

Adoption Procedure

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Change History

Version	Date	Description	Change ID
2.0	March 2014	Revised procedure to incorporate advice notes and changes to pension buy back	
2.1	April 2015	Minor updates to refer to Shared Parental Leave and paid time off for adoption appointments	
3	July 2019	General review. Added in rights to SAP and SAL for those in a foster to adopt arrangement or for parents using a surrogate mother and to clarify details including lease cars, KIT days, returning to work and payments under occupancy agreements .	

Related Documents

Reference	Title	Tier
	Shared Parental Leave Policy	
	Additional Leave Procedure	



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1. Purpose

- 1.1. The purpose of this procedure is to detail the entitlements and responsibilities that apply when employees request leave and/or pay for the purposes of adopting children.

2. Applicability

- 2.1. This procedure applies to all employees of West Berkshire Council, including those in schools which have adopted this procedure.
- 2.2. The availability of Statutory Adoption Pay and Statutory Adoption Leave was extended in 2015 to include foster parents who have been approved for adoption under a foster to adopt arrangements, and to intended parents of a child born in a surrogacy arrangement where they are eligible for, and intend to apply for (or have already obtained) a parental order making them the legal parents of the child.

3. Roles and Responsibilities

- 3.1. The Chief Executive/Governing Board has overall responsibility for ensuring that adoption leave and pay is managed appropriately in accordance with this procedure.
- 3.2. Managers/head teachers are responsible for;
 - 3.2.1. Ensuring that applications for adoption leave and pay are managed in accordance with this procedure;
 - 3.2.2. Maintaining appropriate contact with employees during adoption leave.
- 3.3. Employees are responsible for providing required documentation and making applications for adoption leave and pay, and for notifying their line manager of their date of return, in accordance with this procedure.
- 3.4. Human Resources is responsible for;
 - 3.4.1. Keeping the procedure up to date in line with legislation changes;
- 3.5. Payroll is responsible for:
 - 3.5.1. Receiving and processing applications for adoption leave and pay;
 - 3.5.2. Making payments of occupational adoption pay (OAP) and statutory adoption pay (SAP), and for advising on pension implications of periods of nil pay.

4. Qualifying for adoption leave

- 4.1. There is no minimum length of service required to qualify for statutory adoption leave (SAL). An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks adoption leave from day one of their employment.

4.2. The right to statutory adoption leave is available to employees who:

- Have been notified by an approved adoption agency that they (alone or jointly) have been newly matched with a child for adoption within the UK, or
- Are adopting, or is one of a couple who are adopting a child from overseas and have received official notification¹ from the relevant UK authority that they have been assessed and approved as suitable adoptive parents, or
- Are a local authority foster parent who is a prospective adopter and has been notified under s22 of the Children Act that a child will be placed with them in a 'foster to adopt' arrangement or
- Are becoming legal parents of a child as a result of a parental order under s54 of the Human Fertilisation and Embryology Act 2008 where the child is born under a surrogacy arrangement

4.3. To qualify for SAL an employee must:

- Have given their employer the required notice that they intend to take adoption leave (see section ten below)
- Be able to provide required documentary evidence (see section five below)

For UK adoptions including foster to adopt and overseas adoptions they must also:

- Be newly matched with a child (up to the age of 18);
- Be approved for adoption by an approved adoption agency;
- Have notified the agency that they agree to the child being placed with them and on the date of placement;

For intended parents in a surrogacy arrangement they must also intend to apply for (or have already obtained) a Parental Order

4.4. Where a couple are adopting jointly, only one may take adoption leave. The other will be entitled to take Ordinary Paternity Leave (of one or two weeks) and/or [Parental Leave](#). Either parent in a same-sex relationship may qualify for adoption leave, as may the male partner in a heterosexual relationship.

4.5. The adopter may choose to end his/her adoption leave early (before the end of 52 weeks) if he/she and/or his/her partner wish(es) to take [Shared Parental Leave](#) (see separate policy).

4.6. Employees adopting a step-child, a family member, becoming a special guardian or kinship carer or who adopt privately without permission from a UK authority or adoption agency do not qualify for adoption leave (or pay), although they may qualify for parental leave.

4.7. If more than one child is being placed as part of the same arrangement, the employee is only entitled to one period of Statutory Adoption Leave.

