|  |  |
| --- | --- |
| **16C.** | **TEACHERS’ ADOPTION AND PATERNITY LEAVE** |

**Policy updated**

July 2022 –removal of additional paternity leave, removal of appendices 4 & 5 model letter for teachers and statutory rates, updated PLP (Adoption) form, update on eligibility criteria, inclusion of exceptions, further information for overseas adoptions, clarity on notice periods and return to work arrangements for adoption leave, consistent language for lower earnings limit, inclusion of gender neutral language, further information for surrogate parents and amendment to Paternity Leave entitlements and Statutory Paternity Pay to be consistent with the provisions contained in Maternity Leave - Chapters 16a and b, updated forms to 2022, changed notification requirements back to 28 days.

*Formally adopted by Governing Board: [Date]*

*Implemented with effect from: [Date]*

**TEACHERS’ ADOPTION LEAVE AND PAY**

[16c.1 Introduction 2](#_Toc104475741)

[16c.2. Eligibility 2](#_Toc104475742)

[16c.3. Exceptions 3](#_Toc104475743)

[16c.4. Timing of adoption leave 3](#_Toc104475744)

[16c.5. Notification 3](#_Toc104475745)

[16c.6. Matching certificate 3](#_Toc104475746)

[16c.7. Adoption leave 4](#_Toc104475747)

[16c.8. Adoption Pay 5](#_Toc104475748)

[16c.9. Overseas adoptions and statutory adoption pay 5](#_Toc104475749)

[16c.10. Contractual benefits 6](#_Toc104475750)

[16c.11. Time off for pre-placement meetings 6](#_Toc104475751)

[16c.12. Return to work after Adoption Leave 6](#_Toc104475752)

[16c.13. Altering an early return date 6](#_Toc104475753)

[16c.14. Protection from detriment and dismissal 7](#_Toc104475754)

[16c.15. Working during adoption leave 7](#_Toc104475755)

[16c.16. Contact during the adoption leave period 7](#_Toc104475756)

[16c.17. Working for another employer during the Statutory Adoption Pay period 7](#_Toc104475757)

[PATERNITY LEAVE AND PAY (ADOPTION) 8](#_Toc104475758)

[16c.18. Eligibility 8](#_Toc104475759)

[16c.19. Notification 9](#_Toc104475760)

[16c.20. Length of paternity leave 10](#_Toc104475761)

[16c.21. Timing of ordinary paternity leave 10](#_Toc104475762)

[16c.22. Paternity Pay 10](#_Toc104475763)

[16c.23. Shared parental leave 11](#_Toc104475764)

[16c.24. Self-certificate 12](#_Toc104475765)

[16c.25. Contractual benefits 12](#_Toc104475766)

[16c.26. Return to work after paternity leave 12](#_Toc104475767)

[16c.27. Protection from detriment and dismissal 12](#_Toc104475768)

[Appendix 1 Summary of Teachers’ Adoption Scheme 13](https://lbccloudadcroydongov-my.sharepoint.com/personal/2001635_croydon_gov_uk/Documents/Policy%20Review/Parental%20&%20Shared%20Parental%20Leave%20Review/Adoption%20-%20Chapters%2016%20c%20and%20d%20-%20submit%20with%20other%20policies/Teachers%20Adoption/Chap%2016c%20Teachers%20adoption%20paternity%20Final%20May%202022%20for%20LA.docx#_Toc104475770)

[Appendix 2 Teacher Request for Adoption Leave Form 14](#_Toc104475771)

[Appendix 3 Paternity Leave (Adoption) & Pay Claim Form (PL/2022) 15](#_Toc104475773)

|  |  |
| --- | --- |
| **16C.** | **TEACHERS’ ADOPTION AND PATERNITY LEAVE** |

## TEACHERS’ ADOPTION LEAVE

## 16c.1 Introduction

This guidance sets out the rights of employees to adoption leave and pay for all Croydon teachers.

