



## Service Instruction 0654 Adoption

### Document Control

#### Description and Purpose

This document is intended to give guidance to managers and adopters regarding the benefits provided by the Authority

Active date	Review date	Author	Editor	Publisher
April 2015		Amanda Cross	Nick Mernock	Sue Coker
Permanent	<input checked="" type="checkbox"/>	Temporary	If temporary, review date must be 3 months or less.	

#### Amendment History

Version	Date	Reasons for Change	Amended by
Old WLB booklet	unknown	Updated in line with Equality legislation	Amanda Cross
1.1	03.05.13	Update of Review date	Amanda Cross
1.2	Jan2015	Addition of new rights and amendments to SAP	Amanda Cross

#### Equalities Impact Assessment

Initial	Full	Date	Reviewed by	Document location
	<input checked="" type="checkbox"/>	June 10	DAG	Strategic Planning/E&D/Approved EIA forms/POD

#### Civil Contingencies Impact Assessment (if applicable)

Date	Assessed by	Document location

#### Related Documents

Doc. Type	Ref. No.	Title	Document location
Policy	PODPOL03	Work Life Balance	Portal/POD/Policies
SI	SI 0658	Maternity	Portal/Service Instructions
SI	SI 0659	Paternity	Portal/Service Instructions
SI	SI 0661	Parental Leave	Portal/Service Instructions

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#### Target audience

All MFS	<input checked="" type="checkbox"/>	Ops Crews	<input type="checkbox"/>	Fire safety	<input type="checkbox"/>	Community FS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Principal officers	<input type="checkbox"/>	Senior officers	<input type="checkbox"/>	Non uniformed	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### Relevant legislation (if any)

Equality Act 2010, Children and Families Act 2014, Paternity and Adoption Leave ( Amendment) Regulations 2014

# ADOPTION

## Introduction

Merseyside Fire and Rescue Authority offer comprehensive benefits for employees going through the adoption process. This Service instruction sets out the entitlements for the adopting employee in terms of adoption leave, pay and other conditions. It also provides guidance on the options for returning to work.

An adopter means a person who has been considered by an adoption agency to be a suitable parent for a child for adoption or, in a case where two people have been matched jointly, whichever of them has elected to be the child's adopter for the purpose of leave and pay. **The SI is now extended to surrogate parents who are designated as the parents of a child under a parental order.**

Adoption leave and pay is not available when a child is not newly matched for adoption (for example when a stepparent adopts a partner's child), **when there is a private adoption arranged, or if the adults take the role of a special guardian.** In the case of foster parents who go onto adopt their foster child; the policy only applies where the individuals have been matched with the child for adoption by a UK adoption agency.

## Notification

The Authority would prefer to have as much notice as possible of an adoption however the employee shall notify the Fire and Rescue Authority of his or her intention to take adoption leave within seven days of being notified by the adoption agency that he or she has been matched with a child for adoption, unless that is not reasonably practicable. The notification must state when the child is expected to be placed with the employee and when the employee wants the adoption leave to start.

There are different notification time scales dependent on whether the child is being adopted from within the UK or overseas.

## Adoption Leave

**Adoptive parents and surrogate parents (who have been granted a parental order) can nominate a parent to act as the main parent for the purpose of leave, or they can share the adoption leave between leave in line with Shared Parental leave. This is detailed in a separate section below.**

### UK Adoptions

An employee who has adopted a child from the UK can choose to start their Statutory Adoption Leave on one of the following: -

- The date on which the child is placed with the adopter, even if this is earlier or later than the expected date of placement
- A predetermined date after the expected date of placement.
- A date falling a specified number of days after the expected date of placement.
- Leave must be taken within 56 days of the date that the child is placed with the parent.
- up to 14 days before the date you expect the child to start living with you.

### Overseas Adoptions

An employee who has adopted a child from overseas can choose to start their leave on one of the following: -

- From the date the child enters the UK
- From a fixed date which is no later than 28 days of receiving the notification of the date the child enters the UK
- Leave must be taken within 56 days of the date the child enters the UK.

This information will be supplied by the Adoption agency to the employee on a Matching Certificate, or for surrogate parents the "parental order" a copy of which should be provided to the Authority. An employee may change the start date of their leave, please see the section below on changing the adoption leave date.

The Authority will write to the employee within 28 days confirming the employees date for commencement of adoption leave.

