

# Adoption Leave and Pay Policy

Employee Relations Team  
HROD  
March 2016



**MANCHESTER**  
CITY COUNCIL

## Document Control

Title	Manchester City Council – Adoption Leave and Pay Policy
Document Type	Policy
Author	Employee Relations Team
Owner	HROD
Subject	Adoption Leave and Pay Arrangements
Date created	November 2015
Approval date	March 2016
Review date	March 2018 (or earlier where there is a change in the applicable law)

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## 1. Purpose

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Manchester City Council is committed to attracting, developing and retaining a world class workforce. It aims to deploy all talent and experience available in the most flexible and efficient manner. In developing a flexible workforce it recognises the importance of helping employees balance their work and home life as well as meeting service delivery requirements.

The Work and Families Act 2006 introduced provisions for employees who are adopting a child to have an entitlement to statutory adoption leave and pay. These provisions have been extended by the Children and Families Act 2014, which provides additional rights and entitlements to eligible adopters; to surrogate parents who intend to apply for a parental order and to foster parents where they intend to adopt (known as dual approved prospective adopters).

This policy updates the existing rights and entitlements of employees who are eligible adopters and has been written in compliance with the following legislation:

- Children and Families Act (2014)
- Equality Act (2010)
- Work and Families Act (2006)
- Employment Rights Act (1996).

## 2. Scope

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Adoption leave and pay is available to an employee who adopts on their own, or to one member of a couple where a couple jointly adopts (including same sex partners and civil partners). A couple who jointly adopt must choose which partner will take adoption leave. The other partner may choose to take paternity or maternity support leave. If the adopter wants to share the equivalent of the adoption leave period, they can end the adoption leave and enter into shared parental leave arrangements.

These arrangements cover all employees employed by Manchester City Council after 5 April 2015. Schools may choose to adopt this policy for staff directly employed by schools.

## 3. Eligibility

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### Adoption Leave:

To qualify for **adoption leave**, the employee must:

- be newly matched with a child for adoption by an approved adoption agency recognised in the UK
- have notified the adoption agency that they agree the child will be placed with them and have an agreed date of placement
- given the correct notice to the Council (see section 5)
- produce documentary evidence confirming the adoption is taking place – usually a ‘matching certificate’ from their adoption agency.

### Adoption Pay

Statutory adoption pay is the statutory minimum adoption pay set by the government that employers must pay employees. In order to qualify for **statutory adoption pay**, the employee must:

- Have worked continuously for the Council for 26 weeks or more by the end of the 'qualifying week'.

The qualifying week is the week the employee was notified that they were matched for adoption. The week begins on the Sunday before the match took place and ends on the Saturday after that date.

- The employee must have earned, on average, at least the lower earnings level for national insurance contributions in the 8 weeks leading up to the date they were notified of a match with a child by the adoption agency.

Details of the lower earning level for national insurance contributions can be found at: [www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions](http://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions)

In order to qualify for **occupational adoption pay**, the employee must:

- Have continuous local government service of at least one year or more by the end of the 'qualifying week'.

Adopters will not qualify for adoption leave and statutory/occupational pay in the following circumstances:

- Private adoption
- Becoming a special guardian or kinship carer
- Adopting a stepchild
- Adopting a family member.

### **Surrogate Parents**

Since 5 April 2015, parents in a surrogacy arrangement who are entitled to and intend to apply for a Parental Order under section 54 of the Human Embryology and Fertilisation Act 2008 will be able to take adoption leave and pay, if each parent meets the qualifying conditions. A parental order transfers the legal rights from the birth mother to the intended parents when a surrogate has been used to have a child.

In order to qualify for adoption leave and/or pay, the conditions are that:

- the intended parent gains a parental order in respect of the child;  
or;
- they intend to apply for such an order within 6 months of the child's birth and they expect the order will be made.

The employee will need to give written notice of their entitlement to adoption leave before the 15<sup>th</sup> week before the baby is due.