This guidance has been updated to reflect the changes in the Children and Families Act 2015, the Paternity and Adoption Leave (amendment) Regulations 2014 and the Statutory Paternity Pay and Statutory Adoption Pay (general) (amendment) regulations 2015. These amendments apply to those with a child expected to be placed with them for adoption.

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave, provided that they have at least 26 weeks' continuous service calculated as at the week in which notification of matching is given by the adoption agency.

The employee's entitlement is to take up to 26 weeks' **ordinary adoption leave** followed immediately by up to 26 weeks' **additional adoption leave.**

The Children and Families Act 2015 introduced Shared Parental Leave. Employees who are matched for adoption with a child may be able to convert a period of adoption leave or pay into a period of shared parental leave or pay that can be taken by either parent on a flexible basis (please refer to Chapter 21a in the HR Handbook).

*All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures as set out below.* ***For the purpose of this document the term adopter refers to the employee.***

## 16c.2. Eligibility

To qualify for adoption leave, an employee must:

* be the child’s adopter OR
* be an approved prospective adopter who looks after children as part of a "fostering to adopt" arrangement OR
* be a local authority foster parent who is a prospective adopter and has been notified of a child's placement in accordance with s.22C of the Children Act 1989.
* have notified the adoption agency that they agree that the child should be placed with them and on the date of the placement.
* be newly matched with a child for adoption by an approved adoption agency.
* be newly matched with a child for a surrogacy arrangement. Surrogate parents must have applied for a parental order and be expected to receive this. Surrogate parents are obliged to inform their employer of the expected due date and when they want to start their leave at least 15 weeks before the expected date of birth.
* be employed in the week in which they are notified of being matched with a child for adoption.
* adopt the child from within the UK (see paragraph 16c.9 for overseas adoptions).

## 16c.3. Exceptions

**The following adoptions do not qualify for Statutory Adoption Leave or Pay, if an employee:**

* arranges a private adoption;
* becomes a special guardian or a kinship carer;
* adopts a grandchild;
* adopts a family member.

## 16c.4. Timing of adoption leave

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. For fostering to adopt arrangements, this is the date where the child comes to live with the family.

If you have used a surrogate to have a child this will be the day the child is born or the day after.

To make administration as easy as possible, the employee should discuss the timing of their adoption leave with their Headteacher/manager as early as possible.

## 16c.5. Notification

To be entitled to take adoption leave and receive adoption pay, the employee is required to give the school written notification of their intention to take adoption leave **no later than seven days after the date on which notification of the match with the child was provided by the adoption agency**. Notice, which must be in writing if the school requests it, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends for their adoption leave to start.

The adopter may postpone their adoption leave start date, provided that they advise the school in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Whilst the above timescales ensure compliance with the law, in the interests of longer term planning and cover arrangements, employees are asked to discuss their arrangements with their Headteacher/manager at the earliest opportunity.

Within 28 days of receiving the adopter's notice of intention to take adoption leave, your HR Provider/school will write to the adopter, confirming the latest date on which the employee must return to work after adoption leave.

## 16c.6. Matching certificate

Adopters will have to provide documentary evidence – a ‘matching certificate’ – from their adoption agency as evidence of their entitlement to adoption pay and leave. Adopters should ask their adoption agency for a matching certificate, which gives basic information on matching and expected placement dates.

**Notice and evidence required from the Adopter for statutory adoption pay (SAP) purposes:**

The Adopter must provide evidence of entitlement to statutory adoption pay, consisting of:

* their name and address;
* the name and address of the adoption agency;
* the date on which they were informed by the adoption agency that the child would be placed with them for adoption (the matching date);
* the date on which the child is expected to be placed for adoption or, where the child has already been placed for adoption, the date of the placement (the placement date);
* a declaration that they have elected to receive statutory adoption pay and not statutory paternity pay (adoption);
* the date on which they expect the payment of statutory adoption pay to begin.
* arranges a private adoption;

This information and declaration **must be provided at least 28 days before the date on which it is expected that the liability to pay statutory adoption pay will begin** or, if that is not reasonably practicable, as soon as it is reasonably practicable. It is noted that sometimes there is very little time between when the adoption agency informs the adopter that they have been matched with a child and the date of placement.