¹ 'Official notification' means written notification, issued by or on behalf of the Secretary of State for Health, that it is prepared to issue/has issued a certificate to the overseas authority concerned with the adoption of the child, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

'adoption from overseas' means the adoption of a child who enters Great Britain from outside the UK in connection with, or for the purposes of adoption that does not involve the placement of the child for adoption under the law of any part of the UK.

4.8. An employee is not entitled to take adoption leave or pay in relation to a child in the capacity as his/her adopter if the employee has already taken adoption leave as a result of a child being placed, or expected to be placed, with the employee under s22 of the Children Act 1989 (i.e. as a foster parent in a foster to adopt arrangement).

5. Documentary evidence required for adoption leave and pay

5.1. The Council/school requires its employees to provide the documentary proof of adoption specified in this section for both adoption leave and pay:

5.2. For surrogacy arrangements, the Council/school requires the employee to provide a written statement to confirm that in the six months after the baby's birth they intend to apply for a parental order and that they expect the order to be granted

5.3. For UK and overseas adoptions and foster to adopt the employee must provide:

- The name and address of the adoption agency on a document issued by the agency which should also include the name and address of the employee undertaking the adoption.
- The date the child was matched e.g. a matching certificate, or in cases of foster to adopt a letter from the local authority placing the child confirming the date the child was matched.
- The expected date of placement or actual date of placement where the child has already been placed. (E.g. a letter from the agency/local authority).
- In addition, for overseas adoptions the employee **must also** provide documentary evidence of the official notification² confirming that the employee is allowed to adopt from abroad, and of the expected date the child arrives in the UK, within 28 days of the notification or within 28 days of the employee's completion of 26 weeks continuous service – whichever is the later³. The employee must also provide evidence of the date of the child's actual entry to the UK (e.g. plane ticket) within 28 days of the date of entry. Where the employee is adopting the child with their partner they must complete an SC6 form available from the GOV.UK website and give a copy of the declaration to their employer. This states that they have decided to take statutory adoption leave and not statutory paternity pay.
- For foster to adopt arrangements, the employee must also provide documents proving that they are a local authority foster parent, have been approved as a prospective adopter and have been notified by a local authority in England that a child is to be, or is expected to be placed with the employee under section 22C of the Children Act 1989.

6. Adoption leave

6.1. Qualifying employees may take up to 52 weeks' adoption leave. This comprises;

² 'Official notification' means written notification, issued by or on behalf of the Secretary of State for Health, that it is prepared to issue/has issued a certificate to the overseas authority concerned with the adoption of the child, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

³ Timescales set out in Regulation 17(2)(a) of the Paternity and Adoption Leave Regulations 2002, as modified by the Paternity and Adoption Leave (Adoption from Overseas) Regulations 2003

- 6.1.1. 26 weeks' Ordinary Adoption Leave (OAL); followed by
- 6.1.2. 26 weeks' Additional Adoption Leave (AAL)
- 6.2. An employee can decide how much of the 52 week period he/she wishes to take.
- 6.3. Where the employee is adopting from within the UK, including foster to adopt, the adoption leave can start on any day of the week, from either the actual date of the child's placement; or from a fixed date up to 14 days before the expected date of placement.
- 6.4. Where an employee is adopting from overseas, the employee can chose to start the adoption leave on the date on which the child enters Great Britain or on a predetermined date that is no later than 28 days after the date the child entered the UK.
- 6.5. Where the parents are in a surrogacy arrangement, adoption leave can start on the day the child is born or the day after.
- 6.6. If, for any reason, after the employee has begun their adoption leave, the placement does not go ahead or ends, or in a surrogacy arrangement an application for a Parental Order is refused by the courts, the employee will be allowed to continue the adoption leave for a maximum of eight weeks after the end of the week the placements ends, the date the child dies or the date the adopter is notified that the placement will not be made, the date the application for a parental order is refused or the date AML is due to end, **whichever is the sooner**.
- 6.7. If the placement is delayed once adoption leave has started, the leave cannot be stopped and started again at a later date.

