



ADOPTION LEAVE POLICY (adoption from overseas)

This policy should be used to guide Managers and employees in relation to employees' entitlement to adoption leave and pay where the adoption is from overseas and the child enters Great Britain on or after 3rd April 2011

Our objectives:

This policy sets out the statutory rights and responsibilities of employees of Boston Borough Council who wish to take adoption leave.

We recognise that, from time to time, employees may have questions or concerns relating to their rights. It is our policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As these provisions are complex, employees should clarify the relevant procedures with their Line Manager or People Services to ensure that they are followed.

This procedure applies to all employees of Boston Borough Council.

Principles

This policy incorporates the following principles.

- **Good faith**
This policy and procedure will be applied in a consistent manner and without discrimination.
- **Fairness**
Any action taken will be reasonable and necessary. Members of staff involved are entitled to be heard with courtesy and respect.
- **Confidentiality**
Information relating to Adoption Leave will only be shared with individuals who have a need to know.
- **Representation**
If issues arise within these procedures and a formal approach is required to deal with them, employees will be entitled to be accompanied by a trade union representative or by a work colleague.

Version History

| Version | Author | Reason For Issue |
|----------------|-----------------|---|
| 2004 | People Services | Review of 1998 policy |
| June 2005 | People Services | Review of 2004 policy |
| April 2007 | People Services | Review of 2005 policy |
| August 2012 | People Services | Review of 2007 policy and change to legislative entitlements for adoption post 3 April 2011 |

Document Distribution

| Name | Role |
|-------------|--|
| JCC | For consideration of amendments for policy |
| CMT | For approval of amendments to policy |
| SMT | For implementation. |
| All staff | Revised scheme/ staff benefit. |

Document References

| Reference | Document Title |
|------------------|---|
| Appendix A | Use this form to provide notification of your intention to take adoption leave (adoption from overseas) - part one |
| Appendix B | Employees should use this form when adopting a child from overseas to notify the Council of their intention to take adoption leave. - part two |
| Appendix C | Employees should use this form to provide notification of an intention to take adoption leave (adoption from overseas) - part three |
| Appendix D | You should use this form to vary the start date of your adoption leave. |
| Appendix E | Employees should use this form indicate that they have elected to receive statutory adoption pay and not statutory paternity pay in relation to an adopted child (adoption within the UK) |

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GLOSSARY OF TERMS

| | |
|-----|---------------------------|
| AAL | Additional Adoption Leave |
| KIT | Keeping in touch |
| OAL | Ordinary Adoption Leave |
| SAP | Statutory Adoption Pay |

1. Introduction

Boston Borough Council recognises that, from time to time, employees may have questions or concerns relating to their rights on adoption leave. It is our policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the adoption provisions are complex, if you need further advice, you should clarify the relevant procedures with either your manager or People Services to ensure that they are followed correctly.

2. When am I eligible for statutory adoption leave and pay?

If you adopt a child from overseas and have received "official notification" in respect of that child you are entitled to a period of adoption leave provided that you have at least 26 weeks' continuous service, ending with the week in which the official notification was received or starting with the week in which your employment with the Council began.

3. What counts as an "Official Notification"?

An official notification is defined as written notification, issued by or on behalf of the "relevant domestic authority", that it is prepared to issue, or has already issued and sent, a certificate to the overseas authority concerned with the child's adoption, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The relevant domestic authority is defined as the Secretary of State, except in the case of an adopter to whom the Intercountry Adoption (Hague Convention) Regulations 2003 apply and who is habitually resident in Wales, in which case it is the National Assembly for Wales, or one to whom the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 apply and who is habitually resident in Scotland, in which case it is the Scottish Ministers.

4. What is my entitlement to adoption leave?

Your entitlement is to take up to 26 weeks' ordinary adoption leave (OAL) followed immediately by up to 26 weeks' additional adoption leave. The employee's maximum entitlement is thus to take up to 52 weeks' adoption leave. All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave subject to their following the correct notification procedures as set out below.

5. Who qualifies for statutory adoption pay and how much will I receive?

If you qualify for adoption leave, you will also qualify for statutory adoption pay (SAP) provided that your average weekly earnings are not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

Employees should use Appendix E to indicate if they have elected to receive statutory adoption pay and not statutory paternity pay in relation to an adopted child (adoption within the UK)

6. Do I have to pay tax and National Insurance on adoption pay?

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

7. What happens to my pension and other contributions and benefits if I take unpaid leave?

Where staff take a period of unpaid leave they should be aware that no voluntary contributions will be made on their behalf e.g. Westfield Health Scheme or Trade Union membership deductions. Alternative arrangements are the responsibility of the employee to make for this time, although People Services/Payroll will help where possible.

During the period of OAL and AAL, your contract of employment continues in force and you are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as laptop, mobile phone) will continue, the use of which is subject to the relevant policies.