Where the adopter chooses to begin the statutory adoption pay period on the day on which the child is placed for adoption (or the following day where they are at work on that day), the adopter must provide further notice as soon as is reasonably practicable of the date the child is placed for adoption.

**Key steps for Headteacher/managers:**

* Check that the employee has given the required notice and satisfied the evidential requirements for adoption leave [and pay]
* Respond to the employee confirming their statutory adoption leave [and pay] arrangements
* Consider how the employee's work will be covered while they are on adoption leave
* Notify your HR and Payroll providers of your employee’s intention to take adoption leave.

## 16c.7. Adoption leave

An employee who is entitled to adoption leave can take up to 26 weeks' **ordinary adoption leave**, followed by a further 26 weeks of **additional adoption leave.** - a total of up to 52 weeks’ leave starting either on the day the child is placed for adoption, or up to 14 days earlier.

**Adoption leave** became a 'day one' right for employees adopting a child after 5 April 2015.

Leave can start on any day of the week. Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child’s placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to 8 weeks after the end of the placement.

## 16c.8. Adoption Pay

**Statutory Adoption Pay (SAP)**

During ordinary adoption leave most employees will be entitled to Statutory Adoption Pay (SAP). The adoption pay period is for up to 39 weeks’ SAP.

Since April 2015, the first six weeks will be paid at 90% of the employee’s normal salary. The period of statutory adoption pay remains the same regardless of how many children are placed for adoption as part of the same arrangement. The remaining 33 weeks will be paid the current SAP rate. Please see HR Handbook Chapter 27 for current rates.

To qualify for Statutory Adoption Pay, the adopter’s average weekly earnings must be above the lower earnings limit for the payment of NI Contributions. Please see HR Handbook Chapter 27 for current rates.

Adopters not qualifying for SAP may qualify for other benefits and are encouraged to contact the Department for Work and Pensions to find out more.

**Occupational Adoption Pay (OAP)**

An adopter who has been continuously employed with the School/Council for a minimum of 12 months by the expected date of the child's or children’s placement will be paid their normal pay, inclusive of SAP, for the first 4 weeks followed by 2 weeks at 90%. Adopters will be entitled to Occupational Adoption Pay (OAP) comprising of 12 weeks at half of normal pay plus SAP, followed by 21 weeks of SAP.

Half pay will be provided only if the adopter returns to work for the school for a minimum period of 13 weeks after the end of adoption leave (or part-time equivalent). If they do not return, they will be required to refund the half pay they have received. If doubt exists around whether the adopter will return to work, they may ask for the half pay to be paid in the form of a lump sum when they return to work in the same way as those returning from maternity leave. The definition of a week’s pay is the same as applied under the maternity leave provisions**.**

**SAP:**

6 weeks 90% of normal pay, including SAP

33 weeks SAP at lower rate.

**SAP & OAP: (Payment for those with 1 year or more continuous service):**

4 weeks at full pay, including SAP

2 weeks at 90% of normal pay, including SAP

12 weeks half pay and SAP provided total does not exceed full pay (for employees who wish to return to work and have declared their intention to return).

21 weeks at SAP at lower rate.

## 16c.9. Overseas adoptions and statutory adoption pay

Adoption pay and leave is available to an eligible employee who adopts a child from overseas. An overseas adoption occurs where a child enters Great Britain from outside the UK in connection with or for the purposes of adoption, which does not involve the placement of the child for adoption under the law of any part of the UK.

The Department of Health must issue a certificate to the overseas authority concerned with the adoption confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

Adopters must provide their employers with the following information:

* The date of your “official notification”;
* The estimate date the child arrives in the UK – within 28 days of
* receiving the notification;
* The actual date the child arrives in the UK – within 28 days of this date;
* How much leave you want and your start date – giving your employer at least 28 days’ notice.