7. Adoption Pay

- 7.1. Adoption pay will be paid for part of the 52 week period if the employee meets the qualifications for length of service and weekly earnings, and has provided the necessary notifications. Two different payments may be made – statutory adoption pay (SAP) and occupational adoption pay (OAP).
- 7.2. If both payments are made they will run concurrently. Any SAP payable will be offset against any OAP due for the first six weeks. After the first six weeks, both payments will be made, up to a maximum of full pay. See appendix A for this information in a table.
- 7.3. **SAP** is paid for up to 39 weeks. Qualifying employees receive;
 - 7.3.1. For the first six weeks, 90% of average earnings; and
 - 7.3.2. For the remaining 33 weeks, standard SAP (the lower of £148.68 or 90% of gross average weekly earnings at April 2019).
- 7.4. **OAP** is paid for up to 18 weeks, with the final 12 weeks dependent upon the employee returning to work. Qualifying employees receive;

- 7.4.1. 90% of normal earnings for the first six weeks (teachers receive full pay for the first four weeks and 90% salary for the next two weeks); followed by
- 7.4.2. 12 weeks of 50% normal earnings (paid subject to a return to work as set out in section nine below).

8. Eligibility for Statutory Adoption Pay

8.1. To qualify for SAP, an employee must

- 8.1.1. Have specified the date on which he or she expects the payment of statutory adoption pay to begin.
- 8.1.2. Have given the required notice - the employee should provide 28 days' notice in writing that they want to claim adoption pay (or as soon as possible if this is not reasonably practicable; for example where the time between the child being matched and placed is less than that).
- 8.1.3. Have provided proof of adoption or surrogacy (see section five above).

8.2. For UK adoptions including foster to adopt the employee must have been continuously employed by the Council/school for at least 26 weeks up to any day in the week they were matched with a child and have earned, on average, no less than the lower earnings limit for National Insurance in the eight weeks prior to the notification⁴ of the placement.

8.3. For overseas adoptions the employee must

- 8.3.1. Have been continuously employed by the Council/school for a minimum of 26 weeks ending with the week they received the 'official notification' (permission from a UK authority) that they can adopt from abroad or ending with the week in which the statutory pay period is to begin, whichever is later.
- 8.3.2. Have earned, on average, no less than the lower earnings limit for National Insurance in the eight weeks prior to the official notification⁵.
- 8.3.3. Fill in the Government's form [SC6](#) to confirm that they are not taking paternity leave or pay, if they are adopting with their partner.

8.4. For employees in surrogacy arrangements the employee

- 8.4.1. Must have been continuously employed by the Council/school for at least 26 weeks up to the end of the 15th week before the baby is due.
- 8.4.2. Have earned, on average, no less than the lower earnings limit for National Insurance in the eight weeks leading up to the end of the 15th week before the expected week of birth.

⁴ For foster to adopt 'notified of a match' means that the employee has been notified by the local authority that a child will be placed with them in accordance with S22C of the Children Act 1989.

⁵ 'Official notification' means written notification, issued by or on behalf of the Secretary of State for Health, that it is prepared to issue/has issued a certificate to the overseas authority concerned with the adoption of the child, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

- 8.4.3. Provide their manager/headteacher with a written statement that in the six months after the baby's birth they intend to apply for a parental order and that they expect the order to be granted.
- 8.5. If an employee is not entitled to SAP, the adoption agency may be able to provide advice on the financial support that may be available in these circumstances.
- 8.6. If the adoption is disrupted because the child dies or is returned to the adoption agency, or the adoption pay period has begun prior to the date the child is due to be placed for adoption, but the placement does not take place, or an application for a parental order is refused by the courts, the adoption pay period terminates eight weeks after the end of the week in which the child dies or is returned to the adoption agency or the adopter is notified that the placement will not take place.
- 8.7. For details of lower earnings limit and SAP, please see [Adoption pay and leave - Gov.uk](#)
- 8.8. Where the employee is not eligible for Statutory Adoption Pay Payroll will provide him/her with a SAP1 exclusion form within 28 days of notification of the adoption matching date.

9. Eligibility for Occupational Adoption Pay

9.1. To qualify for OAP, an employee must;

9.1.1. Have more than one year's continuous local government service by the week they are notified they are matched with a child (UK and foster to adopt) or by the week that they received the 'official notification' (overseas adoptions) or by the beginning of the 11th week before the expected week of childbirth (surrogacy arrangements); and

9.1.2. Make a declaration that he/she intends to return to work.

9.2. To qualify for OAP, the employee must return to local authority/school's employment, for a period of at least three months. Teachers who return part-time must return for the equivalent of three months at their previous contracted hours (e.g. a teacher who was fulltime and who returns on a 0.5 basis would have to complete at least six months service) If this requirement is not fulfilled, the employee must repay the OAP element of adoption pay plus the NI contributions payable.

