

**REVISED ADOPTION LEAVE AGREEMENT
(Teaching Staff, Music Instructors, Education Support Officers, Quality Improvement Officers and Educational Psychologists)**

1. DEFINITIONS

- 1.1 **Matching Certificate** – in the adoption of a child/ren from the United Kingdom, this is issued by the Adoption Panel, once a decision has been taken to match a child/ren with a prospective adopter. You must submit this certificate to the Council in order to be eligible for SAP (it is issued within 12-14 days of the Adoption Panel meeting by the Adoption Agency for the child/ren). In some circumstances a letter from the adoption agency may be provided in the first instance but the Matching Certificate is normally required to be provided to the Council within 4 weeks. In the case of the adoption of a child from overseas, the Scottish Government will issue a certificate.
- 1.2 **Adoption Pay Period** is the period of Adoption leave (up to a maximum of the first 39 weeks) during which you may receive Adoption payments (subject to certain conditions).
- 1.2 **Partner** is the spouse, civil partner or partner of the adoptive parent
- 1.3 **Nominated carer** is the person nominated by the person taking adoption leave to assist in the care of the child and to provide support to her/him.
- 1.4 **Post** for this purpose means the nature of the work which you are employed to do and the capacity and place in which you are employed.
- 1.5 **Statutory Leave** is annual leave that is accrued during your period of Adoption Leave up to a maximum of 28 days which must be taken immediately after your period of Adoption Leave.
- 1.6 **Occupational Leave** is annual leave that is accrued during your period of Adoption Leave above your Statutory Leave entitlement.
- 1.7 **Continuous Service** is defined as any previous employment with councils, employers listed in the Redundancy Payment (Local Government) (Modification Order 1990) (as amended) and any other employment deemed by the council to be relevant, shall be counted as continuous service (as defined in the Employment Rights Act 1996) subject to a gap in employment not exceeding one working week.

2. ADOPTION LEAVE

All permanent and fixed term employees, regardless of length of service or the hours worked, will be entitled to 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave.

2.1 **Ordinary Adoption Leave**

Ordinary Adoption Leave may begin from the date of the child's placement or from a fixed date up to 14 days before the expected date of placement.

2.2 Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.

2.3 Where a couple jointly adopts a child, the couple must choose one person to take the adoption leave.

2.4 During Ordinary Adoption Leave, your contract of employment continues (unless it comes to an end for some other reason, e.g. end of fixed term contract) and you are entitled to the benefit of your normal terms and conditions of employment (see 'Other Benefits'), except for pay. For entitlement to Adoption Pay, please see 'Section 5: Adoption Pay Entitlement'.

2.5 **Additional Adoption Leave**

You are also entitled to Additional Adoption Leave. You may choose the length of Additional Adoption Leave, up to a maximum of 26 weeks. Any Additional Adoption Leave must be taken immediately after Ordinary Adoption Leave.

2.6 During Additional Adoption Leave your employment contract continues (unless it comes to an end for some other reason, e.g. end of fixed term contract).

3 QUALIFYING CONDITIONS

3.1 In accordance with National Conditions of Service, Adoption Leave will be granted if you meet all the following conditions:

3.1.1 You must inform your Line Manager and Human Resources in writing of your intention to take Adoption Leave within 7 days of being notified by your adoption agency that you have been matched with a child for adoption (where this is reasonably practicable).

The notification must include, for the adoption of a child from the UK:

- the expected date of placement
- a matching certificate from the adoption agency (a letter may suffice initially)
- the date you wish Adoption Leave to start.

3.1.2 If you are adopting a child from overseas, you need to inform your Line Manager and Human Resources in writing of your intention to take Adoption Leave within 28 days, where possible, of receiving official notification of the impending placement and provide the date on which the child is expected to enter Great Britain. Adoption Leave and Pay cannot start until the child has entered Great Britain. You must tell Human Resources the date the child actually entered Great Britain. You must do this within 28 days of the child's date of entry. You will need to provide evidence of the entry date. This could be by means of a copy of a passport stamp or a visa.

