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Adoption/Surrogacy Leave Policy



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1. OBJECTIVE/PURPOSE

Rhondda Cynon Taf Council is committed to helping working parents. This policy provides guidance on the legislation governing Adoption/Surrogacy Leave and Pay, and information regarding the Councils Adoption/Surrogacy Leave Policy.

The purpose of the Adoption and Surrogacy leave policy is to:

- Assist with the management of leave for those who are seeking to adopt a child or have a surrogate baby
- Provide information about statutory rights
- Provide information about additional benefits the Council provides in addition to its statutory obligations

2. INTRODUCTION

Statutory regulations regarding Adoption Leave and pay were contained within the Employment Act 2002. The Employment Act introduced a right for eligible employees to take Adoption Leave and pay when adopting a child. Changes to the rules affecting adoption leave, pay and return to work will be effective with children placed on or after 1 April 2007.

There are no statutory rights to time off for parents who are seeking to have a surrogate baby; this policy affords surrogate parents the same rights as adoptive parents.

In drawing up the scheme, the Council recognises that:

- The commitments of adoptive/intended parents are the same as those of natural parents
- The scheme will assist in retaining valuable employees who would otherwise not be able to remain in employment, and
- The scheme will contribute to the Council's equal opportunities policy

3. MAIN PROVISIONS OF THE SCHEME

WHO IS ENTITLED?

The employee must have worked continuously for Rhondda Cynon Taf Council for 26 weeks leading into the week in which they are notified by the adoption agency of being matched with a child or in the case of Surrogacy leave must have worked continuously for Rhondda Cynon Taf Council for 26 weeks by the end of the 15th week before the expected date of childbirth.

The policy applies to:

- An adoptive parent of a child newly placed for adoption and intended parents who have entered in to a surrogacy agreement/arrangement. It will not apply to step - family adoption or adoption by a child's existing foster carer as these do not involve the new placement of a child or where an employee adopts a child from overseas.

N.B. Where a couple adopt jointly, the couple must decide which partner takes adoption/surrogacy adoption leave. The other partner may be entitled to Maternity Support Leave and Paternity Leave subject to meeting the eligibility criteria outlined in the Paternity Leave and Maternity Support Leave Policy.

4. ADOPTION/SURROGACY ADOPTION LEAVE

Provided eligible employees have complied with the notification procedures, (see section 5 below) they will be entitled to 52 weeks Adoption/Surrogacy Adoption Leave.

5. NOTIFICATION

5.1 Formal Adoption

Adopters will be required to inform their manager of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless it is not reasonably practicable. They will need to tell their manager:

- When the child is expected to be placed with them and
- When they want their adoption leave to start

Adopters will be able to change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable e.g. if the notification by the Adoption Agency to the adopting couple is less than 28 days).

Managers will be required to respond within 28 days, setting out the date on which they expect the employee to return to work if the full entitlement to adoption leave is taken.

Employees will have to provide their employer with documentary evidence in the form of a 'matching certificate' from their adoption agency as evidence of their entitlement to Statutory Adoption Leave (SAP). (Employees should ask their Adoption Agency for a matching certificate, which will include information on matching and placement dates).

5.2 Surrogacy Arrangement

Employees who have entered into a surrogacy agreement/arrangement must inform their manager of their intention to take surrogacy leave at least 28 days before the date they wish to take the leave.

Managers will be required to respond within 28 days, setting out the date on which they expect the employee to return to work if the full entitlement to surrogacy leave is taken.

Employees will have to provide their employer with documentary evidence to show that a surrogacy arrangement is in place, this could be confirmation from a medical practitioner, or a copy of a legal agreement.

6. EARLIEST DATE FOR COMMENCING ADOPTION/SURROGACY LEAVE

An adoptive/intended parent can choose to start their ordinary adoption/surrogacy leave from the date of placement/birth of the child (whether this is earlier or later than expected) or from a date up to two weeks before the expected date of placement/birth.

7. ADOPTION/SURROGACY PAY

Adoption/surrogacy pay can be made up of different components:

- Statutory Adoption Pay (SAP)
- Adoption Allowance (AA)
- Occupational Adoption Pay (OAP)

There is no legal entitlement to Statutory Adoption Pay for intended parents who have entered in to a surrogacy agreement/arrangement; however under this policy the Council will pay the statutory element as per adoption legal entitlements.