9.3. During adoption leave, OAP will be adjusted to take into account of any pay increases due during the absence.

10. Notification of intention to take adoption leave and pay

10.1. Employees should provide all required notification in writing. Model notification forms can be found at appendix B

10.2. **Leave:** For UK adoptions including foster to adopt, the employee must notify his/her manager/headteacher of the intention to take adoption leave within seven days of being notified by an approved adoption agency that they have been newly matched with a child for adoption (or if this is not reasonably practicable, as soon as it is reasonably practicable).

- 10.3. For overseas adoptions, the employee must notify his/her manager/headteacher of the date of their official notification⁶ and his/her intention to take adoption leave within 28 days of receiving the notification or within 28 days of the employee's completion of 26 weeks continual service with the Council/school whichever is the later. The employee must notify their manager/headteacher of the date that they intend adoption leave to start, giving at least 28 days' notice. The employee must also notify their manager/headteacher of the actual date the child arrives in the Great Britain within 28 days of that date.
- 10.4. For surrogacy arrangements the employee should inform their manager/headteacher that they intend to take adoption leave at least 15 weeks before the date that the baby is due to be born and specify the date that they want the leave to start. The employee must also inform their employer of the actual date the child is born as soon as practicable after the birth.
- 10.5. **Pay:** the employee should provide 28 days' notice in writing of the date that they want to claim adoption pay (or as soon as possible if this is not reasonably practicable; for example where the time between the child being matched and placed is less than that). A copy should be forwarded to Payroll.
- 10.6. Notification forms can be found in appendix B. Notice should contain the following details:
- 10.6.1. The employee's name and address;
 - 10.6.2. That the employee intends to take adoption leave;
 - 10.6.3. When the child is expected to be placed with him/her, or date on which the child enters the UK, in the case of overseas adoptions; or for surrogacy provide the information specified in point 10.4;
 - 10.6.4. When she/he would like to begin their adoption leave;
 - 10.6.5. A declaration that, where eligible, she/he would like to receive Statutory Adoption Pay;
 - 10.6.6. Either a declaration that she/he would like to receive Occupational Adoption Pay, where applicable, which she/he will repay if she/he does not return to work for the Council/school for a period of 3 months after the adoption leave has ceased, or a declaration that she/he does not wish to receive Occupational Adoption Pay.
- 10.7. Notification must be forwarded to Payroll as soon as possible. Within 28 days of the Headteacher/manager receiving notification of the start date of an employee's adoption leave, Payroll will inform the employee in writing of the date on which the Additional Adoption Leave (AAL) is due to end.
- 10.8. If the employee wishes to change his/her mind over when she/he would like to commence the adoption leave, she/he must provide 28 days' written notice before their original start of SAL date or the new start, whichever is earlier (or if this is not reasonably practicable as soon as is reasonably practicable). A copy must

⁶ 'Official notification' means written notification, issued by or on behalf of the Secretary of State for Health, that it is prepared to issue/has issued a certificate to the overseas authority concerned with the adoption of the child, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

be sent to Payroll who will confirm any amendments to the start and end dates within 28 days of notification by the employee of the amendment.

11. Time off for preparation for adoption appointments

- 11.1. For UK adoptions including foster to adopt and for overseas adoptions:
- 11.2. A primary adopter may take **paid** time off during working hours to attend up to five appointments arranged by, or at the request of, the adoption agency for the purpose of having contact with the child or for any other purpose connected with the adoption. Up to 6.5 hours may be taken off for each appointment.
- 11.3. If the adopter has exercised this right, he or she may not then opt to take Ordinary Paternity Leave. In other words, this right only extends to prospective adoptive parents who intend to take Adoption Leave.
- 11.4. The primary adopter's partner (where his or her partner is adopting the child jointly) may take **unpaid** time off during working hours to attend up to two appointments. Up to 6.5 hours may be taken off on each occasion.
- 11.5. Appointments must be arranged by or at the request of the adoption agency, the employee's line manager may ask for proof that this is the case (e.g. a letter or email from the agency). The purpose of the appointment is to have contact with the child or for any other purpose connected with the adoption.
- 11.6. In surrogacy arrangements employees who intend to apply for a parental order to become the child's legal parents have the right to unpaid time off work to accompany the birth mother to up to two antenatal appointments of up to 6.5 hours per appointment. The employee's line manager may ask for proof of the appointment.