3.2.1 If you wish to change the date on which your Adoption Leave starts you must give the Council 28 days' written notice, where this is reasonably practicable.

- 3.2.2 The Council will respond in writing, within 28 days, to your notification to change the start date of adoption leave and it will also state the latest date on which you are expected to end adoption leave.

4. NOTIFICATION OF PLACEMENT

- 4.1 You must inform the Council of the date the placement commenced as soon as is practicable.
- 4.2 Should a placement not begin as expected, you must inform the Council of this at once. If you have already started your Adoption Leave, depending on the circumstances, it may be necessary for your leave to come to an end within 28 days.

5. ADOPTION PAY ENTITLEMENT

5.1 Adoption Pay Entitlements for Employees with less than 26 weeks' continuous service

- 5.1.1 If you have less than 26 weeks' continuous service prior to the week in which you are notified of being matched with a child for adoption you will have no entitlement to Occupational Adoption Pay (OAP) or to Statutory Adoption Pay (SAP). If you cannot get SAP, the Council will complete form SAP1, non-payment of Statutory Adoption Pay, and send it to you with the reason for no SAP being paid.
- 5.1.2 You may be eligible in certain circumstances for an Adoption Allowance. This is paid by the adoption agency. Some Councils who are overseeing the adoption process may pay an Adoption Allowance.

5.2 Adoption Pay Entitlements for Employees with more than 26 weeks' continuous service

- 5.2.1 If you have at least 26 weeks' continuous service prior to the week in which you are notified of being matched with a child for adoption you will be entitled to:
- 13 weeks at full pay (consisting of Occupational Adoption Pay and Statutory Adoption Pay).
 - 26 weeks' of Statutory Adoption Pay (SAP is paid at the weekly standard rate or 90% of your average weekly earnings, whichever is less, provided your average weekly earnings are not less than the lower earning limit for National Insurance contributions liability).
- 5.2.2 Any further Additional Adoption Leave, i.e. weeks 40 to 52, will be unpaid.
- 5.3 If you return to work, other than for 'Keeping in Touch' Days, before the end of your full Adoption Leave period then your Adoption leave and Adoption pay ceases and your accrued annual leave will be recalculated accordingly. You will receive your normal salary from the date of your return to work.

6. ADOPTION SUPPORT LEAVE AND PAY

- 6.1 Adoption Support Leave of one week, with normal pay, will be granted to the spouse or partner or nominated carer of someone taking adoption leave at or around the time of the placement.

- 6.2 Adoption Support Leave can be taken from the date of the child/children's placement for adoption or from another date after the placement for adoption, but within 56 calendar days of the placement.
- 6.3 In addition to adoption support leave described above, an employee who is the spouse or partner or civil partner of a person taking adoption leave and who has at least 26 weeks' continuous service at the start of the notification week is entitled to a week of Ordinary Paternity Leave, paid at Statutory Paternity Pay rate. (See the *MNCT Paternity Leave Policy* for more details). Please note Ordinary Paternity Leave must be taken immediately after Adoption Support Leave where both are taken.

7. REASONABLE CONTACT

- 7.1 Under the regulations, an employer and employee are allowed to make reasonable contact during Adoption Leave to discuss such issues as return to work, significant workplace developments and training opportunities. Such contact will not bring your Adoption leave period to an end. (See also 'Keeping in Touch' Days in Section 18.)