SAL can start on any day of the week. Only one period of leave will be available if more than one child is placed for adoption at the same time.

The other partner may be entitled to two weeks statutory paternity leave regardless of gender. This must be taken within 56 days, beginning on the date in which the child is placed with the adopter, or at a later date if agreed, as long as it is taken within 56 days of the placement date. Further information regarding paternity leave is included in [Service Instruction 0659](#).

### **Changing the start date for Adoption leave**

The employee can change their intended start date if they notify the Authority of the new start date. They must do this in writing and it must be done by whichever is the earlier of the following: -

- 28 days before their adoption start date
- 28 days before their new adoption start date

There may be situations where this is not always possible and the Authority requests that as much notification is provided as the employee is able to provide.

### **Time off for matching sessions**

Adopters are entitled to time off to meet the child they are set to adopt before the adoption placement begins. The purpose of the right is to ensure the child's transition to the new family is as smooth as possible. Paid leave for up to 5 appointments is given and the adopter's partner is eligible to take unpaid leave for 2 such appointments. All leave is subject to exigencies of the Authority.

### **Annual and PH Leave prior to going on Statutory Adoption Leave**

Where possible the Authority encourages adopters to plan to use their leave time prior to commencing adoption leave. It is advisable that the employee contacts the T&RM team to ensure that the correct leave entitlements are clarified.

## **Adoption Pay**

The Authority is committed to being a family friendly employer and has an enhanced maternity pay scheme over and above the statutory minimum.

## Statutory Adoption Pay (SAP)

In order to qualify for SAP an employee should have:

- At least 26 weeks' continuous employment with the Authority
- Average weekly earnings at or above the lower earnings limit for NI contributions that applies at the end of the qualifying week.

SAP is made up of

- During the first week of ordinary adoption leave the employee will be entitled to full pay, offset by Statutory Adoption Pay (SAP). For the remainder of the ordinary adoption leave period the employee will be entitled to SAP if eligible. Additional adoption leave will be unpaid.
- Statutory Adoption Pay will be paid for up to 39 weeks which breaks down to: -
  - 6 weeks at the higher rate ( 90% of salary), followed by
  - 33 weeks SAP at the lower rate, followed by
  - 13 weeks unpaid leave

The lower rate of SAP changes annually and is governed by DWP, Details regarding the current lower earnings limit and current SAP rate can be obtained from Pay and Pensions Team.

## Occupational Adoption Pay

In addition, employees with 1 year or more of continuous service with the Authority are entitled to half their pay from week 7 to week 39 of their adoption leave. This means that they receive:

- 6 weeks SAP at the higher rate (90% of earnings)
- 33 weeks SAP at the lower rate **PLUS** 50% of Salary
- 13 unpaid leave

## Contact with employees on Adoption leave

The Authority may make contact with the employee from time to time during the adoption leave period (for example to discuss their return to work)

Whilst employees are absent on adoption leave, the Authority will send them copies of any relevant literature concerning job advertisements and information circulars etc. They will also be entitled to apply for promotion opportunities that may arise during this time

## Keep In Touch Days

An employee on adoption leave may carry out up to and including 10 days work for the Authority during their statutory adoption leave period without bringing the leave to an end and without any loss to adoption pay. This may be worked as single days or consecutive days at any time during adoption leave, regardless of the length of adoption leave taken. Any days worked will not extend the total duration of the statutory adoption leave period.

There is no right or any requirement for the employee to work during their adoption leave. Any work undertaken will be agreed in advance between the employee and their line manager. "Work" may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Any work done on a KIT day counts as one KIT day. Therefore, if an employee comes in for a one-hour training session and does no other work that day, he/she will have used up one of their KIT days.

Payment is at the employee's normal daily rate of pay. Following completion of a KIT Day, a KIT Day Claim Form should be forwarded to the Pay and Pensions Team in order for the day's work to be included in the monthly pay.

## Benefits during Adoption Leave

### Annual Leave

Whilst absent on Adoption Leave, adopters will accrue annual leave. It is likely that during an employee's absence on adoption leave, one annual leave year will end and a new one will commence.

For employees whose leave is scheduled to be taken at fixed points during the year and where this leave is scheduled to take place when the employee is absent on adoption leave, it may be carried into the following leave year, where it must be taken upon their return to work. This will normally be taken as an extension to the employee's period of adoption/additional leave

For employees whose annual leave entitlement is not scheduled to be taken at fixed points, normal carry over rules will apply. The employee can also opt to take any annual leave accrued for the new leave year immediately on their return to work. (Annual leave scheduled for later in that year can be brought forward for this purpose).