12. Annual and public holiday leave

- 12.1. All adoption leave counts as continuous service for the purpose of entitlement to statutory and contractual benefits. This includes sick pay and leave, annual leave and public holidays. Employees are entitled to all the benefits of their contract of employment apart from pay.
- 12.2. Annual and public holiday leave accrues during adoption leave. Normal arrangements for notifying and taking annual leave apply. This means that leave should be taken in the leave year in which it is earned. Up to five days' leave may be carried forward to the next leave year with the permission of the head of service/head teacher. Payment cannot be made for outstanding leave due. Employees and their managers should therefore plan, before the start of adoption leave, when and how the leave will be taken. Annual leave may be taken immediately before or immediately after adoption leave.
- 12.3. In schools, teachers accrue the right to statutory annual leave (28 days per year) during adoption leave. Term time only employees accrue the right to contractual annual leave during adoption leave. Annual leave entitlement can be offset by any period of school closure that takes place in the relevant leave year (September to August), before and after the adoption leave period. In the unlikely event that there are insufficient school closure days to account for statutory leave

in the leave year, the teacher or term time only employee must be allowed to take his/her outstanding leave during term time in that year.

- 12.4. Where there is not enough time on the employee's return before the end of his/her annual leave year for her to take his/her remaining annual leave, he/she must be allowed to carry over her leave to the next leave year. An employee can be required to take this during the remaining periods of school closure after the employee's annual leave entitlement for that leave year has been accommodated.
- 12.5. It is recommended that schools seek further advice from Human Resources on determining whether a school employee should be able to take accrued leave entitlement during term time, if this appears to be necessary.

13. Other contractual entitlements

- 13.1. Employees who are members of the Local Government Pension Scheme (LGPS) or the Teachers' Pension Scheme (TPS) will have contributions deducted from statutory and occupational adoption pay at the usual rate. For unpaid adoption leave periods the employee will be given the opportunity to elect to purchase additional pension to 'buy back' the lost service. If the employee elects, within 30 days of her return to work, to make these payments, the employer will pay 2/3rd of the cost and the employee will pay 1/3rd of the cost. Payroll will advise the employee of the cost of buying the additional pension.
- 13.2. Employees with lease cars will be invoiced for their contribution throughout the adoption leave period, including any unpaid period. WBC will continue to pay the employer subsidy. If the employee does not return to work the usual car lease termination rules apply.
- 13.3. Employees in receipt of essential car user allowance will continue to receive the full allowance during each instance of adoption leave for a period of up to a year.
- 13.4. Employees who make use of the childcare salary sacrifice scheme will continue to receive this benefit throughout the adoption leave period. The Council will cover the costs of the scheme where there is no salary to sacrifice. OAP can be sacrificed; SAP cannot be sacrificed.
- 13.5. Employees with occupancy agreements which, are a requirement of their employment, will continue to be entitled to live in the accommodation they are provided with in accordance with the terms and provisions of their occupancy agreement. The accommodation charge, as set out in the employee's occupancy agreement, will continue to be deducted from the employee's statutory and occupational adoption pay at the usual rate. Where there is no salary from which to deduct the accommodation charge, the employee will not be liable to pay the accommodation charge. If the employee does not return to work and is required to pay back the 50% pay element of their occupational adoption pay or if the employee chooses to suspend payment of the 50% pay element of their occupational adoption pay until they return to work, the accommodation charge will be reconciled to take account of this. If the employee does not return to work the usual occupancy agreement termination provisions will apply.

14. Contact during adoption leave

- 14.1. The manager/head teacher should maintain reasonable contact with the employee during his/her adoption leave. This may be by telephone, letter, email or personal visits agreed with the employee. Before the employee starts his/her adoption leave, it is a good idea to discuss how he/she and the manager will maintain contact with each other during the absence
- 14.2. The employee should be advised of any recruitment opportunities open to employees of the Council /school. The manager/head teacher should ensure that the employee is made aware of any other information relating to her job that he/she would normally have access to if he/she were at work, such as changes to the workplace, team structures etc.
- 14.3. The employee should be encouraged to keep in touch with his/her line manager during adoption leave.