	Adoption/Surrogacy Pay
Employees with less than 26 weeks service leading into the week in which they are notified of being matched with a child for adoption. Or in the case of surrogacy with less than 26 weeks service by the end of the 15th week before the expected date of childbirth.	<ul style="list-style-type: none"> No entitlement to SAP but may be eligible for Adoption Allowance from the Department of Work and Pensions.
Employees with more than 26 weeks but less than one year service as per the criteria above	<ul style="list-style-type: none"> Where an individual has 26 weeks continuous employment at the time of matching/by the end of the 15th week before the expected date of childbirth, and his/her earnings are higher than the lower earnings limit for N.I. contributions s/he will be entitled to receive: <ul style="list-style-type: none"> ➤ 6 weeks at 90% average weekly pay; ➤ 33 weeks flat rate Statutory Adoption Pay (SAP) Where earnings are less than the lower earnings limit for NI contributions, s/he will be entitled to receive the above payments but benefits from the Department of Work and Pensions will be deducted.
Employees with more than one year service	<ul style="list-style-type: none"> Where an individual has more than 1 year continuous service at the time of matching/by the end of 15th week before the expected date of childbirth, and his/her earnings are higher than the lower earnings limit for NI contributions, she/he will be entitled to receive: <ul style="list-style-type: none"> ➤ 6 weeks at 90% earnings. ➤ 12 weeks half pay and flat rate Statutory Adoption Pay (SAP) Pay (SAP) for weeks 7-18 of the Adoption Leave period, providing it does not exceed normal full pay. <ul style="list-style-type: none"> ➤ 21 weeks at flat rate SAP ➤ If not returning to work for a minimum of 3 months then any monies received in excess of SAP during weeks 7-18 will be recoverable. Where earnings are less than the lower earnings limit for NI Contributions, he/she will be entitled to receive the above payments but benefits from the Department of Work and Pensions will be deducted.

8. RETURN TO WORK AFTER ADOPTION/SURROGACY LEAVE

It will be assumed that an employee will be returning at the end of adoption/surrogacy leave as previously indicated. If an employee wishes to return earlier than either of these dates they must give 8 weeks notice.

Should an employee wish to change the date of return from adoption/surrogacy leave, then notification must be provided at least 8 weeks in advance of the change.

N.B. If an employee is unable to return to the same job which s/he held prior to the Adoption/Surrogacy Leave, s/he should be offered an alternative job which is the same grade and broadly similar in duties to his/her previous post. As with any other employee s/he should be consulted on any changes to his/her job, whether they are due to an internal restructuring of the Division or reorganisation prior to the change actually taking place. Similarly any potential redundancy situation should be discussed with the employee with a view to possible redeployment, again prior to the actual situation arising.

9. PROTECTION FROM DETRIMENT AND DISMISSAL

Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take Adoption/Surrogacy Leave. Employees who believe they have been treated unfairly for reasons related to the adoption leave process will be able to complain to an Employment Tribunal.

10. REDUNDANCY

If an employee's post becomes redundant during his/her Adoption/Surrogacy Leave Period, s/he must be offered suitable alternative employment before his/her original contract ends. The new contract must not be less favourable than the original in terms of conditions of service, capacity and location.

If the employee turns down any suitable alternative employment then s/he may be fairly dismissed as long as the service area can show that it acted fairly and took adequate steps to find alternative work.

11. PENSION CONTRIBUTIONS

Under the Local Government Pension Scheme, pension contributions are payable for the first 39 weeks on the remuneration and Statutory Adoption/Surrogacy Pay actually received during the period of the paid adoption absence.

Should the adoption/surrogacy leave extend beyond 39 weeks into unpaid leave, it is up to individual employees to determine whether they pay pension contributions on the unpaid Adoption/Surrogacy Leave period.

Further information is available from Human Resources and/or Pension Section.

12 ASSISTED CAR PURCHASE AGREEMENT

Arrangements should be made with the employee to recover payments during his/her period of Adoption/Surrogacy Leave.

13. MATERNITY SUPPORT LEAVE

Maternity Support Leave of 5 days shall be granted to the child's adoptive mother or father, intended mother or father or the partner or nominated carer of an adoptive parent or intended parent at or around the time of adoption/or placement of the surrogate child. The five days will be at full pay.

14. PATERNITY LEAVE

Paternity Leave is available for adopters/intended fathers in accordance with the Paternity Leave Policy.

15. ANNUAL LEAVE AND BANK HOLIDAYS

An employee will continue to accrue annual leave entitlement during periods of Adoption/Surrogacy Leave.

This will also apply to any bank holidays that fall within the period of his/her Adoption/Surrogacy Leave. Individuals on Adoption/Surrogacy Leave, which covers a bank holiday, will be entitled to normal pay for that day. However, they will not receive an extra day's leave entitlement following their return to duty.

Instead, the Council will ensure that any employee on Adoption/Surrogacy Leave will receive normal pay for bank holidays that fall within the Adoption/Surrogacy Leave Period. This will vary depending on what scheme the individual has chosen.

For example:

1. An individual is currently receiving 90% of pay in accordance with the Adoption/Surrogacy policy.

Should a bank holiday occur during this period they will be reimbursed the difference between what they are receiving under the Adoption/Surrogacy Leave Scheme and their normal pay i.e. 10% of normal pay).

2. An individual is currently receiving half pay plus Statutory Adoption Pay in accordance with the Adoption/Surrogacy Policy.

Should a bank holiday occur during this period they will be reimbursed the difference between what they are receiving under the Adoption/Surrogacy Scheme and their normal pay.

3. An individual is currently receiving Statutory Adoption Pay only in accordance with the Adoption/Surrogacy Scheme.

Should a bank holiday occur during this period they will be reimbursed the difference between what they are receiving under the Adoption/Surrogacy Scheme and their normal pay.

An employee has determined to take a period of extended unpaid Adoption/Surrogacy Leave.

Should a bank holiday occur during that period the individual would be reimbursed a day's normal pay.