## Returning from Adoption Leave

Unless previously notified by the employee, the date on which an employee will return to work will normally be the first working day 52 weeks after the adoption leave began.

The Authority recognises that circumstances change and is prepared to waive the legal requirement to alter a return date from an 8 week notification period. However employees wish to return to work before or after the originally agreed date **MUST** provide the Authority with at least **21** days notice.

If an employee gives notice that they intends to return to work but: -

- Subsequently fails to do so, the Authority will be entitled to operate its normal procedures for unauthorised absence or sickness absence as appropriate, or
- Subsequently decides to resign, they will have no right to return to work.

Employees who do not wish to return to work after adoption leave must give the Authority notice as required by their contract of employment.

## What if the placement ends?

Unfortunately there may be situation where an employee commences adoption leave but there is a change in circumstances, this may include: -

- The adoption agency informing the employee that the placement will not be made after they have commenced their leave

- during the adoption leave the child unfortunately dies
- The child is returned to the adoption agency

Please speak to a member of the People and Organisational Development department as soon as possible if this situation arises as employees may remain on adoption leave for up to eight weeks after the week the change in circumstances took place.

### Fit to Ride

Once notified of the return to operational duties, the Station Manager with operational responsibility for the employee should, with the employee, consider any particular training needs arising. This may depend on the length of absence.

### Flexible Working

The Authority will consider flexible working requests and will endeavour to facilitate these where it is practicable and meets the exigencies of the Authority. An employee may make a request to work flexibly prior to returning from Adoption Leave. Further information about requesting flexible working are set out in the Flexible Working Service Instruction 0657.

### Parental Leave

Parents of children under the age of 18 are entitled to 18 weeks unpaid Parental leave. Please see the relevant [Service Instruction 0661](#) for additional information.

### Shared Parental Leave (SPL)

If the primary adopter decides not to take the full adoption leave entitlement, both adoptive parents will be able to opt into shared parental leave.

### Eligibility criteria

The Service will ask employees who wish to take shared parental leave to provide evidence that both parents meet the eligibility criteria.

- He/she must have been continuously employed for at least 26 weeks in the week in which the adopter is notified of having been matched with a child for adoption and is still employed in the week before any shared parental leave is due to start. For a parental order parent in a surrogacy arrangement, the employee must have a continuous 26 weeks service up to and including the 15<sup>th</sup> week in which the baby is born
- Their partner meets the "Work and Earnings" criteria- their partner must have been in 26 weeks of employment/self-employment in the 66 weeks before the expected week of childbirth (EWC) and have earned an average weekly salary of £30 over 13 weeks in the 66 weeks before the EWC.
- They already have or expect to have main responsibility for caring for the child.
- The primary adopter is entitled to statutory adoption leave.
- The primary adopter has reduced his/her entitlement to adoption leave or has returned to work.

- They have provided their respective employers with notice of entitlement and intention to take SPL (see below).
- They have provided evidence from the adoption agency to the Service within 14 days of the request. This may include a matching certificate or the parental order, and the name and address of the other adopter/parent's employer.
- They have given the Service a period of leave notice (see below).

### **Amount of shared parental leave available**

The maximum amount of leave that can be shared between the parents is 50 weeks. The leave must be taken before the first anniversary of the date that the child was placed with the adopter, but the primary adopter must take two weeks adoption leave before the leave can be curtailed.

Where a partner is taking statutory paternity leave, they must take this two weeks before exercising the right to shared paternity leave.

SPL only becomes available once the primary adopter has given notice to end his/her entitlement to adoption leave, this is binding. Therefore, any period of adoption leave taken by the primary adopter will be deducted from the period of 50 weeks' SPL, with the balance available to be shared between the parents.

The leave can be taken by the parents separately or at the same time, subject to the following requirements:

- the minimum period of leave must be one week,
- the leave must be taken in multiples of complete weeks, and
- The leave may be taken as one continuous period or discontinuous periods. However, where a temporary employee has been employed to back fill a post it might not be possible to grant discontinuous leave.

If both parents take SPL off together they need to be aware that they will use up the remaining leave time at twice the rate. For example if one parent takes 1 week of SHL off this counts as one week, if both parents are off together they have used 2 weeks from their allowance.