15. Keeping in Touch (KIT)

- 15.1. With the agreement of the manager/head teacher the employee may undertake up to 10 days' paid work during his/her adoption leave. 'Keeping in Touch' (KIT) days are intended to facilitate a smooth return to the workplace. They may include any work done under the contract of employment, attendance at training or other activity aimed at keeping in touch.
- 15.2. Any day on which the employee does some paid work during the adoption leave period will count as one of the 10 permissible KIT days, even where the employee only works part of a day. It is for the manager/head teacher to agree with the employee what work is done on these days.
- 15.3. The employee cannot be required to work during his/her adoption leave, nor does he/she have a right to be offered work. KIT days are therefore a matter for agreement between the employee and her manager.
- 15.4. KIT days may be worked at any time during the adoption leave period.
- 15.5. Payment will be at the employee's normal rate of pay, and for part days he/she will be paid for the actual hours worked. If he/she is receiving SAP on that day, an amount equivalent to SAP will be deducted from his/her KIT payment so that her total payment for the day (pay plus SAP) is equivalent to his/her contractual entitlement for the hours worked.

16. Returning to work

- 16.1. If the employee returns to work after ordinary adoption leave, he/she is entitled to return to the same job in which he/she was employed under his/her original contract and on terms and conditions no less favourable than if he/she had not been absent, unless a redundancy situation has occurred. If the employee returns to work after a period of additional adoption leave he/she is entitled to return to the same job, or if this is not reasonably practicable to another suitable job that is on terms and conditions no less favourable.
- 16.2. 'Suitable job' for this purpose means the nature of the job he/she is employed to do and the capacity and place in which he/she is employed to do it.

- 16.3. If the employee is to return to work at the end of the additional adoption leave period (i.e. after 52 weeks) he/she does not need to give any additional notice of his/her intention to return.
- 16.4. If the employee wishes to return to work before the end of the AAL he/she must provide written notice at least eight weeks before the date on which he/she intends to return. If he/she fails to give enough notice the manager/head teacher may postpone his/her return until the end of the eight week period, or until the end of AML, whichever is sooner.
- 16.5. Employees may be able to extend their adoption leave by combining it with a period of parental leave, where the qualifying criteria are met.
- 16.6. Shared Parental Leave – the employee may choose to end his/her adoption leave early in order to share an entitlement to statutory shared parental leave (and pay if qualifying) with his/her partner. See the [Acas guide](#) to shared parental leave. The Council has a policy on [Shared Parental Leave](#).
- 16.7. Employees have the right to request flexible working arrangements on their return to work in accordance with the Council/school's Flexible Working Request Procedure.
- 16.8. If the employee decides not to return to work, he/she must provide notice of his/her resignation in writing. The employee will not be expected to return to work during his/her period of notice. His/her last day of employment will normally be the date on which his/her notice expires.

17. Protection from victimisation, dismissal or detriment.

- 17.1. It is unlawful for a person to be victimised, dismissed, selected for redundancy or subjected to any other detriment for exercising their right to adoption leave on grounds relating to adoption leave.
- 17.2. Where a redundancy occurs during the adoption leave period, the employee is entitled to be offered suitable alternative employment where this exists. The alternative offered should be no less favourable than his/her previous job with regard to location, terms, conditions and status, and he/she should have the capacity for the work.
- 17.3. If a restructuring exercise takes place whilst an employee is on adoption leave, or if redundancy is possible, the manager/head teacher must make sure that the employee is consulted and kept informed of the process. Human Resources advice should be sought at the earliest opportunity.

18. Fixed term contracts

- 18.1. Where an employee is on a fixed term contract, adoption rights apply for as long as he/she remains an employee. If the contract is due to end during the adoption

leave, the adoption leave will end at the same time as the contract of employment. However, any outstanding entitlement to SAP will continue to be paid.

- 18.2. If the contract is due to expire after the end of adoption leave, the employee is entitled to return to work until the expiry of the contract.
- 18.3. Non-renewal of a fixed term contract is a dismissal in law. It will therefore be unlawful not to renew a fixed term contract for a reason connected with adoption leave.