**16c.10. Contractual benefits**

Adopters are entitled to the benefit of their normal terms and conditions of employment (other than wages or salary) throughout their 26-week **ordinary adoption leave** period on the same basis as for maternity leave. However, most adopters will be entitled to SAP during this period. During **additional adoption leave**, the employment contract continues and benefits and obligations remain in force e.g. compensation in the event of redundancy, notice periods and accrual of annual leave.

## 16c.11. Time off for pre-placement meetings

Employees adopting a child have the right to time off work to attend up to 5 adoption appointments after they have been matched with a child. The adopter may be asked to produce evidence of appointments.

## 16c.12. Return to work after Adoption Leave

The adopter is entitled to return to the post in which they were employed before their adoption leave, on terms and conditions not less favourable than those which would have applied if they had not been absent. *Please note that in cases of redundancy the normal consultation process will apply.*

## 16c.13. Altering an early return date

If the adoption is disrupted because the child dies or is returned to the adoption agency, or the adoption pay period has begun prior to the date the child is to be placed for adoption, but the placement does not take place, the adoption pay period terminates eight weeks after the end of the week in which the child dies or is returned to the adoption agency, or the adopter is notified that the placement will not take place. A week for these purposes is a period of seven days beginning with a Sunday.

If the adopter wishes to return before the full period of adoption leave has elapsed, they must give at least **21 days’** notice,but preferably eight weeks' notice in writing to the school of the date on which they intend to return.

The adopter may choose to return to work early so that they or their partner can take between two and 26 weeks' additional parental leave. If the main adopter returns to work before they have taken the full entitlement to 39 weeks' statutory adoption pay, the partner may be entitled to additional statutory parental pay for the remainder of the 39-week period during which the main adopter would have received statutory adoption pay, had they not returned to work.

Adopters returning to work early from adoption leave must inform their Headteacher/manager immediately to arrange a return to work date.

1 The qualifying week is the week beginning with the Sunday that the adopter

receives notification of being matched with the child and ends on the following Saturday

## 16c.14. Protection from detriment and dismissal

Adopters will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Adopters who think they have been treated unfairly will be able to make a claim to an Employment Tribunal.

## 16c.15. Working during adoption leave

An adopter can work for up to 10 days during adoption leave without bringing the adoption leave to an end or losing SAP entitlement. Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the work place.

Keeping In Touch (KIT) days do not need to be worked as consecutive days and may be worked at any time during the adoption leave. In counting the number of KIT days worked, part of a day will count as a whole day.

KIT days are worked by mutual agreement between the manager and the adopter. Managers cannot insist that an adopter works during adoption leave and an adopter cannot insist on being given work to do.

An adopter will receive normal pay for the hours worked on KIT days minus any entitlement to SAP or half-pay. The total duration of the adoption leave period remains at 52 weeks regardless of whether or not KIT days are worked.

## 16c.16. Contact during the adoption leave period

The school and the adopter are permitted to make reasonable contact during adoption leave. This contact can be used to help with planning the return to work and advising adopters about developments at work. This contact does not constitute ’work’ as referred to in 16c.15 above.

## 16c.17. Working for another employer during the Statutory Adoption Pay period

Statutory Adoption Pay can be received from each employer for which an employee satisfies all the terms and conditions.

If an adopter works for another employer during the adoption pay period, then payment is made as normal if they were employed by the other employer during the week in which they were notified by the adoption agency of being matched with the child.

**Where Statutory Adoption Pay is being paid to an adopter who, during the statutory adoption pay period, works for another employer that they have joined since the week in which notification of the match occurred, there is no liability on the School to pay statutory adoption pay in respect of the remaining part of the statutory adoption pay period. The adopter is required to notify the School that they are working for another employer.**

## PATERNITY LEAVE AND PAY (ADOPTION)

## 16c.18. Eligibility

**Entitlement to ordinary paternity leave (adoption within the UK)**

The Children and Families Act 2014 extends the right to take ordinary paternity leave and pay to parents in a surrogacy situation and approved prospective adopters who look after children as part of a "fostering to adopt" arrangement.

The Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014 (SI 2014/3096), which came into force on 1 December 2014, effect the extension of ordinary paternity leave to parents for whom a court has made a parental order in accordance with s.54 of the Human Fertilisation and Embryology Act 2008 (i.e. surrogate parents) and intended parents in a surrogacy situation, in respect of children whose expected week of birth begins on or after 5 April 2015.

The Paternity and Adoption Leave (Amendment) (No.2) Regulations 2014 (SI 2014/3206) extend the right to ordinary paternity leave to partners of local authority foster parents who are prospective adopters and who have been notified of a child's placement in accordance with s.22C of the Children Act 1989. The Regulations, which come into force on 5 April 2015, effect the extension in relation to children matched with an adopter who is notified of the match on or after this date.

For adoption situations, an adopter’s partner is entitled to one week or two consecutive weeks' of ordinary paternity leave for the purpose of caring for the adopted child or supporting the child's adopter if they :

* are the adopter’s spouse, civil partner, partner (including single sex partners) who lives with the adopter and child in an enduring family relationship;
* will have responsibility (apart from any responsibility of the adopter) for caring for the child;
* will take time off to support the adopter and/or care for the child;
* have been continuously employed for 26 weeks or more by the end of the week in which the child's adopter is formally notified by an approved adoption agency that they have been matched with a child for adoption; and
* have formally notified their employer of the date on which they intend to take ordinary paternity leave and, where applicable, have produced evidence supporting the ordinary paternity leave claim. (Employees will need to provide a self-certificate as evidence that they meet these eligibility conditions - see 16c.24 below).

**NB: An employee is not entitled to take ordinary paternity leave in respect of a child for whom they have taken any shared parental leave.**

**Only one period of ordinary paternity leave is available, even if more than one child is born as the result of the same pregnancy or if more than one child is placed with an individual or couple for adoption under the same arrangement.**

**Entitlement to ordinary paternity leave (adoption from Overseas)**

Under the Paternity and Adoption Leave (Adoption from Overseas) Regulations 2003 (SI 2003/921), an employee is entitled to one week or two consecutive weeks of ordinary paternity leave for the purpose of caring for a child adopted from overseas or supporting the child's adopter if they:

* are the adopter’s spouse, civil partner, partner (including single sex partners) who lives with the adopter and child in an enduring family relationship;
* will have responsibility (apart from any responsibility of the adopter) for caring for the child;
* will take time off to support the adopter and/or care for the child;
* have been continuously employed for 26 weeks or more by the end of the week in which the child's adopter received "official notification" from the relevant domestic authority, or commencing with the week in which their employment with the employer began (to accommodate the possibility that the official notification may have been received a year a more before the child enters the UK and the employee may have changed employer in this time);
* have formally notified their employer of the date on which they intend to take ordinary paternity leave and, where applicable, have produced evidence supporting the paternity leave claim.

**"Adoption from overseas"** means the adoption of a child who enters Great Britain from outside the UK in connection with or for the purposes of adoption that does not involve the placement of the child for adoption under the law of any part of the UK.

**"Official notification"** means written notification, issued by or on behalf of the relevant domestic authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The **"relevant domestic authority"** in the case of an adopter to whom the Intercountry Adoption (Hague Convention) Regulations 2003 (SI 2003/118) apply and who is habitually resident in Wales is the National Assembly of Wales. In the case of an adopter to whom the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 (SSI 2003/19) apply and who is habitually resident in Scotland it is the Scottish Ministers, and in any other case the Secretary of State for Health.

## 16c.19. Notification

Employees wishing to exercise their right to ordinary paternity leave must inform their Headteacher/manager in writing of their intention **no more than 7 days after the date on which the adopter is notified by an approved adoption agency** that they have been matched with a child for adoption in the UK (or if it is not reasonably practical to give notice within that 7 day period, as soon as is reasonably practicable).