During any OAL, you pay your normal contribution rate on whatever pay you receive. If you are on less than your normal pay, or even not paid, your membership still builds up as usual. So there is no effect on your pension benefits.

During any paid AAL, you pay your normal contribution rate on whatever pay you receive. Even if this is less than your normal pay, your membership still builds up as usual, so there is no effect on your pension benefits.

During periods of unpaid AAL you will only pay contributions if you choose to. You have 30 days from returning to decide and the cost is your normal contribution rate of the last pay you received. If you choose not to, you will not build up any membership for this period, and this will affect your pension benefits.

We will continue, as your employer, to pay pension contributions whether or not you receive any pay during the OAL pay period and these will be based on what you would have been earning had you been working normally.

During periods of unpaid AAL you will only pay contributions if you choose to. You have 30 days from returning to decide and the cost is your normal contribution rate of the last pay you received. If you choose not to, you will not build up any membership for this period, and this will affect your pension benefits.

No contributions will be payable by either the employer or yourself during any period of no pay in the AOL period.

8. When can I commence adoption leave?

Adoption leave can start on the day on which the child enters Great Britain or on a chosen date no later than 28 days after the child enters Great Britain.

In order to make administration as easy as possible, you should discuss the timing of your adoption leave with your immediate manager as early as possible. You should appendices A, B and C to as appropriate to make the required notifications to the Council.

9. What notice do I need to give to take Adoption Leave?

In order to be entitled to take adoption leave and receive statutory adoption pay, you are required to give the Council written notification of your intention to take adoption leave. No later than 28 days after the date you receive the official notification, or the date on which you complete 26 weeks' continuous service with the Council (whichever is later), [or if that is not possible, as soon as is reasonably practicable.](#) ~~You-you~~ must give notice of both the date the official notification was received and the date the child is expected to enter Great Britain. Use Appendix A for this notification.

At least 28 days prior to the date that you have chosen as the beginning of your adoption leave period, you must give notice of the chosen start date, and a declaration that you have chosen to receive statutory adoption pay and not statutory paternity pay (adoption), [or if that is not possible, as soon as is reasonable practicable.](#) You must also produce a copy of the official notification. Use Appendix B for this notification.

Within 28 days of the child's entry into Great Britain you must inform the Council of the date of entry and provide evidence of this date in the form of a plane ticket or copies of entry clearance documents. Use appendix C for this notification.

10. Can I change my adoption leave start date?

You are permitted to bring forward your adoption leave start date, provided that you advise the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. You may also postpone your adoption leave start date, provided that you advise the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. Please use Appendix D to make this notification.

Any failure to give proper notice of an intention to start adoption leave will be regarded as a disciplinary offence, leading potentially to disciplinary sanctions for misconduct if appropriate.

Within 28 days of receiving your notice of the date on which you intend to begin your adoption leave, the Council will write to you confirming the latest date on

which you must return to work after adoption leave. Where you have provided notice of a revised start date, within 28 days of the date on which the your adoption leave period began, the Council will write to you confirming the latest date on which you must return to work after adoption leave.

11. What are my rights during adoption leave?

During ordinary adoption leave and additional adoption leave, all terms and conditions of your contract except normal pay will continue. Salary will be replaced by statutory adoption pay if you are eligible to receive it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid.

12. What about my annual leave whilst I am on adoption leave?

Adoption leave is granted in addition to your normal annual holiday entitlement.

Contractual annual leave entitlement will continue to accrue whilst you are on leave; you are therefore encouraged to take any outstanding annual leave due to you before the commencement of adoption leave. You are reminded that holiday must be taken in the year that it is earned and therefore if the holiday year is due to end during adoption leave, you should take your outstanding entitlement before starting your paternity leave.

13. What contact will the Council make during my adoption leave?

Shortly before your adoption leave starts the Council will discuss the arrangements for you to keep in touch during your leave, should you wish to do so. The Council reserves the right in any event to maintain reasonable contact with you from time to time during you adoption leave, this will include sending you details of vacancies within the authority. This may also be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

14. What are Keeping-in-touch (KIT) days?

You can agree to work for the Council (or to attend training) for up to 10 days during your adoption leave without that work bringing your adoption leave to an end and without loss of a week's statutory adoption pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

The Council has no right to require you to carry out any work and you have no right to undertake any work during your adoption leave. Any work undertaken is entirely a matter for agreement between employees and the Council. Pay for each KIT day worked will be paid at your current hourly rate less the total amount of any SAP due on that date. The amount of weekly pay for a week in which you

worked a KIT day will not be lower than the weekly rate of SAP to which you are entitled.