### **Notice to end adoption leave**

The primary adopter must give the Service eight weeks' notice to end her entitlement to adoption leave early. This notice can be given before or after the child is placed with the family .If it is given after the child is placed with the family, the notice is binding.

However, if notice is given before the placement, the primary adopter is able to revoke the notice up to six weeks after the expected placement date – this is in case an unplanned situation arises.

## Notice of entitlement and intention to take shared parental leave

If one or both adopters/ parents wish to take SPL they must submit a written 'notice of entitlement' at least eight weeks before the start of the first period of shared parental leave. This will form part of our audit trail and may be shared with the other employer for accuracy.

The notice should include certain information, including:

- Both adopters' names and national insurance numbers,
- the start and end date of any period of statutory adoption leave taken/to be taken by the adopter to calculate the remaining leave allowance.
- the amount of any statutory adoption pay received or to be received by the primary adopter .
- the date s/he was notified by the adoption agency of matching with a child
- the expected date/ the child will be placed with the parents,
- confirmation that the primary adopter is sharing child care responsibilities with their partner,
- a non-binding indication of how much shared parental leave both parties intend to take and the proposed start and end dates of such leave, and
- a declaration from each parent to confirm that:
  - the primary adopter satisfies the eligibility criteria as detailed above,
  - the second adopter satisfies the eligibility criteria,
  - that the information given is accurate, and
  - That if either parent ceases to meet the conditions of entitlement to shared parental leave then they will immediately notify the Service.

The parents may vary the amount of SPL they intend to take by giving written notice to their employers.

## Period of leave notice

Adoptive parents must also provide their employers with a written 'period of leave' notice by giving the start and end dates of the periods of leave requested. The period of leave notice triggers a discussion with the Service to agree the leave.

- The notice must be given not less than eight weeks prior to the requested start date.
- The notice can be for one or more periods of leave.
- If the notice has been given before the child is placed then the start date may be expressed as a number of days from the date the child is placed.

Only three period of leave notices in total can be given by the adoptive parent, including requests to vary a period of leave that has already been arranged.

The Service will provide a checklist to the adoptive parents to assist them in supplying all the relevant information.

### **Continuous periods of shared parental leave:**

If an employee simply requests one period of continuous shared parental leave, they are entitled to take that period of leave.

### **Discontinuous periods of shared parental leave:**

Agreement is necessary if an employee requests discontinuous periods of shared parental leave – meaning two or more periods of leave separated by periods at work. Within two weeks of the date of the period of leave notice the Service may:

- agree to the periods of leave requested,
- propose alternative dates, or
- Refuse the leave without proposing alternative dates.

If the parties can agree the periods of leave within this two week period then the employee is entitled to take that leave on the agreed dates.

If the parties cannot agree the periods of leave then the employee may either withdraw the request or take the total amount of leave requested as one continuous period of leave.

The default position is that leave should be taken in a single block commencing on a date specified by the employee but with at least eight weeks' notice to the Service.

Where employees have been recruited as cover for adoption leave, the Service may not be able to grant discontinuous leave to the primary adopter.

### **Entitlement to shared parental pay (ShPP)**

Up to a maximum of 37 weeks of shared parental pay will be available to be shared between the parents, depending on what entitlement the primary adopter has left from his/ her adoption pay period.

However, statutory shared parental pay is paid at the lower level throughout the leave period, even if the primary adopter returns from adoption leave after only two weeks, during the period he/she could have received the higher level of adoption pay. Employees should therefore considered whether it is financially sensible to forfeit enhanced adoption pay for Shared parental pay.

The remaining 13 weeks of SPL are unpaid.

The Service reserves the right to contact the other parent's employers to ensure that the correct amount of pay and leave is being administered.

### **Pension Considerations**

The parents should contact pay and pensions to discuss how SPL affects their pension contributions. For example, if a parent takes SPL during the 13 weeks unpaid window they will need to make up their contributions and those that the employer would normally make.

### **Shared Parental Leave in Touch Days (SPLIT)**

An employee can agree to attend work or work related training for up to 20 days during their SPL without bringing their SPL to an end. Any work carried out on a day or part of a day constitutes a day's work for these purposes.

### **Returning to work after SPL**

The employee will have agreed a return to work date with the Service. If they are unable to attend work due to an absence they are expected to comply with the Authority's Absence Management process. In any other case later return without prior permission will be treated as unauthorised absence.