Where parents in a surrogacy arrangement are adopting a child through a registered adoption agency, they will be entitled to take adoption leave and pay, providing each parent meets the normal qualifying conditions set out above.

### **Fostering for Adoption**

Dual Approved Prospective Adopters are foster parents who foster a child in the expectation that they will adopt that child in accordance with section 22C of the Children's Act 1989.

To be eligible for adoption leave and/or pay, the dual prospective adopter must:

- be a local authority foster parent who has been approved as suitable to adopt the child that they will initially foster,

- have been notified by the local authority of its decision to place a child with him/her, and;
- have notified the local authority that they have agreed to the placement (initially for fostering) and the date that it will take place.

## **4. Notification**

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Employees should always aim to have early conversations with their managers about their proposed adoption plans, so that forward planning can take place. Formal notice to take adoption leave must be given by the employee within 7 days of being informed that they have been matched for adoption by the adoption agency (unless there is a reason that makes this impossible). Where an adopter doesn't give reasonable notice, managers do have the discretion to delay the start date of the adoption leave and pay, but not after the start of the placement date.

To make a formal notice, the employee must complete the Application for Adoption Leave Form (Appendix 2), detailing:

- The employee's name and address
- The name and address of the adoption agency
- The date on which the employee was informed that the child would be placed for adoption with them
- The date the child will be placed with the family (e.g. the employee could provide a letter from the adoption agency)
- The date they would like the adoption leave to start.

They must also:

- Provide a declaration that they have chosen to receive statutory adoption pay and not statutory paternity pay, and;
- Provide evidence from the Adoption Agency which shows basic information on matching and the expected placement dates.

After the notification is provided to the Council, a letter will be sent to the employee within 28 days which will set out the latest date on which the employee must return to work after the adoption leave.

Surrogate Parents will also need to confirm in writing the expected week of child's birth, and will also need to confirm the date the child was born (after the child's birth). This should be given as soon as reasonably practicable.

### **Changing the start date**

Employees may bring forward or postpone the adoption leave start date, by providing written notification at least 28 days before the new start date.

## **5. Pre-Adoption Leave**

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From 5 April 2015 employees intending to adopt a child have the right to attend appointments for any purpose connected with the adoption. There is no qualifying period of service, meaning the right is exercisable from the first day of employment.

Employees adopting a child or children on their own (i.e. without a partner) will be entitled to paid time off to attend five appointments.

Joint adopters (i.e. adopting with a partner) will need to choose which member of the couple will take paid time off to attend up to five appointments, while their partner may take unpaid time off to attend up to two appointments. Please note, the adopter who takes paid time off for appointments cannot claim paternity leave and pay. This means that the parent who intends to take adoption leave and pay should take the paid time off for pre adoption leave.

The time off available for each appointment (whether paid or unpaid) is a maximum of 6 and a half hours. Time off cannot be taken on or after the date of the child’s placement.

Only those officially adopting the child are entitled to time off to attend adoption appointments.

Intended parents of a child in a surrogacy arrangement will also be eligible for unpaid time off to accompany a pregnant woman with whom they are having a child at up to two antenatal appointments (of up to 6 and a half hours for each appointment).

Employees wishing to make a request for time off for pre-adoption leave should put their request in writing to their manager.

## 6. Adoption Leave

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Adoption leave is for a period of up to 52 weeks, consisting of 26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. For overseas adoptions, the adoption leave may start from the date the child arrives in the UK or within 28 days of this date.

To ensure service delivery is not disrupted, the employee should discuss the timing of his or her adoption leave with his or her manager as early as possible.

