

# Adoption Leave and Pay Policy

November 2019

Policy control

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## ADOPTION LEAVE AND PAY POLICY

### 1 Purpose and Scope

1.1 This policy sets out the adoption provisions to which all staff employed by the Glasgow GSA of Art (GSA) are entitled, both before and after the adoption of a child under the age of eighteen. This policy reflects GSA's commitment to establishing family friendly policies and complies with relevant legal provisions<sup>1</sup>. GSA recognises the importance of supporting all staff in their obligations to their families and as such this policy provides enhanced entitlements to those contained within the statutory provisions.

1.2 Adoption provisions refer to the leave and pay to which employees may be entitled and their right to resume employment with GSA following the period of leave. This policy incorporates GSA's adoption pay (see section 4) together with entitlements to statutory adoption leave and pay. All employees have the right not to be subjected to a detriment on the grounds of adopting a child, irrespective of hours of work or length of service.

1.3 Adoption leave may be used by an employee who has been newly matched with a child under 18 for adoption by an adoption agency, to be with that child for a period of time after placement. This includes approved prospective adopters who look after a child as part of a "fostering to adopt" arrangement. It may also be used by an employee who is in a surrogacy arrangement with a child when the employee has obtained, or intends to apply for and expects to obtain, a Parental Order. Provisions will apply:

- Where as an individual they adopt; or
- Where they are a member of a couple who adopt (the couple must choose which partner takes adoption leave). The other partner may be entitled to support leave, providing they meet the criteria, as set out in the GSA's Adoption Support Policy.

1.4 All employees seeking to take adoption leave must produce evidence of the placement of a child within their care. This will normally be in the form of a Matching Certificate issued by the adoption agency, which outlines the Expected Placement Date (EPD), or in the case of a surrogacy arrangement, a Parental Order. Employees must also inform HR in writing of the intended dates of their adoption leave within seven days of being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practical.

### 2 Adoption leave

2.1 Under the Paternity and Adoption Leave (Amendment) Regulations 2014, employees who are to be matched with a child for adoption or who are, or expect to be, the surrogate parents of a child under a Parental Order, are entitled to take up to 52 weeks' adoption leave irrespective of number of hours worked or length of service. The first 26 weeks are known as ordinary adoption leave (OAL) and the additional 26

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<sup>1</sup> Employment Rights Act (1996), Employment Relations Act (1999), Employment Act (2002), Work and Families Act (2006) and the Children and Families Act (2014)

weeks are known as additional adoption leave (AAL). AAL begins the day after OAL ends.

2.2 An adopter will not qualify for adoption leave and pay if they:

- arrange a private adoption;
- become a special guardian or kinship carer;
- have a child with the help of a surrogate mother where the intended parents are not eligible for a Parental Order;
- adopt a family member or stepchild.

2.3 Adoption leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the date on which the child is expected to be placed with them (EPD);
- from an agreed date up to 14 days before the EPD.

2.4 An employee may change their mind about the date on which they intend to start adoption leave by providing at least 28 days' written notice before the earlier of the new date and the original date (or as soon as is reasonably practicable).

2.5 On receipt of the written confirmation of the employee's intention to start adoption leave, the line manager will respond in writing with 28 days of receipt or as soon as reasonably practicable, advising of the expected date of return from adoption leave.

2.6 Employees will not qualify for sick pay while on adoption leave.

2.7 Holidays should be taken in the year that they are accrued. If the holiday year is due to end during maternity leave, the employee should take the full year's entitlement where possible before returning to work. This does not negate the existing arrangement that a set amount of holidays can be carried forward into the next leave year with the consent of the relevant line manager.

### **3 Adoption Appointments**

3.1 Employees who are adopting, irrespective of length of service, are entitled to time off work to keep adoption appointments. A primary adopter may take paid time off to attend up to five adoption appointments, while secondary adopters may take unpaid time off to attend up to two adoption appointments. Employees who intend to apply for a Parental Order may take unpaid time off to accompany the birth mother to antenatal appointments. Wherever possible, appointments should be arranged at the beginning or end of the working day. Evidence of appointments may be requested.

### **4 Adoption Pay**

Payments made to employees on adoption leave can vary depending on individual circumstances in respect of service and earnings. Payments will normally consist of Statutory Adoption Pay (SAP) and Company Adoption Pay (CAP). All employees with 26 weeks' service or more into the week in which they are notified of being matched with a child for adoption are entitled to both SAP and CAP. These provisions are set out in more detail below.

#### **4.1 Statutory Adoption Pay (SAP)**

- 4.1.1 If an employee has at least 26 weeks' service leading in to the week in which they are notified of being matched with a child for adoption, and their average weekly earnings exceed the lower earnings limit for National Insurance contributions, they will be entitled to receive SAP. SAP is payable whether or not the employee returns to work, and is subject to deductions for Pay As You Earn (PAYE) and National Insurance Contributions.
- 4.1.2 SAP is payable for a maximum of 39 weeks at a rate set by the Government for the relevant tax year. In the absence of a Company Adoption Pay scheme, the first six weeks of this entitlement would be paid at a rate of 90% of an employee's weekly earnings.
- 4.1.3 An employee earning less than the current rate of SAP will receive 90% of their average weekly earnings for the period that SAP is payable.

