities Statement

- 2.1 Medway Council is committed to providing equal opportunities and access to all. This equalities statement embraces the spirit of managing a diverse workforce and ensures that no employee, including those from same-sex or civil partnerships who are considering and/or going through the adoption process is discriminated against either directly or indirectly or victimised on the grounds of their race, disability, sex, sexual orientation, religion or belief, age, marital or civil partnership status or any stage of gender reassignment.

3.0 Core Values and council objectives

- 3.1 This policy supports the Council's core values. The Council believes that a consistent approach to employee management and well-being is fundamental to the delivery of quality services to the public.

4.0 Scope

- 4.1 This policy applies to all Medway Council employees regardless of the number of hours worked (except those appointed by School Governing Bodies). The principles of this policy are commended to Governing Bodies for adoption.
- 4.2 School teacher's entitlement to adoption leave and pay will mirror that of the Maternity provisions as detailed in the School Teachers Pay and Conditions Document.

5.0 Responsibilities

5.1 Employee responsibilities

5.1 To maintain a dialogue with their line manager to keep them up-to-date with progress of the adoption process;

5.2 To provide their line manager with appointment dates and requests for time off giving as much notice as possible.

5.3 Line manager responsibilities

5.4 To support the employee through the pre-adoption process by showing flexibility when time off for appointments is requested.

5.4 To seriously consider any requests for flexible working made under [The Right to Apply for Flexible Working](#) legislation providing as much flexibility as possible taking account of the needs of the service.

5.5 HR Services responsibilities

5.6 To review the policy at appropriate times and in accordance with any changes in legislation.

5.7 To promote the policy to all employees to ensure they are aware of their rights in relation to adoption leave and pay.

6.0 Principles

6.1 The guiding principle of this policy is that an employee who adopts a child should suffer no discrimination or detriment in terms and conditions of employment (apart from remuneration) as a result of that adoption. This principle is best implemented by treating the employee on adoption leave in the same way as if they would have been treated if they were still at work.

6.2 The leave and pay is not available in circumstances where a child is not newly matched for adoption, i.e. when a stepparent is adopting a partner's child.

7.0 Notification of Adoption

7.1 In order to assist the Council in planning service provision and in accommodating the needs of the individual the employee should notify their line manager of their intention to adopt at an early stage in the

process. During the process the employee should keep their line manager updated on progress.

- 7.2 Once the employee has been informed by the adoption agency that they have been matched with a child for adoption, the employee must (within seven days) supply to their line manager written notification of when the child is expected to be placed with them and when they would like their leave to start (ideally 28 days notice of any subsequent change to this date should be given by the employee, however where this is not possible the employee should give as much notice as possible of any change) together with a copy of the 'matching certificate' or other documentary evidence from the adoption agency and a signed self-declaration.
- 7.3 The line manager should pass this notification to [HR Advice](#) via Service Desk who will, within 28 days of this notification, reply in writing informing the employee of their entitlements.

8.0 Pre-placement Adoption Leave

- 8.1 An employee will be granted five days paid Pre-Placement Adoption Leave (pro-rata for part-time employees). This can be taken flexibly to attend to the formalities of the pre-adoption process. An employee will be entitled to this leave irrespective of the fact that they may subsequently withdraw from the adoption process.
- 8.2 Where both adoptive parents are employees of the council, both will be eligible
- 8.3 Employees are asked to provide their manager with as much notice as possible when making their requests.
- 8.4 Pre-Placement Adoption Leave will normally be granted for one matching process for each employee for each adoption.

9.0 Statutory Adoption Leave and Pay

- 9.1 Where a couple is adopting, has a parental order in relation to a child, or is applying for one, one of the parents can be eligible for adoption leave and pay and the other can be eligible for adoption support leave and pay.
- 9.2 The couple must elect which of them will take adoption leave. An employee who takes adoption leave in these circumstances can curtail their adoption leave and take shared parental leave with the other parent, provided that the parents both meet the relevant eligibility requirements.

9.3 Employees do not qualify for Statutory Adoption Leave or Pay if they:

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a stepchild
- adopt a family member

10.0 Commencement of Adoption Leave

10.1 The employee can choose to start their Adoption Leave on any day of the week and it can be taken from the date of the child's placement or a fixed date, which can be up to 14 days before the expected date of placement. If the placement is delayed for whatever reason and the employee has already begun their adoption leave, they cannot stop leave and start it again at a later stage.

10.2 In the case of overseas adoption the employee can choose to start their Adoption leave when the child arrives in the UK or within 28 days.