Employees wishing to return to work before the end of the 52 week adoption leave period will need to give 8 weeks notice. If the child’s placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

## 7. Adoption Leave and Pay Overview

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The Council’s Adoption Scheme reflects its Maternity Scheme. The following table provides an overview of adoption leave and pay which applies, subject to the employee meeting the required eligibility conditions:

<b>Length of service</b>	<b>Statutory Adoption Pay</b>	<b>Occupational Adoption Pay</b>	<b>Adoption Leave</b>
Less than 26 weeks continuous service with Manchester City Council (MCC) and less than one year’s local government continuous service	N/A	N/A	26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.
Between 26 weeks and one year’s continuous service with MCC	6 weeks at 90% of average earnings, followed by 33 weeks at £139.58 or 90% of average weekly earnings, whichever is	N/A	26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.

	least (up to a maximum of full pay)		
Between one and two years continuous local government service but less than 26 weeks service with MCC	N/A	6 weeks at 90% of average earnings, followed by 12 weeks at 50% of average weekly earnings, up to a maximum of full pay.	26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.
Between one and two years continuous local government service and at least 26 weeks continuous MCC service	6 weeks at 90% of average earnings, followed by 33 weeks at SAP or 90% of average weekly earnings, whichever is least.	6 weeks at 90% of average earnings, less followed by 12 weeks at 50% of average weekly earnings, up to a maximum of full pay.	26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.
Over two years continuous local government service and at least 26 weeks continuous MCC service	6 weeks at 90% of average earnings, followed by 33 weeks SAP or 90% of average weekly earnings, whichever is least.	11 weeks at 90% of average earnings, less followed by 13 weeks at 50% of average weekly earnings, up to a maximum of full pay.	26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.
2 years or more continuous local government service but less than 26 weeks continuous MCC service	N/A	11 weeks at 90% of average earnings, followed by 13 weeks at 50% of average weekly earnings, up to a maximum of full pay.	26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.

## 8. Keeping in Touch

Keeping in Touch (KIT) days are optional and intended to help employees keep in touch with the workplace and ease an eventual return to work. Employees may do up to ten KIT days during the adoption leave period. These are paid at the employee's normal pay rate and does not affect their adoption leave/pay.

There is no legal requirement for KIT days and both the manager and employee must agree to these days. KIT days can be used to attend a conference, undertake training, attend a team meeting or carry out any activity that would be classed as work under the employees contract.

Working for part of a day will count as one day i.e. if an employee works for 2 hours, they will receive payment for these hours, but this will count as one full 'KIT' day.

### **Contact during adoption leave**

The Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss the employee's plans to return to work, discuss any training to ease the employee back into work, or to provide an update on developments at work during their absence.

## 9. Returning To Work

Employees have the right to return to their job if they take only Ordinary Adoption Leave (first 26 weeks). The rules are different if the employee takes Additional Adoption Leave (any adoption leave after the first 26 weeks). In this situation, employees have the right to their job or a similar

job (if it's not possible to give them their old job). If the employee unreasonably refuses to take the similar job, the employer can take this as their resignation.

## **10. Shared Parental Leave**

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Shared Parental Leave is available to the main adopter and their partner, allowing both adoptive parents to share their leave and pay. If the parents meet the qualifying requirements and wish to take shared parental leave and/or pay the main adopter must formally end their adoption leave and pay.

Full details are available in the Shared Parental Leave Policy.

## Appendix 1

### Glossary of Terms

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**Matching certificate** – is the proof you will need to give to the Council to qualify for adoption leave and pay. This may also be in the form of a letter from the Adoption Agency.

**A match** – this is when the adopter is notified that a child or children will be placed with the family for adoption

**The qualifying week** – is the week the adopter is notified that they were matched with a child for adoption. The week begins on the Sunday before the match took place and ends on the Saturday after that date.

Employees can take up to 52 weeks' **Statutory Adoption Leave**.

The first 26 weeks is known as **Ordinary Adoption Leave**. The last 26 weeks as **Additional Adoption Leave**.

