

## LNCT

### Aberdeenshire Local Negotiating Committee for Teachers



Date: June 2024

## LNCT/21/06

### Adoption Guidance - Teaching

*This agreement has been subject to review in Year 2024 by the LNCT Joint Secretaries and HR as part of a review of current Aberdeenshire LNCT Agreements.*

**A copy of the Policy/Procedure is attached below.**  
**Supporting documents detailed in the resource pack can be accessed directly by Aberdeenshire Council employees via the HR/People pages on Viva Arcadia.**

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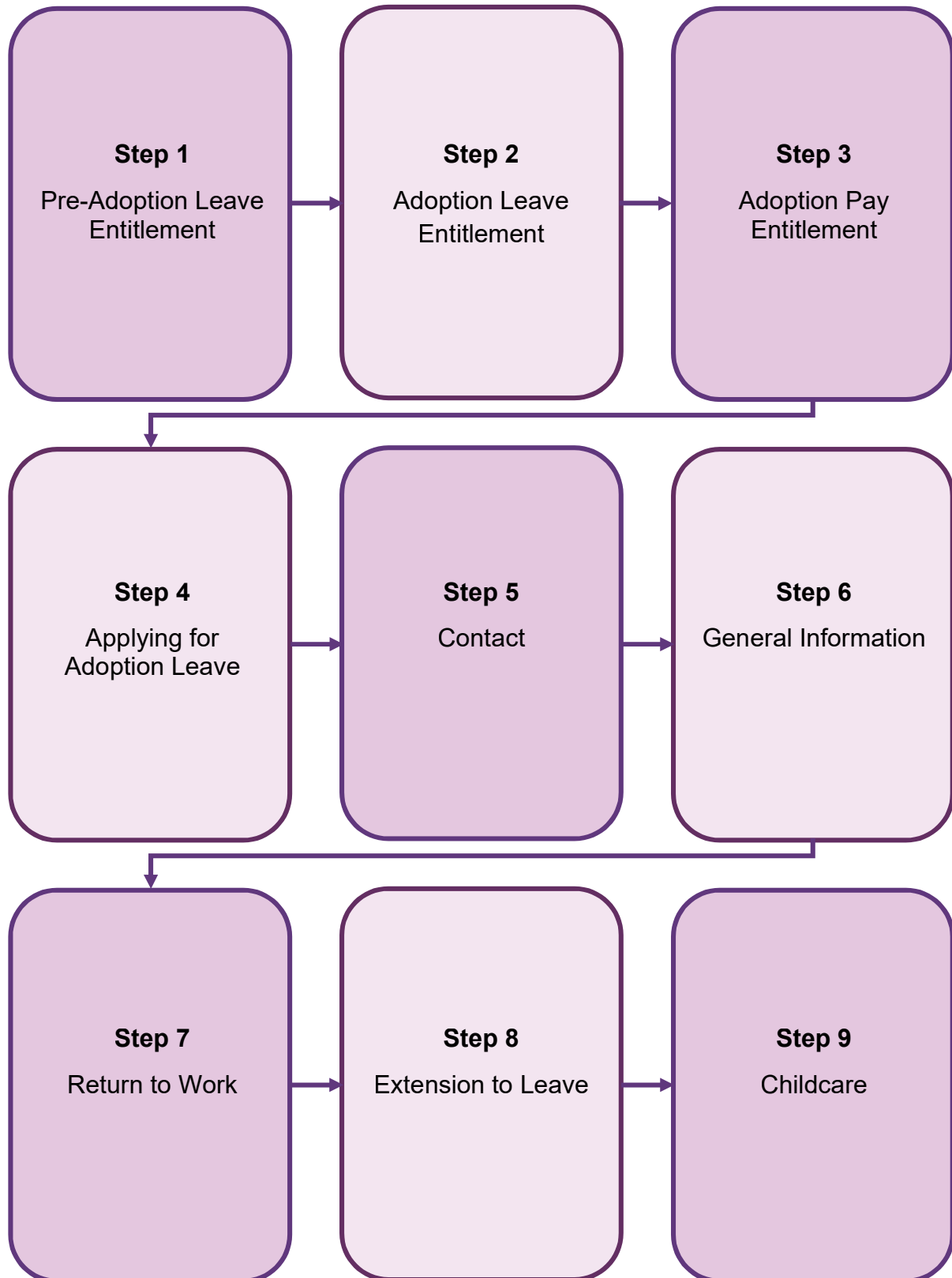
# **Adoption Leave Guidance for Teaching Employees**

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Review Date: 13<sup>th</sup> June 2024

## Summary

A step-by-step guide to Adoption Leave for Teaching Employees.