11.0 Surrogacy

11.1 Where a child is born to a surrogate mother, the intended parents can become the child's legal parents by applying for a parental order. One of the intended parents must be genetically related to the child and the child must live with the intended parents.

11.2 Where a couple has a parental order in relation to a child, or is applying for one, one of the parents can be eligible for adoption leave and pay and the other can be eligible for adoption support leave and pay. The couple must elect which of them will take adoption leave.

11.3 You may also be eligible to take [Shared Parental Leave and Pay](#).

11.4 Employees who intend to apply for a parental order and expect to become the child's legal parents in a surrogacy situation have the right to unpaid time off work to accompany the birth mother to up to two antenatal appointments.

12.0 Surrogacy arrangements

- 12.1 If you use a surrogate to have a baby you need to inform the council of the due date and when you want to start your adoption leave at least 15 weeks before the expected week of birth. Please submit this in writing (attached via service desk) to [HR advice](#) or call the Support Team on 01634 334499 for information.
- 12.2 You will also be required to provide a written statement ('statutory declaration') to confirm you hold, have applied for, or will apply for a [parental order](#) in the 6 months after the child's birth. This must be signed in the presence of a legal professional.

13.0 Pay if you're in a surrogacy arrangement

- 13.1 To get Statutory Adoption Pay in a surrogacy arrangement, you must:
- earn on average at least £120 a week (before tax)
 - give the correct notice as per 11.1
 - give proof of the surrogacy as per 11.2

In addition you must have been continuously employed with the Council for at least 26 weeks by the 15th week before the baby's due date

You must also:

- hold, have applied for or intend to apply for a [parental order](#), and
 - expect the order to be granted (for example because you do not have any convictions involving children, and the birth mother or father agree to the arrangement)
- 12.2 If you're genetically related to the child (the egg or sperm donor), you can choose to get [paternity leave and pay](#) instead. You cannot receive both.

14.0 Surrogates

14.1 Every pregnant employee has the right to 52 weeks' maternity leave and to return to their job after this.

14.2 What a surrogate does after the child is born does not affect their right to maternity leave.

15.0 Leave and Pay Entitlement

15.1 Employees are entitled to 26 weeks' Ordinary Adoption Leave immediately followed by a further 26 weeks' Additional Adoption Leave (a total of 52 weeks' adoption leave).

15.2 During adoption leave employees whose earnings are above the Lower Earnings Limit are entitled to the following pay:

16.0 Entitlement Table

Employee Circumstances	90% of your Pay for the first 6 weeks of Adoption Leave.	50% of your Pay from week 6 to 12 of Adoption Leave.	Statutory Adoption Pay from week 6 – 39 of Adoption Leave
Less than 26 weeks service by end of 15 th week prior to Expected week of Adoption (EWA).	no entitlement to a payment from Medway Council	no entitlement to a payment from Medway Council	no entitlement to a payment from Medway Council
More than 26 weeks service by end of 15 th week prior to EWA but less than 1 years service	No	No	Yes
At least 1 years service	Yes	No	Yes
At least 1 years service and	Yes	Yes	Yes

intending to return to work for at least 3 months			
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- 16.1 Employees whose earnings are below the National Insurance Lower Earnings Limit and who have at least 1 years' service at the 11th week before the expected week of adoption and intend to return to work for at least 3 months will be entitled to the occupational adoption pay element only – 6 weeks at 9/10ths of contractual pay and 12 weeks at ½ pay.
- 16.2 Continuous Service: The occupational element of pay (6 weeks at 9/10ths of contractual pay and 12 weeks at ½ pay) is available for those who have less than 1 years' service with Medway Council but more than 1 year of recognised continuous service and are intending to return to work for at least 3 months.
- 16.3 If an employee ceases employment with the council on or before their EWA they will not be entitled to contractual Adoption leave or pay. The employee may be entitled to Statutory Adoption Pay in these circumstances and can check their entitlement on the Gov.uk website. <https://www.gov.uk/adoption-pay-leave>
- 16.4 If an employee declares their intention to return to work and receives the additional ½ pay for twelve weeks and then fails to return to work for a period of 3 months, they will be liable to repay the 12 weeks ½ pay element. This requirement may be waived in exceptional circumstances at the discretion of the Director.
- 16.5 Relevant employees can request that the additional ½ pay for 12 weeks is distributed in another mutually agreed way. An employee may also choose to defer the additional ½ pay for 12 weeks' and receive this pay after having completed the necessary 3 months service after returning to work.
- 16.6 Line managers should keep in touch with employees who are on adoption leave and intending to return to work. The employee should be kept up to date on any significant workplace developments or learning and development opportunities.