In doing so, the employee must specify:

* when the child is expected to be placed with them (or if placement has already occurred, the date of the placement);
* when they want their paternity leave and pay to commence; and
* whether they wish to take either one or two weeks leave.

Where this is not possible, employees are required to give the above information within 7 days of being notified by their adoption agency that they have been matched with a child for adoption.

Adopters may change their mind about the date on which they want their leave and pay to start by giving their Headteacher/manager at least 28 days’ notice (unless this is not reasonably practicable).

Please note where the adoption is from overseas the employee wishing to exercise their right to ordinary paternity leave must inform their Headteacher/manager in writing of their intention **within 28 days of the adopter receiving the official notification**.

## 16c.20. Length of paternity leave

Ordinary paternity leave must be taken in a single block of one or two weeks within eight weeks of the adoption of the child. Ordinary paternity leave can start either from the date the child is placed for adoption or from a chosen number of days or weeks after that date.

## 16c.21. Timing of ordinary paternity leave

The timing of a period of ordinary paternity leave must be such as to enable an employee to take their full entitlement to leave (one week's leave or two consecutive weeks' leave, as the case may be) either:

* within 56 days beginning with the date of the child's birth or placement with its adoptive parent;
* or in the case of a child adopted from overseas, within the period of 56 days beginning with the date the child entered Great Britain.

There is no provision in the Regulations for employees to take their ordinary paternity leave in instalments*.*

## 16c.22. Paternity Pay

Provided they meet the notification requirements (see 16c.18), employees are eligible for one week’s paid leave (average weekly pay) if they are:

* are the adopter’s spouse, civil partner, partner (including single sex partners) who lives with the adopter and child in an enduring family relationship;
* will have responsibility (apart from any responsibility of the adopter) for caring for the child;
* will take time off to support the adopter and/or care for the child;
* the nominated carer of the main adopter (see 16c.18)

Employees are eligible for a second week’s leave, paid at the rate ofStatutory Paternity Pay, if they:

* have been continuously employed for 26 weeks or more by the end of the week in which the child's adopter is formally notified by an approved adoption agency that they have been matched with a child for adoption; **and**
* are the adopter’s spouse, civil partner, partner (including single sex partners) who lives with the adopter and child in an enduring family relationship; **and**
* will have responsibility (apart from any responsibility of the adopter) for caring for the child; **and**
* will take time off to support the adopter and/or care for the child; **and**
* met the notification requirements (see 16c.18)

The rate of SPP will be the same as the standard rate of Statutory Maternity Pay. This is a flat-rate which is revised each year (see HR Handbook Chapter 27 for current rates). If average weekly earnings are lower than the set rate, SPP will be paid at 90% of average weekly earnings.

Employees who have average weekly earnings below the Lower Earnings Limit for National Insurance purposes (see HR handbook chapter 27 for current rate) will not quality for SPP for the second week of paternity leave.

|  |  |  |
| --- | --- | --- |
| **Qualifying Service** | **Entitlement to Paternity Leave** | **Entitlement to Paternity Pay** |
| Support staff with **at least** 26 weeks’ continuous service with the Council by the end of the week in which the child's adopter is formally notified by an approved adoption agency that they have been matched with a child for adoption.  And will have responsibility (apart from any responsibility of the adopter) for caring for the child and has met the notification requirements. | Two weeks’ Ordinary Paternity Leave  **Statutory Entitlement** | One weeks’ Paternity pay (at average pay)  **Contractural Entitlement**  One weeks’ SPP  **Statutory Entitlement** |
| Support staff with **less than** 26 weeks’ continuous service with the Council by the end of the week in which the child's adopter is formally notified by an approved adoption agency that they have been matched with a child for adoption.  And will have responsibility (apart from any responsibility of the adopter) for caring for the child and has met the notification requirements. | One weeks’ Ordinary Paternity Leave  **Contractural Entitlement** | One weeks’ Paternity pay (at average pay)  **Contractural Entitlement** |

## 16c.23. Shared parental leave

An employee is not entitled to take ordinary paternity leave in respect of a child if they have taken any shared parental leave in respect of them.