## Appendix 2



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**Shared Service Centre**

**Manchester City Council**

### **Application for Adoption Leave and/or Pay**

Please read the policy and guidance on adoption leave before proceeding

<b>Section A - Complete All Sections</b>			
Employee Surname:		Employee Forename(s):	
Personnel Number:		Email:	
Directorate:		Service/Team:	
Manager Name:		Manager Contact No.	
<b>Section A</b>			
Date continuous local government service commenced:			
Address:			
Name and address of the Adoption Agency:			
Date you were informed that the child/children would be placed with you for adoption:			
The date the child will be placed with you:			
Date Adoption Leave Expected to commence:			
Employee Signature:			
Date Signed:			
<b>Section B – Parental Declaration</b>			
I confirm that I have elected to receive adoption leave and/or pay and not statutory paternity pay or maternity support leave. I have provided / will provide to the Council a matching certificate or other proof confirming the adoption is taking place.			
Signed:			Date:

## Appendix 3

### ADOPTION LEAVE AND PAY FREQUENTLY ASKED QUESTIONS

#### 1) I want to take adoption leave. What do I need to do?

You will need to give notice of your intention to take Adoption Leave as soon as you are notified by the adoption agency that you have been matched with a child for adoption (no later than within 7 days of being matched, unless this isn't reasonably practical). You will need to complete the Application for Adoption Leave Form, detailing:

- Your name and address
- The name and address of the adoption agency
- The date on which you were informed that the child would be placed for adoption
- The date the child will be placed with you (e.g. you could provide a letter from the adoption agency)
- The date you would like the adoption leave to start.

You will be required to produce documentary evidence – usually a 'matching certificate' from the adoption agency.

You will also need to provide a declaration that you have elected to receive statutory adoption leave and not statutory paternity pay.

#### 2) How long is adoption leave for?

Like maternity leave, eligible employees have the right to take up to one year's statutory adoption leave. This consists of 26 weeks ordinary adoption leave followed immediately by 26 weeks additional adoption leave.

#### 3) Can I take adoption leave and paternity or maternity support leave?

No. Adoption leave and pay is available to either an individual employee who adopts, or to one member of a couple where a couple jointly adopt (including same sex partners and civil partners), and the couple must choose which partner will take adoption leave. If you chose to take Adoption Leave, you will not be entitled to take paternity or maternity support leave.

#### 4) Am I entitled to the new Shared Parental Leave?

If you have adopted a child after 5 April 2015, you may be entitled to take Shared Parental Leave, providing that you meet the eligibility criteria. Eligible adopters can share up to 50 weeks of leave and up to 37 weeks of pay. The adopter would need to end their adoption leave and/or pay early to opt into shared parental leave and/or pay. Any adoption leave and pay that you take (or your partner) will reduce the pool of leave and pay that can be potentially shared.

You must take at least 2 weeks of adoption leave before starting Shared Parental Leave. See the Shared Parental Leave Policy for full details.

#### 5) Will I be entitled to adoption leave if I adopt a child from overseas?

Yes providing that you have been newly matched with a child for adoption by an approved adoption agency recognised in the UK.

The conditions are the same, except you will be required to notify the Council of the date you receive the 'official notification' (permission from a UK authority) confirming that you can adopt from abroad and the expected date that the child will arrive in Great Britain. This must be done within 28 days of receipt of the official notification.

You will also need to give at least 28 days notice of when you want the adoption leave and pay to start.

Within 28 days of the child entering Great Britain, you will need to provide the Council with evidence in writing of the child's actual date of entry and proof of the adoption.

#### **6) If I adopt a step child or a family member, will I be entitled to adoption leave?**

No. To be eligible for adoption leave, you must be newly matched with a child for adoption by an approved adoption agency. Adopters will not qualify for adoption leave or pay in the following circumstances:

- Private adoption e.g. without permission from a UK authority or adoption agency.
- Becoming a special guardian or kinship carer.
- Adopting a stepchild.
- Adopting a family member.

#### **7) When can the adoption leave be taken?**

The earliest that adoption leave can start is 14 days before the date the child is placed with you for adoption. The latest day it can start is the date the child is placed.