19. Data protection

- 19.1. When managing an employee's adoption leave and pay the Council/School processes data collected in accordance with data protection legislation. Data is held securely and accessed by and disclosed to individuals only for the purposes of managing adoption leave and pay. Inappropriate access or disclosure should be reported to the Council/school's Data Protection Officer immediately. It may also constitute a disciplinary offence which may be handled under the Council/school's disciplinary procedure.

20. Further information for employees

- 20.1. Reduced hours on return to work - You may be eligible to request to work flexibly on return from adoption leave. Please see the [Flexible Working Request Procedure](#), available on the WBC intranet/school's flexible working request procedure, for further information, or contact Human Resources. Requests to work part time following adoption leave should always be considered very carefully and agreed where operationally possible. Further advice for managers is available from Human Resources.
- 20.2. Parental leave – You may be able to extend the adoption leave by combining it with a period of unpaid parental leave. There are qualifying criteria – non-school based staff can refer to the West Berkshire Council [Additional Leave Procedure](#) for further details. School-based staff should seek advice from their head teacher or Human Resources.
- 20.3. Shared Parental Leave – You may choose to end your adoption leave early in order to share an entitlement to statutory shared parental leave (and pay if you qualify) with your partner. If you are interested in doing this, please see the [Acas guide](#) to shared parental leave. The Council has a policy on [Shared Parental Leave](#).
- 20.4. Childcare vouchers – Until 4th October 2018 West Berkshire Council operated a Childcare Scheme that enables employees to save both tax and National Insurance contributions on childcare costs. In certain circumstances an employee who took part in the scheme in the previous 12 months may be able to re-join the scheme. For more information please contact Payroll.
- 20.5. If you have additional queries, please contact Human Resources on 01635 503033 or you can visit the [Gov.uk](#) website for general information on child benefit, tax credits, and other forms of support.

Appendix A – Adoption Pay Calendar

All payments depend upon the employee meeting the qualifying requirements – see section 8 above

Week	Statutory Adoption Pay	Occupational Adoption Pay	
		Teachers	Other employees
1 – 4*	90% of average earnings or	Full pay	90% normal pay
5 – 6*	90% of average earnings or	90% normal pay	90% normal pay
7- 18	SAP	50% normal Pay	50% normal Pay
19 – 39	SAP	Nil	Nil
40 – 52	Nil	Nil	Nil

*During the first six weeks the employee will receive an amount equal to either SAP or OAP, whichever is the greater.

Appendix B – Application Form for Adoption Leave and Pay (UK Adoptions including foster to adopt arrangements)

Please complete and send this form to your manager/Headteacher, copied to Payroll. This should be done no later than seven days after the notification of the adoptive match was given to you by the adoption agency, and at least 28 days before the date on which you wish to start your adoption pay where you are eligible to receive it. If this is not reasonably practicable, e.g. if the time between matching and placement is less than 28 days, you should do this as soon as possible.

You must also provide:

Document/s from the adoption agency showing its name and address and your name and address, and the expected or actual date of placement.

The matching certificate or another official document that shows the date that you were matched with the child; for example in foster to adopt circumstances a letter from the local authority placing the child with you, confirming the date the child was matched with you.

Name:	Employee number:
Job title:	Service area/school:
Home address:	

I give notice of my intention to take statutory adoption leave to take care of a child who has been placed with me for adoption/under a foster to adopt arrangement from within the UK.	<input type="checkbox"/>
Date on which I expect the child to be placed with me/the child was placed with me:	
Date on which I intend my adoption leave and adoption pay (where I am entitled to it) to begin: <i>(this must be no more than 14 days before the child is expected to be placed and no later than the placement date)</i>	

I attach a copy of the adoption matching certificate signed by my adoption agency/documentation proving the foster to adopt arrangement, and other documentation required as set out in section five of this procedure as proof of my entitlement to statutory adoption pay (SAP) and leave.	<input type="checkbox"/>
I have elected to receive Statutory Adoption Pay and not statutory paternity pay in respect of this adoption.	<input type="checkbox"/>

For employees with more than 1 years' service, please select your choice regarding **Occupational Adoption Pay**:

I elect to receive Occupational Adoption Pay and I understand that if I receive this I will have to repay the occupational adoption pay I receive (plus NI) if I do not return to work for the period required under the adoption procedure.	<input type="checkbox"/>
I DO NOT wish to receive Occupational Adoption Pay during my adoption leave, but would like to receive any OAP due as a lump sum upon my return to work for the period required under the adoption procedure.	<input type="checkbox"/>

Signed (employee)		Date	
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(Print, sign and scan before sending electronically)

Appendix C – Application Form for Adoption Leave and Pay (Overseas Adoptions)

Please complete and send this form to your manager/Headteacher, copied to Payroll. This should be done within 28 days after the notification of the adoptive match was given to you by the adoption agency (or where you have not reached 26 weeks service, within 28 days of the date you reached 26 weeks service), and at least 28 days before the date on which you wish to start your adoption leave (or as soon as possible if this is not reasonably practicable).