Shared parental leave is available in relation to adoptions. Shared parental leave enables the adoptive parent to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave with their partner. (Please refer to Chapter 21a on Shared Parental leave in the HR Handbook).

## 16c.24. Self-certificate

Employees will have to give their employers a completed self-certificate as evidence of their entitlement to SPP. A model self-certificate can be found in Appendix 3.

Line managers can also request a completed self-certificate as evidence of entitlement to paternity leave. The self-certificate must include a declaration that the employee meets certain eligibility conditions and provide the information specified above as part of the notice requirements. By providing a completed self-certificate, employees will be able to satisfy both the notice and evidence conditions for paternity leave and pay. Employers will not be expected to carry out any further checks.

## 16c.25. Contractual benefits

Employees are entitled to the benefit of their normal terms and conditions of employment (other than wages or salary) throughout their paternity leave.

## 16c.26. Return to work after paternity leave

Employees will be entitled to return to the same post following paternity leave, on the same terms and conditions of employment as if they had not been absent.

## 16c.27. Protection from detriment and dismissal

Employees will be protected from suffering unfair treatment or dismissal for taking, or seeking to take, paternity leave. Employees who believe they have been treated unfairly will be able to make a claim to an Employment Tribunal.

End

# 

## Appendix 1 Summary of Teachers’ Adoption Scheme

Are you or your spouse/partner legally adopting a child, through an approved adoption agency; surrogacy arrangement or local authority?

No entitlement

No

Do you have 26 weeks continuous service and will you have responsibility for the child’s upbringing?

You do not intend to take shared parental leave.

**You are entitled to either 1 or 2 consecutive week’s paternity leave (SPP1 only)**

Yes

Yes

Yes

Will your spouse or partner be taking adoption leave from their employer?

**\**Notification for Adoption Leave and Pay***

*Within* ***7 days*** *of being notified that they have been matched with a child* ***and*** *up to* ***14 days*** *before adoption leave starts, the employee must confirm in writing:*

* *when the child is expected to be placed with them, and*
* *when they want their adoption leave and pay to commence. Adoption leave can start from the date of placement or up to 14 days beforehand*.

6 weeks at 90% of normal pay (incl. SAP2 )

33 weeks pay SAP2

Up to 52 weeks adoption leave

1 ***SPP*** *= Statutory Paternity Pay*

*2* ***SAP*** *= Statutory Adoption Pay*

*3 To be eligible for half-pay, the adopter must return to work after their adoption leave for at least 13 weeks (or part-time equivalent). Unless agreed otherwise, the half-pay will be paid for 12 weeks starting from the 7th week of adoption leave*

4 weeks full pay (incl. SAP)

2 weeks at 90% of normal pay (incl. SAP 2 )

*followed by*

12 weeks half-pay 3 plus SAP

*followed by*

21 weeks SAP2

Up to 52 weeks adoption leave

No length of service

requirement

One year or more service

**Adoption Leave Scheme** **applies**:

The amount of adoption pay and leave depends on your length of continuous service at the end of the week in which you are told that you have been matched with a child - \*see below.