The adoption leave can start on any day of the week. The adoption leave cannot be used to attend meetings, training sessions or court in relation to the adoption.

For overseas adoptions, the adoption leave may start from the date the child arrives in the UK or within 28 days of this date.

#### **8) What is the qualifying week?**

The qualifying week is the week that you are notified that you have been matched for adoption. The week begins on the Sunday before the match took place and ends on the Saturday after that date.

In the case of Parental Order Parents (Surrogacy), the qualifying week is the end of the 15<sup>th</sup> week before the expected week of the child's birth. In the case of dual approved prospective adopters, the qualifying week is the date that the dual approved prospective adopter is notified of a match with a child.

#### **9) Can I take any time off work to deal with issues relating to the adoption before it takes place?**

The primary adopter (i.e. the primary carer) may take paid time off for up to five adoption appointments and the secondary adopter to take unpaid time off for up to two such appointments.

You should be aware that if you take paid time off to attend adoption appointments, you will not be able to take paternity leave or maternity support leave in relation to the adoption of that child. Therefore it's likely that the person who takes paid time off work to attend adoption appointments will also take adoption leave and pay.

#### **10) My partner is adopting a child. Can I take time off for pre adoption appointments?**

No. The partner of individual who is adopting a child is not entitled to time off work (whether paid or unpaid) to attend adoption appointments unless they are jointly adopting a child.

#### **11) Do I need to have been employed by the Council for a particular length of time before I can take adoption leave?**

Adoption leave is now a 'day one' right, so employees will no longer need 26 weeks' continuous employment to be eligible. However, the amount of pay you are entitled to will depend on earnings and service. This change applied from 5 April 2015.

#### **12) What happens to my holiday entitlement during adoption leave?**

Your holiday entitlement continues to accrue during the adoption leave period, just in the normal way. You will be entitled to take any leave due to you either before or after the adoption leave period. You will not be able to take annual during the period of adoption leave.

#### **13) What is the effect on adoption leave and pay if the adoption is disrupted?**

It is not uncommon for an adoption to be disrupted and the child to be returned to the adoption agency. If the adoption is disrupted in this way, or in the event that the child passes away, you will

not be entitled to full adoption leave. In this situation, you will be able to continue the adoption leave for up to eight weeks after the end of the placement (or in the case of adoption from overseas, the date the child ceases to live with the adopter). A week for these purposes is a period of seven days beginning with a Sunday.

#### **14) What happens to my pension on adoption leave?**

##### **Local Government Pension Scheme**

During the paid adoption leave period (both ordinary and additional), if you are an active member of the Pension Fund, the amount of pension you build up will not be affected. This means that if you have a period of reduced or no contractual pay during this relevant child related leave your pension is worked out using an average of your usual pensionable pay before the reduction took place. You will only pay contributions on any pay that you receive.

If you decide to take a period of additional **unpaid** adoption leave, you won't build up any pension benefits. You can elect to cover the period of the 'lost' pension by taking out a Shared Cost Additional Pension Contribution (SAPC) contract. Provided that you elect to buy the 'lost' pension within 30 days of your return to work the Council will share the cost with you by paying 2/3rds. If you elect outside of this deadline you will have to pay the full cost using an Additional Pension Contribution (APC) contract. You can not take out an additional pension contract if you have left.

Further information is available on the following websites: <http://lgps2014.org/> and <http://www.gmpf.org.uk>

##### NHS Pension Scheme

You can choose to pay pension contributions throughout any period of absence for parental or adoption leave, regardless of whether the leave is paid or unpaid. If you go on to a period of nil pay you can choose how to pay the pensions contributions for this period

For further details on how this works and the options you have, please see the guide on the NHS Pension Scheme website at <http://www.nhsbsa.nhs.uk/Pensions/4205.aspx> and click on 'Maternity, paternity, parental and adoption leave'

##### Teachers' Pension Scheme

Adoption leave is treated the same as maternity and paternity leave. So if you are receiving your normal pay or statutory adoption pay you will continue to pay contributions and build up pensionable service.