8. RETURNING FROM ADOPTION LEAVE

- 8.1 You have the right to return to the post in which you were employed under your original contract of employment and on terms and conditions not less favourable than those which would have been applicable if you had not been absent on Adoption Leave.
- 8.2 It will be assumed that you will return from Adoption Leave at the end of the 52 weeks' Adoption Leave to which you are entitled. If you wish to return earlier you must give your Line Manager and Human Resources at least 28 days' notice in writing of the date on which you intend to return.
- 8.3 The Council may postpone your return to work from Adoption Leave for a period of up to 28 days if you fail to give the required notice. The postponement cannot go beyond the date you originally indicated that your Adoption Leave would end.
- 8.4 With the exception of 'Keeping in Touch' Days, if you return to work for all or part of any week during the Adoption pay period (i.e. up to the first 39 weeks of Adoption Leave) you shall not receive Statutory Adoption Pay for the whole of that week.
- 8.5 Where it is not practicable, by reason of redundancy, for the Council to permit you to return to your post, you are entitled to be offered a suitable alternative vacancy where one exists.
- 8.6 Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (e.g. a general reorganisation) in line with what would have occurred had you not been on Adoption Leave and where these circumstances necessitate a change in the post in which you were employed prior to your leave commencing.
- 8.7 If you are employed on a fixed term basis you will not have the right to return to your previous post where your contract would have expired during the Adoption Leave period but you will be entitled to all other provisions, provided you meet the criteria (where these are stated).

9. TERMINATION OF PLACEMENT

- 9.1 Where the adoption placement ends, for any reason (including the death of the child), during the adoption leave period, you require to notify the Council, as soon as possible, normally within 7 days of the placement ending.
- 9.1.1 Where the adoption placement ends within the first 26 weeks of Adoption Leave, you will be entitled to remain absent from work until the end of the 26 week period. Your Occupational Pay or Statutory Adoption Pay will continue, as appropriate, during this period
- 9.1.2 Where the adoption placement ends after the 26th week of Adoption Leave you will be entitled to remain absent on Adoption Leave for up to 8 weeks after the end of the placement or until the end of the Adoption Leave, whichever is sooner. Your Statutory Adoption Pay will end 8 weeks after the end of the SAP week the placement ended, if SAP was not due to end earlier.
- 9.2 If you wish to return earlier than the periods indicated above in this section, you must give your Line Manager and Human Resources at least 28 days' notice in writing of the date on which you intend to return.
- 9.3 The Council may postpone your return to work from Adoption Leave for a period of up to 28 days if you fail to give the required notice. The postponement cannot go beyond the date you originally indicated that your Adoption Leave would end or beyond 52 weeks after the Adoption Leave started.

10. GENERAL INFORMATION

Pre- adoption Meetings

- 10.1 You have a right to reasonable time off work, with pay, for pre-adoption meetings and placement planning meetings etc provided that you show evidence of your appointment(s) to your Line Manager. This right is irrespective of length of service or hours of work.

11. ILL HEALTH

- 11.1 If you are absent due prior to your Adoption leave starting, normal Sick Leave and Sick Pay entitlements will apply.
- 11.3 If you are sick during Adoption Leave the period shall not be treated as Sick Leave nor will Sick Pay be applicable, as Adoption Leave takes precedence.
- 11.4 If you are unable to return to work because of sickness, either after the Adoption Leave period has ended or at an earlier date previously notified as the return date, you must follow normal sickness absence notification and certification procedures. Sickness Allowances will be paid.

12. ACCRUAL OF ANNUAL LEAVE DURING ADOPTION LEAVE

- 12.1 Annual leave will accrue during the period of Ordinary and Additional Adoption Leave.