## Appendix 2 – Teacher Request for Adoption Leave Form

|  |
| --- |
| TEACHER REQUEST FOR ADOPTION LEAVE FORM |
| Please complete and return to the Headteacher no later than 7 days after the notification of the adoptive match was given to you by the adoption agency and at least 28 days before you wish any payment of statutory adoption pay to begin (or as soon as possible where this is not reasonably practicable) |
| NAME: …………………………………………………………………………  EMP. NO: …………………………………………………………………………  SCHOOL/PRU: ………………………………………………………………………... |
| Date of commencement of employment with Croydon Council/School: |
| The Date the adoption agency have matched you with the child(ren): |
| The Date the child is expected to be placed with you: |
| Date Adoption Leave is expected to commence: |
| I will be returning to work after my adoption leave:  I will not be returning to work after my adoption leave:  **Declaration**  **You must tick this box if you are adopting a child with your partner.**  I declare that I am adopting the child with my partner and I want to receive Statutory Adoption Pay and adoption leave, not Statutory Paternity Pay (SPP) and Paternity leave.  I will be the Principal Carer for a child(ren) being legally adopted through an adoption agency/surrogacy arrangement/fostering to adopt arrangement.  I will inform my Headteacher/manager immediately if there is any change to the above or any change in the circumstances relating to the adoption/permanent fostering.  I enclose a matching certificate /will forward \* the matching certificate /relevant documents relating to the adoption/ surrogacy arrangement/fostering to adopt arrangement and agree to the conditions of the adoption leave scheme.  \**Please delete as appropriate*  Signed…………………………………… Date……………………….  Headteacher/manager ……………………………… Date……………………….. |

## Appendix 3 – Paternity Leave (Adoption) & Pay Claim Form (PL/2022)

**PATERNITY LEAVE (Adoption) AND PAY CLAIM FORM self-certificate (PL/2022)**

Please complete and return to the Headteacher no later than 7 days after the notification of the adoptive match was given to the main adopter by the adoption agency and at least 28 days before you wish any payment of statutory paternity pay to begin (or as soon as possible where this is not reasonably practicable)

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |  | Employee Number (found on your payslip): |  |

|  |  |
| --- | --- |
| School/Academy |  |
| Home Address |  |
| Position |  |
| Date commenced continuous employment with the Employer |  |
| Date commenced continuous employment (if the Employer is different from above) |  |

|  |  |
| --- | --- |
| Date child was matched by the adoption agency: |  |

|  |  |
| --- | --- |
| Date child is expected to be placed: |  |

|  |  |
| --- | --- |
| Date I would like to start my paternity leave & SPP to start on:  (a date no more than 14 days before the child is expected to be placed for adoption and no later than the expected placement date) |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| I want to be away from work for (tick 1 box) | 1 week |  | 2 weeks |  |

Continued overleaf

**Complete either section 1 or 2 below**

**Section 1** - if you are able to tick **all 4 boxes** below, you can take 1 week’s leave (average pay) and choose to take one further week’s leave (Statutory Paternity Pay)

I declare that:

* I am: - married to the main adopter, or

- living with the main adopter in an enduring family relationship,

but not an immediate relative (e.g. a nominated carer)

* I have or will have responsibility for the child’s upbringing
* I will take time off work to support the main adopter or care for the child
* I have been employed continuously by the Employer for

at least 26 weeks by the end of the week in which the child's adopter is

formally notified by an approved adoption agency that they have been matched

with a child for adoption.

***If you are unable to tick all 4 boxes, go to section 2 below***

**Section 2** - if you can tick either box, you are eligible for only 1 week’s leave (average pay).

* I am the main adopter’s spouse partner, but did not have 26 weeks

continuous employment by the end of the week in which the child's adopter is

formally notified by an approved adoption agency that they have been matched

with a child for adoption.

* I am the nominated carer of the main adopter.

*If nominated carer, please explain your relationship with the main adopter and the reason for being the “primary provider” of support to them:*

|  |  |  |
| --- | --- | --- |
| I confirm that the main adopter has been entitled to one or more of the following:  Statutory Adoption Leave and Statutory Adoption Pay.  I confirm that I have not, nor do I intend to take any Shared Parental Leave to taking Paternity Leave in respect of this adoption.  In making this claim I agree that if for any reason the monies paid to me with respect to paternity pay are in excess of what is due to me under the terms and conditions of employment, I shall refund the excess to~~.~~my employer. | | |
| Signed |  | Date: ……………………… |
| Daytime Telephone Number |  | |
| Work Location |  | |