You must also provide:

Document/s from the adoption agency showing its name and address and your name and address, and the expected or actual date of placement.

The matching certificate or another official document that shows the date that you were matched with the child; for example in foster to adopt circumstances a letter from the local authority placing the child with you, confirming the date the child was matched with you.

The official notification issued by or on behalf of the Secretary of State for Health confirming you are allowed to adopt from overseas and the expected date the child will arrive in the UK – you must provide this within 28 days of the notification, or within 28 days of completing 26 weeks continuous service with the Council/school – whichever is the later.

Evidence of the date the child arrived in the UK (e.g. a plane ticket) – you must provide this within 28 days within 28 days of their date of entry

Name:	Employee number:
Job title:	Service area/school:
Home address:	

I give notice of my intention to take statutory adoption leave to take care of a child who has been placed with me for adoption/under a foster to adopt arrangement from overseas.	<input type="checkbox"/>
Date on which I received official notification:	
Date on which I expect the child to enter the UK:	
Date on which I intend my adoption leave and adoption pay (where I am entitled to it) to begin: <i>(this must be no earlier than the date on which the child is due to enter the UK and no later than the placement date)</i>	

I attach a copy of the official notification of the adoption as proof of my entitlement to statutory adoption pay (SAP) and leave. I will provide evidence of the child's date of entry into the UK, within 28 days of their entry.	<input type="checkbox"/>
I have elected to receive Statutory Adoption Pay and not statutory paternity pay in respect of this adoption.	<input type="checkbox"/>

For employees with more than 1 years' service, please select your choice regarding **Occupational Adoption Pay**:

I elect to receive Occupational Adoption Pay and I understand that if I receive this I will have to repay the occupational adoption pay I receive (plus NI) if I do not return to work for the period required under the adoption procedure.	<input type="checkbox"/>
I DO NOT wish to receive Occupational Adoption Pay during my adoption leave, but would like to receive any OAP due as a lump sum upon my return to work for the period required under the adoption procedure.	<input type="checkbox"/>

Signed (employee)		Date	
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(Print, sign and scan before sending electronically)

Appendix C – Application Form for Adoption Leave and Pay (surrogacy arrangements)

At least 15 weeks before the baby’s due date you must write to your manager/Headteacher to inform them that you are the intended parent in a surrogacy arrangement and that you intend to take adoption leave, and to notify them of the due date and the date that you intend to start your leave (this can be the date the baby is born or the day after).

In addition, please complete and return this form to your manager/Headteacher, copied to Payroll, at least 28 days before the date on which you wish to start your adoption leave (or as soon as possible if this is not reasonably practicable).

Name:	Employee number:
Job title:	Service area/school:
Home address:	

Expected date of birth of the child:	
Date on which I intend my adoption leave and adoption pay (where I am entitled to it) to begin:	select

I wish to give formal notification that I am the intended parent in a surrogacy arrangement	<input type="checkbox"/>
This is my statutory declaration that within 6 months of the baby’s birth I intend to apply for a parental order and I expect the order to be granted	<input type="checkbox"/>
I have elected to receive Statutory Adoption Pay and not statutory paternity pay in respect of this adoption.	<input type="checkbox"/>

For employees with more than 1 years’ service, please select your choice regarding **Occupational Adoption Pay**:

I elect to receive Occupational Adoption Pay and I understand that if I receive this I will have to repay the occupational adoption pay I receive (plus NI) if I do not return to work for the period required under the adoption procedure.	<input type="checkbox"/>
I DO NOT wish to receive Occupational Adoption Pay during my adoption leave, but would like to receive any OAP due as a lump sum upon my return to work for the period required under the adoption procedure.	<input type="checkbox"/>

Signed (employee)		Date	
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(Print, sign and scan before sending electronically)