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## Rationale

The aim of the procedure is to provide information on adoption leave including adoption pay and notification procedures applies to all Teachers and Associated Professionals.

## Introduction

Aberdeenshire Council recognises the value of its employees and the importance of providing appropriate adoption leave provision, considering relevant statutory regulations and SNCT Conditions of Service.

## Pre-Adoption Leave Entitlement

An employee who is adopting will be allowed to take such reasonable time off without loss of pay as is required to attend pre-adoption meetings, on production of evidence of appointments.

This leave should be applied for using the normal special leave procedures. Aberdeenshire Council will respect confidentiality in relation to your attendance at any pre-adoption courses or meetings.

## Adoption Leave Entitlement

An employee is entitled to 52 weeks of Adoption Leave (AL) regardless of length of service. The 52 weeks comprises 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave.

The 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.

Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted. Where a couple jointly adopts a child, the couple must choose one person to take the adoption leave.

## Adoption Pay Entitlement

Entitlement to adoption pay depends on your length of service and whether average weekly earnings are not less than the lower earnings limit for National Insurance contributions.

### Entitlement for employees with more than 26 weeks continuous service.

An employee who has 26 weeks' continuous service prior to the week in which she/he is notified of being matched with a child for adoption will be entitled to be paid:

- Occupational Adoption Pay (OAP) and Statutory Adoption Pay (SAP) for the first 13 weeks. Together, these payments will equal the employee's normal salary; and
- SAP for the next 26 weeks, provided that the employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.

Any previous employment (including probationary periods) 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, should be counted as continuous service (as defined in the Employment Rights Act 1996) subject to a gap in employment not exceeding one working week.

Other than for 'Keeping in Touch Days', when an employee returns to work before the full adoption leave period then her/his entitlement to any balance of adoption leave and adoption pay ceases. The employee will receive her/his normal salary from the date of her/his return to work.

### Entitlement for employees with less than 26 weeks continuous service.

An employee, who has less than 26 weeks' continuous service, prior to the week in which she/he is notified of being matched with a child for adoption, is entitled to 52 weeks' AL without pay. You should contact your adoption agency for information on alternative financial support in these circumstances.

#### **For Teachers applying for Adoption Leave on or after 1<sup>st</sup> August 2024**

If you elect to receive your 13 weeks OAP and SAP at the appropriate rate for the first 13 weeks and you fail to return to work for at least three months, which may be varied by the Council on good cause being shown, you will be required to refund the 13 weeks of OAP, or part of, to the Council.

If you return on a relief contract when you were previously on a fixed hour contract, you must work at least once a week for 3 months to fulfil the return to work requirement. This will only apply to employees changing to a relief contract following maternity leave and not to those already employed on a relief basis.

## Applying for Adoption Leave

An employee must inform the council in writing of her/his intention to take adoption leave within seven days of being notified by their adoption agency that they have been matched with a child for adoption, where this is reasonably practicable. Such notification must include:

- The expected date of placement.
- The date on which they intend to start their adoption leave.
- A matching certificate from the adoption agency or official notification if adopting from out with the UK.

An employee who wishes to change the date on which her/his adoption leave starts must give the council 28 days' written notice, where this is reasonably practicable. The council will respond in writing to an employee's notification to change the start date of adoption leave within 28 days and will also state the latest date on which the employee is expected to return to work.

You should complete the Application for Adoption Leave ADOP 1 TEACH Form and submit it to askHR along with your Matching Certificate.

## Termination of Placement

Where the adoption placement ends, for any reason, during the adoption leave, the employee will notify the council. Where the adoption placement ends within the first 26 weeks of AL the employee will be entitled to remain absent from work until the end of the 26 week period. Where the adoption placement ends after the 26th week of AL the employee will be entitled to remain absent on AL for up to 8 weeks after the end of the placement or until the end of the AL period, whichever is sooner. Notification of the intended date of return should be given in accordance the return to work procedure.

## Surrogacy and Parental Order Parents

Where an employee is intending on adopting a child through a surrogacy arrangement, they may be eligible for adoption leave and pay if they intend to apply for and expect to obtain (or have already obtained) a Parental Order for their child under the Human Embryology and Fertilisation Act 2008.

An employee who has a child with the help of a surrogate mother and who does not meet the conditions to apply for a Parental Order (this will include employees who are single parents and parents who have no genetic link to the child) or who meet the conditions but don't intend to apply for a Parental Order, will not be eligible for adoption leave and pay.

Please refer to Family Leave - Surrogacy Leave Guidance for more information.

## Dual Approved Prospective Adopters

The Children and Families Act 2014 contains provisions which require local authorities who are looking after a child for whom they are considering adoption, to place them with local authority foster parents who are also approved prospective adopters, on a fostering basis. These carers are referred to as dual approved prospective adopters.

Employees who are dual approved prospective adopters may be eligible for adoption leave and pay where they have agreed to have a child placed with them in accordance with section 22C of the Children Act 1989 with a view to them adopting that child. To be eligible for adoption leave and/or pay the child must be matched with the dual approved prospective adopter on or after 5 April 2015.

## Adoption Leave and Pay – Exclusions

An employee who adopts a child will not qualify for adoption leave and pay if they:

- Arrange a private adoption
- Become a special guardian or kinship carer
- Adopt a family member or stepchild
- Have a child with the help of a surrogate mother, where the intended parents are not eligible for a Parental Order

## Contact

Prior to the commencement of adoption leave a meeting should be arranged to discuss how contact can be maintained with you and your line manager. Both the employer and employee should have a clear understanding of the nature and frequency of contact.

Communication may be facilitated by home computers where employees on leave can exchange e-mails with colleagues at work and access council's intranets. If you have no home access to e-mails, then communication by telephone or letter should be agreed.

Employers have a responsibility to ensure employees on adoption leave have information on vacancies and promotion, including acting appointments, and in-service or other CPD opportunities. The employee should also be apprised of changes to the workplace or work organisation which may impact on her.

## Keeping in Touch Days

Keeping in Touch Days are formal arrangements to allow employees to undertake work of some kind during adoption leave. An employee cannot be required to take up Keeping in Touch days – participation is not compulsory.

The statutory provision allows for up to ten Keeping in Touch Days in any period of adoption leave. The number of days and the activity to be undertaken must be agreed between the employer and employee, taking account of the wishes of both parties. It is noted that if the employee works for part of a day that will count as a Keeping in Touch Day.

The purpose of Keeping in Touch Days is to keep the employee informed on what is happening in the workplace. While a Keeping in Touch Day could simply be used for the person to undertake normal contractual duties on that day DTI guidance stresses that Keeping in Touch Days could be particularly useful in enabling an employee to attend a conference, undertake a training activity or attend a team meeting. Please see the following examples of how Keeping in Touch Days can be used:

- Attending INSET days, as set out in the school calendar
- Attending CPD events, including participating in annual review discussions
- Attending team or departmental meetings
- Work shadowing a colleague or liaison with a colleague
- Team teaching with the teacher covering the leave, particularly in the weeks preceding the date of return

Where the employee on adoption leave holds a promoted post, the employee should not resume those duties for Keeping in Touch Days or break the contract of the employee who had taken the post of temporary responsibility.

This would not preclude a Keeping in Touch Day to be used for work shadowing or liaison, as set out above.

The Regulations make it clear that an employer and employee are allowed to make reasonable contact during adoption leave to discuss such issues as the return to work.

This would not constitute 'work' and would not therefore count towards the ten days.

Normal contractual pay will be paid for keeping in touch days, which will be an amount inclusive of SAP where these are still being paid. If you are in receipt of this when you undertake a Keeping in Touch day, the additional payment is only the difference between the hours claimed and your SAP. For more information, please refer to the Keeping in Touch Days Factsheet.

Where a teacher is in attendance for the whole of a school day, payment will be in accordance with SNCT/26 (1/235 and 0.2051 for holiday pay). Where the period worked is less than a full day, the teacher shall be paid an hourly rate (calculated on the basis of 1/6435 of the annual rate of salary) with pro rata holiday entitlement.

The agreement on Keeping in Touch Days should normally be recorded on an individual basis. It is acknowledged that circumstances may well change, and it must be open to both parties to review arrangements.

It is expected that Keeping in Touch Days will be subject to amicable agreement. However, if resolution cannot be achieved through informal discussion, then formal grievance procedures may have to be invoked by employees who are unable to obtain an agreement on Keeping in Touch Days.

Payroll must be informed of any keeping in touch days worked on a yellow S56 time sheet will be provided by your line manager, which should be submitted when the days occur, or monthly or by any other agreement.

## General Information

### Pensions

The employer shall continue to make full pension contributions during the period of paid adoption leave.

### Annual Leave

Annual leave shall accrue during the period of ordinary and additional adoption leave

A teacher or music instructor will accrue annual leave, in accordance with SNCT Section 5, paragraphs 5.3 to 5.5, during the period of her/his adoption leave.

An education support officer, quality improvement officer or educational psychologist will accrue annual leave, in accordance with SNCT Section 5, paragraphs 5.12 to 5.15, during the period of her/his adoption leave.

Adoption leave shall either fall within one leave year or span two leave years. Statutory leave must be provided by the council and must be taken by the employee for each leave year spanned by the period of adoption leave.

An employee on adoption leave which spans two leave years shall receive at the end of the first leave year a statement which notifies: the leave taken to the commencement of the adoption period and the leave accrued during the adoption period in that leave year (contractual entitlement minus leave taken). The balance will be carried forward into the next leave year.

When an employee has notified the council of the intended date of return, the council will issue a statement of the employee's annual leave entitlement effective at that date, including any balance of statutory leave which will require to be taken.

On return from adoption leave the employee shall take any remaining statutory leave in that leave year. Where it is not practicable to take that 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 and,

- In the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term; or
- In the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.

The balance of annual leave in excess of statutory leave accrued during a period of adoption leave shall be taken at the end of the adoption leave period, following the employee's return to work. The timing of this leave is subject to the overriding needs of the service and

- In the case of teachers and music instructors, the accrued leave can be directed to be taken during the days of school closure, with payment to be arranged based on the teacher's current daily rate of pay. Any remaining leave is to be taken in the term in which the return to work takes place, or within the following term; or
- In the case of education support officers, quality improvement officers and educational psychologists should normally be taken as soon as possible following the return to work.

Where an employee gives written notice to the council that she/he does not intend to return to work at the end of the AL period, the council will make a payment in lieu of leave accrued during the adoption leave period.

Annual leave days are set as follows:

October Vacation	First 7 days
December Vacation	First 7 days
April Vacation	First 6 days
Summer Vacation	First 20 days

The remaining days are defined as school closure.

## Continuous Service

All periods of adoption and paternity leave count towards continuous service.

## Pay Awards and Incremental Progression

Periods of adoption leave count in full as credited service in the determination of placement on the Main Grade Salary Scale in accordance with the salary placement regulations.

## **GTCS Registration**

As you may be aware, each April you pay a registration fee to the GTCS that is deducted automatically from your salary. Should April fall within your unpaid adoption leave period then this deduction cannot be made from your salary.

If you have allowed your registration to lapse you will be unable to return to work and may face suspension without pay. It is your responsibility therefore to ensure that your registration fee is paid immediately. The GTCS will send you an account, which you can settle directly with them. If you are registered using a work email address, you should update your contact details before going on maternity leave. Guidance on how to change your details can be found on the GTCS Website.

## **Changes to Statutory Adoption Pay Rates**

The lower rate is reviewed each April. If payment of your SAP starts before and continues after the lower rate is changed, you will receive the new rate from the start of the week in which the change occurs.

## **Income Tax and National Insurance Contributions**

Income tax and national insurance contributions will be deducted from your adoption pay as appropriate.

## **Essential Car User/Telephone Allowance**

If you are currently in receipt of an essential car user allowance or telephone allowance, you will accrue your full entitlement for the full 52 weeks of your adoption leave regardless of whether you will be returning to work or not.

## **More than One Job**

If you have more than one job with the Council and if each job has a different payroll (employee) reference number, then each job is calculated separately with regard to your average earnings. If they are on the same pay/ employee reference number, then your pay for both jobs will be totalled. For all other entitlements and notification requirements each job will be treated separately.

## Fixed Term Appointments

Teachers on fixed term contracts will be treated the same as permanent teachers with regards to their entitlement to adoption leave and pay.

Fixed term contracts should not be ended due to adoption leave. If a fixed term contract is due to be extended, this should be offered regardless of the adoption leave. If, however, the contract end date falls within the period of adoption leave and it is not due to be extended, teachers will not be required to return to work. If a teacher on a fixed term contract is still receiving adoption pay when their contract ends, they will remain on payroll until they have exhausted their adoption pay. This is for administrative purposes only and the teacher will not accrue annual leave or continuous service past the date their contract ended.

## Acting Up Arrangements

If you are currently in an Acting Up Position, then you will continue in that position until such time as you receive notice of a return to your substantive post (which should be no earlier than if you had of been in work).

If you are currently claiming by the Temporary Responsibility Payments form and you are entitled to Occupational Adoption Pay (OAP) you should continue to claim for the 13 weeks you receive OAP or the earlier of your return to your substantive post.

If you are paid your acting up payments automatically, you will continue to be paid this until the earlier of your return to your substantive post or 13 weeks adoption leave.

## Adoption Support Leave/Paternity Leave

Following the placement of a child for adoption, eligible employees will be able to take paid adoption support leave and/ or normal/additional paternity leave. Details of eligibility are contained in the Paternity Leave Guidance (Adoption).

## Sponsored Employees

Employees who are sponsored by Aberdeenshire Council (or their line manager) should ensure the Resourcing Team are advised when paid or unpaid leave is requested. This helps to ensure Aberdeenshire Council comply with reporting and monitoring duties associated with being a sponsor licence holder.

## Returning to Work

An employee who wishes to return to work prior to the end of the adoption leave period must give the council 28 days' notice. If the appropriate notice is not given, the council may postpone her/his return for up to 28 days or to the end of the adoption leave period if this is earlier.

The Council will automatically assume that you will be returning to work on the latest date possible.

Should you wish to return at an earlier time you must inform the Council in writing at least 28 days in advance of the date you propose to return to work by completing sections 1, 2, 3 and 5 of the Notification of Intended Return to Work ADOP 2 TEACH Form.

Where an employee is unable to return to work after the AL period has ended, or on the date previously notified, due to sickness, the normal sickness notification and certification procedures as set out in the Attendance Management Procedure will apply.

HR Transactional Team will write to you to confirm your start date following adoption leave. A copy of this letter will be sent to your employing Service, and Payroll will be notified in order to authorise the re-commencement of your pay.

## Options For Returning to Work

If you are unable to or do not wish to return to work on a full time basis, the Council has adopted a number of policy initiatives, which will hopefully assist you.

Please note that employees who are the natural, adoptive or foster parent, or guardian, of a child aged 17 or under (or under 18 in the case of a disabled child who receives disability living allowance) have the statutory right to request flexible working patterns.

## Job Share Scheme

If you wish to return to work on a job share basis please refer to the approved Job Share Fact Sheet for Teachers.

## Right to Return to Work

An employee has the right to return from the periods of leave described in these guidelines to the post in which she/he was employed under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her/him had she/he not been on adoption leave. Where it is not practicable by reason of redundancy for the council to permit the employee to return to work in her/his post the employee is entitled to be offered a suitable alternative vacancy where one exists.

Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (e.g. A general reorganisation) which would have occurred if the employee had not been on adoption leave, and necessitate a change in the post in which she/he was employed prior to her/his leave commencing. A temporary employee will not have the right to return to work where her/his contract would have expired during the leave period but will be entitled to all other provisions in these guidelines provided she/he meets the criteria where these are stated.

## Extension to Leave

Options are available for parents that maybe considering an extension to the leave they have taken to care for their children, which can commence directly after the date adoption leave is due to end.

## Parental Leave

Unpaid parental leave may be available for a maximum period of 18 weeks (leave entitlement in respect to disabled children is 18 weeks). Further information and details of how to apply for this leave can be found within the Parental Leave Factsheet.

## Shared Parental Leave

Another option you may wish to consider is shared parental leave. Further information on this can be found in the Shared Parental Leave Procedure.

## Career Break

A Career Break is an opportunity for employees to request a period of extended unpaid leave from a minimum of 6 months to a maximum period of 5 years. Further information and details of how to apply for this leave can be found within the SNCT Handbook Part 2 Appendix 2.15 Eligibility 2.3.

## Childcare

One of the key factors in returning to work following adoption leave is arranging childcare to meet your requirements. Aberdeenshire Family Information Service provides free advice and information on childcare options.

Details of registered child minders and day care facilities in your area of Aberdeenshire, as well as impartial guidance on choosing childcare, can be obtained from:

Aberdeenshire Family Information Service

Craigearn Business Park

Morrison Way

Kintore

AB51 0TH

Telephone: 0800 298 3330

If you live in the Aberdeen area, information can be obtained from:

Aberdeen City Council

Family Information Services

Childcare (Family Information Services) | Aberdeen City Council

For information on help with childcare costs please find information contained with the Government's Childcare Choices website.

## Document Revision History

Document Revision History					
Rev No.	Rev Date	Summary of Changes	Reviewing Team	Reviewers	Next Review Year
001	25 Nov 2011	Creation of document			
002	18 Sep 2013	Addition of information relating to extending time off			
003	23 Sep 2014	Updated to reflect new Childcare Voucher Scheme			
004	24 Apr 2015	Addition of information relating to shared parental/adoption leave			
005	20 Jul 2015	Addition of information relating to parental orders and dual approved prospective adopters			
006	12 Oct 2016	Amendment			
007	06 Jul 2018	SNCT/18/65 Reckonable Service (Probationers)			
008	11 Jan 2019	Removal of Aberdeenshire Childcare Voucher Scheme			
009	18 Aug 2023	Update of GTCS paragraph			
010	13 Jun 2024	New format and addition of repayment of OAP	HR Ops	L McLean	2025

# Appendix One – The Resource Pack