#### **4.2 GSA Company Adoption Pay**

- 4.2.1 Employees will be entitled to take advantage of the enhanced terms for adoption pay under the GSA company adoption pay scheme where they have been employed by GSA for 26 continuous weeks or more into the week in which they are notified of being matched with a child for adoption.
- 4.2.2 GSA company adoption pay is paid for the first 16 weeks of adoption leave at the employee's normal full rate of pay, which is more than the rate of SAP. Therefore, eligible employees will be paid over the first 39 weeks of adoption leave as follows:
- 16 weeks at the employee's normal rate of full pay
  - 23 weeks at SAP
- 4.2.3 All payments under the company adoption pay scheme will be subject to deductions of PAYE and National Insurance.

#### **4.3 Unpaid Adoption Leave**

- 4.3.1 Employees who have less than 26 weeks' continuous service into the week in which they are notified of being matched with a child for adoption will not be entitled to Company Adoption or Statutory Adoption Pay, but may be entitled to a state benefit which can be claimed via the individual's local Job Centre Plus Office. Such employees are also entitled to up to 52 weeks unpaid Adoption Leave.

### **5 Annual leave**

- 5.1 Employees will continue to accrue contractual holiday entitlement during adoption leave.

- 5.2 Employees may, with their line manager's agreement, use any holiday entitlement accrued prior to commencing adoption leave, to extend their leave either before or after the placement of the child.

## **6 Pension arrangements**

- 6.1 An employee on adoption leave will continue to be a member of the pension scheme if they belong to one. When they are in receipt of full pay, the employee's contributions will be deducted as usual. During periods of SAP, the employee's contributions will be deducted according to the total amount of pay received. Periods of unpaid adoption leave do not count towards pensionable service. Should you wish to enquire about making contributions for any period of unpaid adoption leave, you should contact the relevant pension agency.

## **7 Contact / Keeping in touch Days (K.I.T. Days)**

- 7.1 Before an employee's adoption leave starts, HR will discuss the arrangements for you to keep in touch during your leave, should you wish to do so. GSA reserves the right in any event to maintain reasonable contact with the employee from time to time during your adoption leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease the return to work or simply to update you on developments during your absence. Employees will be kept informed of any relevant promotion opportunities or job vacancies that arise during adoption leave.
- 7.2 An employee (in consultation with their line manager) can agree to work or attend training for up to 10 days during either ordinary adoption leave or additional adoption leave without that work bringing the period of adoption leave to an end. These are known as 'keeping in touch' days. Any work carried out on a day shall constitute a day's work for these purposes.
- 7.3 GSA has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during adoption leave. Any work undertaken, is entirely a matter for agreement between GSA and the employee. Employees will be paid their normal rate of adoption pay for any work undertaken on keeping in touch days, unless the KIT days fall during the unpaid period of leave, in which case they will be compensated for a full day's pay. Any keeping in touch days worked do not extend the period of adoption leave. Whilst on company adoption pay, no additional salary payment will be made. Pension contributions may be payable for salary received on KIT days.

## **8 The employee's obligations: summary**

- 8.1 In order to qualify for adoption leave and pay the employee must:
- be newly matched with a child for adoption by an adoption agency, or have obtained, or intend to apply for and expect to obtain, a Parental Order for a child;

- notify line manager and HR in writing no later than seven days after having been notified by your adoption agency that you have been matched with a child for adoption, and confirm the date you want to start leave;
- give evidence of the child's expected date of birth/placement by providing HR with a Parental Order or a Matching Certificate issued by the adoption agency;
- give at least 8 weeks' notice in writing of the date you intend to return to work if the return to work date is earlier or later than originally planned. Failure to give this notice may lead to a postponement of return until 8 weeks have elapsed;
- be the only partner taking adoption leave.

8.2 Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same adoption process.

## **9 Shared Parental Leave and Pay**

9.1 Under the Shared Parental Leave Regulations, employees entitled to adoption rights may choose to end this early and exchange a proportion to an eligible partner after a child is placed with them. This allows parents to flexibly decide how they share caring responsibilities in the first year. For further information, please refer to the Shared Parental Leave and Pay policy.

## **10 Continuity of service**

10.1 Continuity of service will not be broken by any period of adoption leave, whether paid or unpaid, and therefore entitlement to periods of notice, holidays and sick leave which accrued at the beginning of adoption leave will be preserved, in accordance with the terms of the employee's contract of employment.

## **11 Returning to work**

11.1 An employee may exercise the right to return to work at any time during the period of leave, providing GSA with at least eight weeks' notice.

11.2 On resuming work after adoption leave, the employee is entitled to return to the same job they occupied before commencing adoption leave on the same terms and conditions of employment as if they had not been absent.

11.3 Whilst returning to work on the basis of an alternative working pattern or hours of work is not a right, GSA will give serious consideration to such requests on either a temporary or permanent basis, from employees returning to work following adoption leave. The employee should submit a request in writing as early as possible. Any change will be discussed with the employee at a meeting within 28 days of the request being received.