If you go onto nil pay, there are no contributions payable either from you or Manchester City Council and this time period will not count towards your pension scheme membership. Further details can be obtained from TPS website and on this factsheet <https://www.teacherspensions.co.uk/faqs/what-if-faqs/current-situation/what-if-i-have-been-on-maternity-or-paternity-leave.aspx>

#### **15) Can foster parents take adoption leave?**

You will only be able to take adoption leave if you are a foster parent that has been approved by the relevant local authority to foster a child with the expectation that you will adopt that child.

You will not be able to access further adoption leave and pay in respect of the same child or children if the adoption goes ahead i.e. there can only be one entitlement to adoption leave and pay in respect of that child).

#### **16) I have been matched with a child for adoption and this is taking place in a few days. I've not been able to give the Council 7 days' notice. Will I still qualify for Adoption Leave?**

Yes, the amount of notice you can give the Council will depend on the period of time between when you are notified that you have been matched with a child and when the child arrives. You will need to inform the Council of the match within 7 days of the child coming to live with you, or if this is not possible, as soon as you are notified of the match. You will however know if you are being considered for adoption, so you should keep your manager informed of any progress.

#### **17) Do I have to give notice of my return to work?**

If you wish to take the full 52 weeks of adoption leave, you will return to work at the end of the adoption leave period. If you wish to return to work earlier, you will need to give the Council 8 weeks notice of the date you wish to return.

**18) I am adopting more than one child as part of the same adoption arrangement. Do I get more leave or pay?**

No, unfortunately, there is only one period of adoption leave and or pay that is available per adoption arrangement.

**Surrogacy**

**19) I am having a child with the help of a surrogate mother, but don't meet the conditions to qualify for a parental order. Can I still take Adoption Leave?**

No, there are some circumstances where surrogate parents do not meet the conditions to apply for a Parental Order, such as single parents or parents who have no genetic link to the child. Unless you meet the conditions for a Parental Order, you will not be eligible for adoption leave and pay.

**20) I am the birth mother in an intended surrogacy arrangement. Am I entitled to any leave?**

Maternity leave is available to women who are pregnant or have given birth. The birth mother in a surrogacy arrangement is entitled to maternity leave even where she is not genetically related to the child she is carrying.

**21) How do I get a statutory declaration?**

If you are an intended parent in a surrogacy arrangement and you wish to claim adoption leave and/or pay, the Council may require you to provide a statutory declaration that you have obtained, or have applied for/intend to apply for, a Parental Order in respect of their child and expect such an order to be made. A statutory declaration is a written declaration signed by the individual making it in the presence of a:

- Practising solicitor
- Notary of the Public
- Justice of the Peace
- Commissioner for Oaths
- Councillor (Scotland only)
- Any other qualified person.

**22) Am I entitled to time off to attend ante-natal appointments with the birth mother?**

Parental Order parents are entitled to take time off work to accompany the surrogate mother to her antenatal appointments. Both of the Parental Order parents are entitled to unpaid time off to attend up to two antenatal appointments (of up to 6 and half hours each appointment). Where the Parental Order parent is the biological father of the child they are only entitled to unpaid time off to attend up to two antenatal appointments (i.e. they don't have a right to additional time off because they are the father and are only entitled to time off to attend up to two appointments in total).

**Keeping in Touch (KIT) Days**

**23) Am I entitled to normal pay if I attend work on a KIT day?**

You can have up to 10 KIT days. You will receive normal payment for the number of hours you have attended work. Even if you only work for part of a day or a couple of hours it will still count as a whole KIT day.

**24) What type of work can I do on a KIT day?**

You can do any type of work on a KIT day that you would do as part of your normal duties, including training, conferences and meetings.