16.7 If the placement of the child is disrupted after the employee has commenced adoption leave, the leave will normally finish eight weeks after the end of the week in which the disruption took place. Pay will also finish at this point or at the end of the adopter's 39 weeks adoption pay period if that is sooner.

17.0 Shared Parental Leave

17.1 Shared Parental Leave enables parents to choose how to share the care of their child during the first year of birth (or adoption). All eligible employees have a statutory right to take Shared Parental Leave.

17.2 [The Shared Parental Leave](#) policy contains comprehensive guidance on eligibility, entitlement and application process.

18.0 Employment Conditions

18.1 Pension

Individual employees are advised to check to see how their pension's contributions will be affected.

18.2 Local Government Pension Scheme

Local Government LGPS benefits will continue to accrue as if the employee was working on full pay but pension contributions will be paid on the actual pay that the employee is receiving. Any period of unpaid adoption or paternity leave will not count for pension purposes however, the employee can choose to pay back pension contributions for the unpaid period upon their return to work should they wish to do so. The cost of paying back is based on the last rate of pay that the employee received, ignoring any increase in pay due to working a Keeping in Touch Day.

18.2 Essential car user allowance

Employees who have Essential Car User status are entitled to receive the appropriate lump sum allowance during their period of adoption leave and paternity leave.

18.4 Lease car users

Employees with lease cars shall retain the use of the car during the adoption leave period and adoption support leave period and continue to make contributions through the payroll system.

19.0 Returning to Work

- 19.1 It will be assumed the employee will return to work at the end of appropriate adoption or paternity leave period. If they wish to return to work before this date they must notify their line manager in writing 28 days' before their new intended return date. Where the required notice is not given, line managers may postpone the early return to meet the notice period set out above.
- 19.2 Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness absence policy in the normal way.
- 19.3 An employee will be able to return to the job they were employed in before they commenced their adoption and paternity leave and on terms and conditions no less favourable than those that would have applied had they not been absent.
- 19.4 If a re-organisation occurs whilst the employee is on adoption leave they will be treated as if they were not absent. For example, if the employee's post becomes redundant due to a reduction in staffing levels, they are entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done is suitable and appropriate to the circumstances, and the capacity and place in which they were employed and on terms and conditions that are not substantially less favorable than those of the original post. It is unlawful for an employee to be selected for redundancy because they were on adoption or adoption support leave for any reason associated with the adoption/surrogacy arrangement.

20.0 Keeping in Touch (KIT) Days

- 20.1 Employees on Adoption Leave can work up to 10 KIT days – these are optional and need to be agreed by both the employee and the service. Working for part of a day will count as one day. The employee will be paid

for the work that they undertake and the council will offset their statutory pay for the day against any pay due. Any remuneration received should not exceed full contractual pay.

21.0 Adoption Support Leave

- 21.1 Support Leave of either five or ten days paid leave is available to the adoptive/surrogacy parent who is not taking leave as outlined in paragraph 9.0.
- 21.2 Employees must notify their line manager of their intention to take Adoption Support Leave within seven days of being notified by the adoption agency that they have been matched with a child for adoption.
- 21.3 They must inform their line manager of the expected date of placement (due date for a surrogacy arrangement), whether they wish to take five or ten days leave and the date they wish to start their leave. Ideally 28 days' notice of any subsequent change to this date should be given by the employee, however where this is not possible the employee should give as much notice as possible of any change. All employees requesting Support Leave must sign a self-declaration.
- 21.4 In the case of overseas adoption the employee must notify their line manager of their intention to take Adoption Support Leave within seven days of being notified of the arrival of the child in the UK or of their intention to take leave within 28 days of the child's arrival in the UK.
- 21.5 One parent cannot take both Adoption Leave and Adoption Support Leave.
- 21.6 Adoption Support Leave and pay granted under the contractual arrangements runs concurrently with the statutory provision of Ordinary Adoption Support Pay and Statutory Adoption Support Pay which means that ten days will be the maximum leave granted. The contractual pay will be reduced by the amount of Statutory Paternity Pay received (where eligible) so that full pay is not exceeded.

22.0 Flexible Working

22.1 Employees with at least 26 weeks service have a statutory right to request flexible working. Those with less than 26 weeks service can still apply and this may be considered in line with the same process and principles as those who meet the eligibility criteria, however this is not subject to the same legal duties as those who meet the eligibility criteria. Employees should refer to the [Our Ways of Working Policy and Guidance](#) for more information.

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