15. What do I do about returning to work?

You may return to work at any time during ordinary adoption leave or additional adoption leave, provided that you give the appropriate notification. Alternatively, you may take your full period of adoption leave entitlement and return to work at the end of this period. If you wish to return before the full period of adoption leave has elapsed, you must give at least eight weeks' notice in writing to the Council of the date on which you intend to return.

16. Will I return to my previous job?

You have the right to resume working in the same job if returning to work from OAL. If you return to work after a period of AAL, you are entitled to return either to the same job, or if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

17. What if I can't return on the date I am due back?

Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless you are sick and produce a current medical certificate before the end of the adoption leave period.

If you decide during adoption leave that you do not wish to return to work, you should give written notice of resignation to the Council as soon as possible and in accordance with the terms of your contract of employment.

18. Transfer of adoption leave

If you propose to return to work by giving proper notification, your spouse, civil partner or partner may be eligible to take up to 26 weeks' additional adoption leave (and additional statutory adoption pay) once you have returned to work.

The earliest that additional adoption leave may commence is 20 weeks after the date on which the adopted child enters Great Britain and it must end 12 months after the date of entry. The minimum period of additional adoption leave is two consecutive weeks and the maximum period is 26 weeks.

Further details should be obtained from your spouse or partners employer in this circumstance. You would be required to submit a written and signed declaration form to that employer, which may also make additional enquiries of the Council to verify its employee's entitlement to additional adoption leave and pay.

APPENDIX A

Use this form to provide notification of your intention to take adoption leave (adoption from overseas) - part one

| | |
|---|--|
| Name of Employee (please print) | |
| Department | |
| Date of commencement of employment | |
| I hereby give notice that I intend to take adoption leave in relation to a child adopted from overseas in respect of whom I have received an official notification. | |
| The date on which I received the official notification is: | |
| The date on which I received the official notification is : | |
| Signed | |
| Dated | |
| <p>You should notify you manager of your intention to take Adoption leave and discuss the applicable dates.</p> <p>To qualify for adoption leave, you must then return this notice form to People Services no later than 28 days after you received the official notification or, if you received the official notification before commencing work for the Council, no later than 28 days after the date you completed 26 weeks' continuous employment with the Council</p> | |

APPENDIX B

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Employees should use this form when adopting a child from overseas to notify the Council of their intention to take adoption leave. - part two

| | |
|--|--|
| Name of Employee (please print) | |
| Department | |
| Date of commencement of employment | |
| I hereby give notice that I wish my adoption leave to start on | |
| I have already informed the Council of the date that I received the official notification and of the date that the child is expected to enter Great Britain. | |
| | |
| Signed | |
| Dated | |
| You should notify you manager of your intention to take Adoption leave and discuss the applicable dates. To qualify for adoption leave, you must then return this notice form to People Services no later than 28 days prior to the date that you wish your adoption leave to begin | |

APPENDIX C

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Employees should use this form to provide notification of an intention to take adoption leave (adoption from overseas) - part three

| | |
|--|--|
| Name of Employee (please print) | |
| Department | |
| Date of commencement of employment | |
| I hereby give notice that the child in relation to whom I am taking adoption leave entered Great Britain on : | |
| Signed | |
| Dated | |
| <p>You should notify your manager of your intention to take Adoption leave and discuss the applicable dates.</p> <p>To qualify for adoption leave, you must then return this notice form to People Services no later than 28 days after the date on which the child entered Great Britain.</p> | |

APPENDIX D

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You should use this form to vary the start date of your adoption leave.

| | |
|---|--|
| Name of Employee (please print) | |
| Department | |
| Date of commencement of employment | |
| I previously notified you that I wished to commence my adoption leave on | |
| I now wish to vary this date. Instead of commencing my adoption leave on the above date, I would like to start my leave on | |
| | |
| Signed | |
| Dated | |
| <p>You should notify you manager of your intention to take Adoption leave and discuss the applicable dates.</p> <p>Please then return this form to People Services at least 28 days prior to the new date on which you wish your adoption leave to commence</p> | |

APPENDIX E

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Employees should use this form indicate that they have elected to receive statutory adoption pay and not statutory paternity pay in relation to an adopted child (adoption within the UK)

| | |
|--|--|
| Name of Employee (please print) | |
| Department | |
| Date of commencement of employment | |
| I previously notified you that I wish to take adoption leave commencing on [date]. In relation to the child that I am adopting I confirm that I have elected to receive statutory adoption pay and not statutory paternity pay (adoption). | |
| Signed | |
| Dated | |
| You should return this form to Payroll by the 6 th of the month before your leave is due to commence where at all possible. Where this is not possible you should return it at the earliest reasonable date. | |

This policy has been agreed by Boston Borough Council and the Trade Union representatives for the workforce at Joint Consultative Committee.

Signed: Date:

Signed: _____ Date: _____

Chief Executive

Signed: Date: _____

UNISON Branch Secretary

Signed: Date: _____

|

|

GMB Representative:

