

Title	Adoptive Leave Policy
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Version	Date	Description
1.0		Inherited policy
1.1	02/04/07	Updated in line with April 2007 legislation
2.0	Feb 2008	Style guide, OD, EIA and IS Control update of policy
3.0	Sept 08	Updated in line with legislative reference to maternity rules
4.0	March 09	Updated in line with legislative reference to maternity rules

1.0 Qualifying for Adoptive Leave

- 1.1 Both male and female employees may be entitled to take adoptive leave as set out in the Paternity and Adoptive Leave Regulations 2002.

An employee may be entitled to take either paternity leave under the Paternity Policy or to take adoptive leave as the child's adopter.

"Adopter" means the individual who has been matched with the child for adoption. If two people have been matched jointly, only one of them can elect to be the adopter for the purposes of adoption leave rights.

- 1.2 In all cases to qualify for adoptive leave the employee must have:-
- notified the adoption agency that he or she agrees that the child should be placed with him or her on the planned date of the child's placement with them ("Placement Date"); and
 - have been continuously employed with HEFCW for a period of not less than 26 weeks ending with the week in which he or she was notified of having been matched with the child (a week being a period of seven days beginning with a Sunday); and
 - complied with the notification and evidence requirements in this policy.
- 1.3 If both the adopter and the individual who will take parental responsibility for the child are employees of HEFCW, only the adopter or joint-adopter who elects to be the adopter for these purposes can take adoption leave. The other employee may however qualify for paternity leave.

2. Ordinary adoptive leave (OAL)

- 2.1 Provided the adopter complies with the notification requirements detailed below, he or she may take up to 26 weeks' (OAL).
- 2.2 OAL commences on the date the employee has notified to HEFCW, as explained below. If OAL is due to start on the date on which the child is placed with the employee and is actually in work on that date, OAL starts on the next day.
- 2.3 An employee wishing to take OAL must notify HEFCW in writing no more than seven days after the date on which the employee learns they have been matched with a child from the adoption agency or as soon as is reasonably practicable if that is not possible, of the following:-
- his or her intention to take OAL;
 - the placement date; and
 - the start date on which the employee has chosen for the OAL to commence.

The employee must also provide to HR evidence of entitlement (known as a matching certificate) issued by the adoption agency that matched them with the child. That certificate will confirm the placement date and the date on which the child was matched to the adopter.

- 2.4 The employee must choose a start date for OAL within a 14 day period ending on the date on which the child's placement is to start.
- 2.5 The employee does however have the right to vary their notice to HEFCW regarding when OAL commences, in writing at least 28 days before the date their OAL would have originally have started. Their revised OAL start date must however still be compliant with the rules in this policy. HR will confirm in writing when the adoption leave period will end.
- 2.6 If more than one child is placed for adoption as part of the same placement, the adopter is entitled to only one period of OAL.

- 2.7 As soon as practicable after HR receives notification of an adopter taking adoption leave, arrangements will be made for the employee to meet with HR. This will be an informal interview, the purpose of which is to confirm that:
- I. the employee's right to ordinary adoption leave and additional adoption leave are understood, including the requirement to give the appropriate notice;
 - II. the right to return is explained, together with any potential opportunities for flexible working;
 - III. the employee knows their entitlement to pay during ordinary adoption leave and understand their entitlement to Additional Adoption Leave.

3. Additional adoption leave (AAL)

- 3.1 Where an employee has taken OAL upon the placement of a child with him or her as adopter, provided the adoption has not ended prematurely, he or she may qualify to take a 26 week period of additional adoption leave (AAL) from the end of their ordinary adoption leave.
- 3.2 HR will notify the employee within 28 days of receiving the notification detailed in part 2.2 above, of the date on which AAL will end.

4. Payment and benefits during OAL and AAL

- 4.1 During OAL, the employee's contract of employment and entitlement to all benefits continues as if they were not absent, save as regards to remuneration. The employee's continuity of employment will be preserved and continues to be bound by all the obligations arising under their terms and conditions of employment.
- 4.2 The level of contractual adoption pay will depend on the employee's length of service. If the employee has been in continuous service with HEFCW for one year or more, ending with the week in which he or she was notified as having been matched with the child, the employee will receive 18 weeks pay at the normal basic salary and the remaining eight weeks at the statutory adoption pay (SAP) rate. This is provided that the employee has complied with the requirements in this policy.

If the employee has been in continuous service with HEFCW for less than one year and at least 26 weeks, and provided he or she has complied with the requirements in this policy, they will receive statutory adoption pay (SAP) during the OAL period. SAP is payable for a maximum period of 39 weeks. SAP is paid for six weeks at 90% of average pay and the remainder at the lower of 90% of average pay or the fixed statutory rate per week (provided that the employee's average weekly earnings for NI contributions are at least equal to this figure during the eight weeks up to and including the qualifying week). Further information concerning SAP and SAP rate per week can be obtained from HR.

- 4.3 SAP and contractual adoption pay will be paid into the employee's bank account on the same day that the salary would have been payable, and will be subject to deductions for tax, national insurance and pensions contributions in the same way.

- 4.4 The period of OAL will be treated as a period of pensionable service, even if the actual pay received is less. The employer's contributions will remain the same, although the employee's contributions will be based on actual pay received during OAL.
- 4.5 If the employee is adopting more than one child his or her entitlement to SAP and the amount is not affected. Employees who return to work before the SAP entitlement has been exhausted will revert to salary payments and will cease to receive SAP.
- 4.6 During the first 13 weeks of AAL, the employee is entitled to SAP/AA and in addition, an employee's contract of employment continues during this period and they are entitled to receive employment related benefits for as long as paid adoptive absence continues. There is no further entitlement to pay. Contributions for pension will be made during the first 13 weeks of AAL only. During the last 13 weeks of AAL, the employee is entitled to non pay terms and conditions. . Continuity of employment is preserved throughout the AAL period and will be treated as qualifying service for pension purposes
- 4.7 During the final 13 weeks of AAL, the terms and conditions are limited to the following:
- the implied duty of mutual trust and confidence;
 - Code of Conduct;
 - notice requirements ;
 - Disciplinary policy
 - Grievance procedures;
 - contractual redundancy entitlements.

The employee is also bound by confidentiality and non-competition provisions during this period.

- 4.8 During AAL, annual leave will accrue at the employee's contractual entitlement rate (pro rata for part-time employees) for the period of unpaid leave / half pay, regardless of length of service. Annual leave can only be taken immediately after OAL and AAL if express written permission has been obtained from the line manager (as per Annual Leave policy).

5. Return to work

- 5.1 At least two weeks before the employee is due to return to work, he or she will be invited by HR to attend an informal meeting with their line manager and HR in order to provide an opportunity for discussion of any material points concerning his or her return to work. This will include:

- updating regarding developments at work;
- considering whether any re-training needs have arisen;
- providing an opportunity to discuss consideration for flexible working arrangements, flexible working patterns or part time hours; and
- an opportunity to discuss and explain any necessary and unavoidable changes to the employee's work.

5.2 Where the employee intends to return to work before the end of the OAL or AAL period to which they are entitled; he or she must give HR at least eight weeks notice in writing of the date on which he or she intends to return. If the employee attempts to return to work before giving the necessary notice of his/her return from OAL/AAL, the employer is entitled to postpone his/her return date for 28 days or until the expiry of the OAL/AAL period (whichever is shorter). If the employee returns to work in breach of the employer having postponed the return date, HEFCW will not pay the employee under his or her Contract of Employment until the proper return date. Furthermore, failure to notify the Employer in accordance with this provision prevents the employee from claiming the protection of the Unfair Dismissal legislation in relation to his or her leave, so it is important that the employee complies in this respect.

5.3 An employee returning from OAL will return to the job in which he or she was employed before the period of leave. If the employee has taken AAL or parental leave, he or she is entitled to return to a comparable job and terms and conditions, where it is not reasonably practicable for the employer to permit him or her to return to the job which they were performing before they went on leave.

5.4 If an employee wishes to return to work part-time he or she must inform his or her line manager as early as possible of his or her preferred hours of work. The line manager will make every effort to meet the request, however if this is not possible, the employee will return to his or her former hours and conditions. The employee will be informed in writing as early as possible whether or not the request can be met.

6. Early termination of OAL or AAL

6.1 Where the OAL period has commenced and the placement of the child is subsequently not made or if the child is withdrawn from the placement or dies, generally the period of adoption leave will end eight weeks after these events occur. If adoptive leave is brought to an end in these circumstances SAP will also come to an end.

7. Sickness

If the employee is unable to return to work on either:

- a) the date he or she notified HR that he or she would return; or
- b) the date he or she has been notified by HR is the return date; or
- c) at the expiry of the relevant OAL or AAL period;

due to sickness the employee will submit medical certificates under the normal sickness procedure in the same way as if he or she were absent from work at any other time.

8. Keeping in touch

- 8.1 The line manager or HR may make contact with the employee (and vice-versa) while he/she is on adoption leave, as long as the amount and type of contact is not unreasonable, to discuss a range of issues – e.g. to discuss plans for returning to work, or to keep the employee informed of important developments at the workplace. The employee should be informed of any relevant promotion opportunities or job vacancies that arise during adoption leave.
- 8.2 The employee can work or undertake training for up to ten days under his/her contract of employment, as long as both the employee and HEFCW have agreed for this to happen, and agree on what work/training is to be done without losing their right to adoption pay.

9. Records

HR will be responsible for keeping records relating to OAL and AAL taken by employees on the HR/Payroll database.

10. Paternity leave, parental leave and maternity leave

Please refer to the Paternity Leave policy, Parental Leave policy or the Maternity Leave policy for details.

11. Further information

HR will provide further information that may not be covered by this policy.