- 12.2 A teacher or music instructor will accrue annual leave in accordance with Section 5, paragraphs 5.3 to 5.5, in *The SNCT Conditions of Service Handbook* during the period of Adoption Leave. The annual leave of a full time teacher or music instructor is the balance of days beyond the working year of 195 days and excluding Saturday and Sundays and 'days of school closure'. Public holidays are included in this entitlement as is the Statutory Leave of 28 days. Assuming you will take your full leave entitlement of 52 weeks you will accrue 40 days' leave entitlement. (This entitlement will be adjusted for those taking a proportion of the full Adoption Leave entitlement or for those working part-time).
- 12.3 Education Support Officers, Quality Improvement Officers and Educational Psychologists will accrue leave, in accordance with their Annual Leave Conditions of Service, during the period of Adoption Leave. (See *SNCT Handbook*, Section 5, paragraphs 5.12 to 5.15)
- 12.4 Adoption Leave shall either fall within one leave year or span two leave years. Statutory Leave accrued (maximum of 28 days for a leave year) will be provided by the Council and you must take any such leave accrued for each leave year spanned by your period of Adoption Leave.
- 12.5 If your Adoption leave spans two leave years, you shall receive at the end of the first year a statement which indicates the leave taken to the commencement of the Adoption Leave, the leave accrued during the Adoption period in that leave year (contractual entitlement minus leave taken) and the balance to be carried forward.
- 12.6 When you notify the Council of your intended date of return, the Council will issue a statement of your annual leave entitlement effective at that date, including any accrued Statutory Leave which will require to be taken, in that leave year (where possible) on your return from Adoption Leave.
- 12.7 Where it is not practicable to take that accrued Statutory Leave in full or in part, any balance will be carried forward into the next leave year but must be taken as leave. The timing of this leave shall take account of the needs of the service.
- 12.8 In the case of teachers and music instructors Statutory Leave accrued should normally be taken in the term in which the return to work takes place or within the following term; in the case of Education Support Officers, Quality Improvement Officers and Educational Psychologists such leave accrued should normally be taken as soon as possible following the return to work.
- 12.9 In each leave year any days beyond the accrued statutory days (the former are known as occupational leave days) which accrue from the commencement of the period of Adoption Leave for teachers and music instructors can be directed to be taken during days of school closure. For this, payment is arranged in accordance with Section 5, paragraph 5.7 of *The SNCT Handbook of Conditions of Service* and each day of leave paid in accordance with Section 1, Pay, paragraph 1.8 of *The SNCT Handbook*.
- 12.9.1 Should this direction occur, and occupational leave remain thereafter, it may
- be taken as pay in lieu of leave and paid at your normal rate of pay in the next available pay run after your Adoption Leave period concludes and any days of school closure have been taken. (Please note the leave payment in lieu is not superannuable); or

- be taken as paid leave in the term in which the return to work takes place or within the following term with agreement of your Head Teacher / Line Manager; or
 - be taken as combination of both payment and leave with agreement of your Head Teacher / Line Manager.
- 12.10 Where utilising days of school closure is not possible or is considered inappropriate the options available are as described in 12.9.1 above.
- 12.11 All options are subject to agreement with the Head Teacher / Line Manager in considering the continuity of learning within the school.
- 12.12 In the case of Education Support Officers, Quality Improvement Officers and Educational Psychologists, occupational leave should normally be taken as soon as possible following the return to work.
- 12.13 In order to manage the arrangement and to allow for staffing arrangements to be planned it is essential that you discuss with your Head Teacher / Line Manager during the accrued 28 day Statutory Leave period - or the appropriate proportion thereof - your intention as to how you plan to utilise the 12 day occupational leave entitlement or the proportion thereof.
- 12.14 If you give written notice to the Council that you do not intend to return to work at the end of your Adoption Leave period, the Council will make payment in lieu of leave accrued up until your date of resignation, in accordance with Section 5, paragraph 5.8, of *The SNCT Handbook*. This calculation of accrued leave may be different to that previously provided in your original entitlements' letter.

13. PENSION

- 13.1 Pension contributions shall continue to be deducted at the normal rate for teachers during any period of paid Adoption Leave. Any period of unpaid Adoption Leave shall result in a break in service for pension purposes for those in the Teachers' Scheme. For employees who are in the Local Government Pension Scheme (Lothian Pension Fund), on returning to work after Adoption Leave you should contact the Payroll Section to advise whether you wish to pay the shortfall of pension and therefore eliminate the break in service.

