

# HUNTINGDONSHIRE REGIONAL COLLEGE

## ADOPTIVE PARENTS – RIGHT TO LEAVE AND PAY POLICY

This policy only covers the leave and pay rights where a child is matched and placed for adoption within the UK. The measures will also be available where a child is adopted from overseas, although the detailed operation of the scheme will differ slightly for practical reasons. Further guidance on the rights in cases in inter-country adoptions will be available in due course.

The rights to adoption and paternity leave and pay entitle eligible employees to take paid leave when a child is newly placed for adoption. **Adoption leave and pay** are available to:

- Individuals who adopt
- One member of a couple where a couple adopt jointly (the couple must choose which partner takes adoption leave)

The partner of an individual who adopts, or the other member of couple who are adopting jointly, may be entitled to **paternity leave and pay**.

### Start Dates

Both paid adoption leave and paid paternity leave are available to employees where an adoption agency notifies the adopter of a match with a child on or after 6 April 2003.

Both adoption and paternity leave and pay are also available to employees where an adoption agency notifies the adopter of a match with a child before 6 April 2003, but the child is placed on or after 6 April 2003 (special notice arrangements will apply).

### Adoption Leave and Pay

#### Eligibility

To qualify for adoption leave, an employee must:

- Be \*newly matched with a child for adoption by an adoption agency
- Have worked continuously for their employer for 26 weeks ending with the week in which they are notified of being matched with a child for adoption.

\*Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's child.

### Length of Adoption Leave

Adopters are entitled to up to 26 weeks ordinary adoption leave (OAL) followed immediately by up to 26 weeks additional adoption leave (AAL) – a total of 52 weeks leave. OAL is paid at the Statutory Adoption Pay Rate, and AAL is unpaid leave.

Leave can start on any day of the week.

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement ends during the adoption leave period, the adopter can continue adoption leave for up to eight weeks after the end of the placement.

### **Statutory Adoption Pay**

During their adoption leave, most adopters are entitled to Statutory Adoption Pay (SAP) from the College.

SAP is paid by the College for up to 26 weeks. The rate of SAP is the same as the standard rate of Statutory Maternity Pay – from April 2006, this will be £108.85 a week or 90% of average weekly earnings if this is less than £108.85.

Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions (£75 a week from April 2002) do not qualify for SAP. They should contact their adoption agency as they may be able to receive financial support in relation to their adoption payment. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from your local Job Centre Plus or Social Security Office.

### **Notice of Intention to Take Adoption Leave**

Adopters are required to inform the Human Resources Office 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 this is not reasonably practicable. They need to tell Human Resources:

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

Adopters can change their mind about the date on which they want their leave to start providing they inform Human Resources at least 28 days in advance (unless this is not reasonably practicable). They must tell Human Resources the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

The College has 28 days in which to respond to their employees' notification of their leave plans. The College will write to the employee setting out the date on which they expect the employee to return to work if the full entitlement to adoption leave is taken.

### **Matching Certificate**

Employees must give Human Resources documentary evidence from their adoption agency as evidence of their entitlement to SAP. The College will request this document as evidence of entitlement. Employees should ask their adoption agency for this documentary evidence, which may be provided in the form of a matching certificate which includes basic information on matching and expected placement dates.

## **Contractual Benefits**

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary throughout their 26 week **ordinary adoption leave** period. During **additional adoption leave**, the employment contract continues and some contractual benefits and obligations remain in force, for example compensation in the event of redundancy and notice periods.

## **Return to Work After Adoption Leave**

Adopters who intend to return to work at the end of their full adoption leave entitlement do not have to give any further notification to the College.

Adopters who want to return to work **before** the end of their adoption leave period, must give the College 28 days notice of the date they intend to return.

## **Protection from Detriment and Dismissal**

Employees are protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Employees who believe they have been treated unfairly can complain to an employment tribunal.

## **Employers Recovery of Payments**

The College can recover the amount of SAP they pay out in the same way as they can claim Statutory Maternity Pay. The College can claim 92% of the payments they make. In addition the College can get funding in advance for payments of SAP from the Inland Revenue.