14. CONTINUITY OF SERVICE

- 14.1 All authorised Adoption Leave will be regarded as continuous service whilst you remain in employment with Midlothian Council.
- 14.2 Adoption Leave shall count in full as credited service in the determination of salary placing in accordance with the salary placement regulations.
- 14.3 In the case of a teacher who returns to work following Additional Adoption Leave, the period from the end of paid Adoption Leave to the date of return to work (weeks 40-52) shall also be credited in full.

15. OTHER ALLOWANCES

- 15.1 Whether you are receiving Adoption pay/allowance or not, you will remain entitled to receive the benefit of payments of other allowances (e.g. car user allowance, first aid allowance, etc) for the duration of both Ordinary Adoption Leave and Additional Adoption Leave.

16. JOB VACANCIES

- 16.1 Whilst on Adoption Leave you should access the *My Job Scotland* recruitment portal for any vacancies arising whilst you are off work.

17. RESIGNATION

- 17.1 If you have advised that you do not intend to return to work following Adoption Leave, it will be assumed that you have resigned with effect from the end of the period of Ordinary Adoption Leave, unless an alternative resignation date is provided in writing.
- 17.2 If you have advised that you intend to return to work following Adoption Leave and then decide not to return you must resign, giving the normal period of notice in writing as required by your contract.
- 17.3 If your resignation takes effect during the paid period of Adoption Leave this may affect your entitlement to payment.

18. 'KEEPING IN TOUCH' DAYS

- 18.1 If you wish, you can work up to 10 days with normal pay during your Adoption Leave under your contract of employment without bringing your Adoption Leave to an end. Normal pay will be an amount inclusive of Statutory Adoption Pay (SAP), as appropriate. 'Keeping in Touch' Days do not have to be worked consecutively and are useful if you would like to simply keep in touch, attend a particular event or take up a training opportunity. Working for part of a day will count as one 'Keeping in Touch' day worked. (Refer to paragraph 18.3 below for information on pay for part-days worked once SAP is no longer being paid). You will not lose any SAP for working up to 10 days. Should you carry out any further work you would lose your SAP. (See paragraph 4.4 above)
- 18.2 'Keeping in Touch' days are not a requirement and they are subject to agreement by you and your Head Teacher / Line Manager to both the activity and the timing. More detailed advice can be found in MNCT 08/03.
- 18.3 Where SAP is no longer being paid, normal contractual pay will be paid for such days (as set out in *The SNCT Handbook*, Part 2, Section 1, Pay) as well as payment for accrued leave (Part 2, Section 5, Annual Leave). Where the period worked is less than a full day, you shall be paid an hourly rate with payment of accrued leave on a pro rata basis.

19. ENQUIRIES

- 19.1 If you have any enquiries please contact your Head Teacher / Line Manager in the first instance or Human Resources at Midlothian House or the MNCT Joint Secretary, Teachers' Side.

20. RELATED DOCUMENTS

Job Share Scheme
Flexible Working Policy
MNCT Paternity Leave Policy

NOTIFICATION OF ADOPTION LEAVE (Teaching Staff)

To be completed, in consultation with your Line Manager, by all employees who are intending to adopt and thereafter sent to Human Resources, where possible within 7 days of being notified by your adoption agency that you have been matched with a child.

Before completing this form you should read carefully the information contained in the Adoption Leave Agreement and may if you wish talk to your Line Manager or someone from Human Resources or your trade union.

Full Name:			
Home Address:			
		Post Code:	
Home Tel No:		Work Tel No:	

Employee No:		Division:	
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Line Manager Name:		Line Manager Extension No:	
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1. The expected placement week starts on...	Date:	
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2. Matching certificate (<i>please tick as appropriate</i>)	<input type="checkbox"/> Attached	<input type="checkbox"/> To Follow
<i>Please note this should follow within 4 weeks of the placement</i>		

3. I wish to start my Adoption Leave on ...	Date:	
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Signed..... Date.....

ADOPTION PAY

If you have at least 26 weeks' service prior to the week in which you are notified of being matched with a child for adoption, you will be entitled to 13 weeks at full pay and 26 weeks' further Statutory Adoption Pay.