

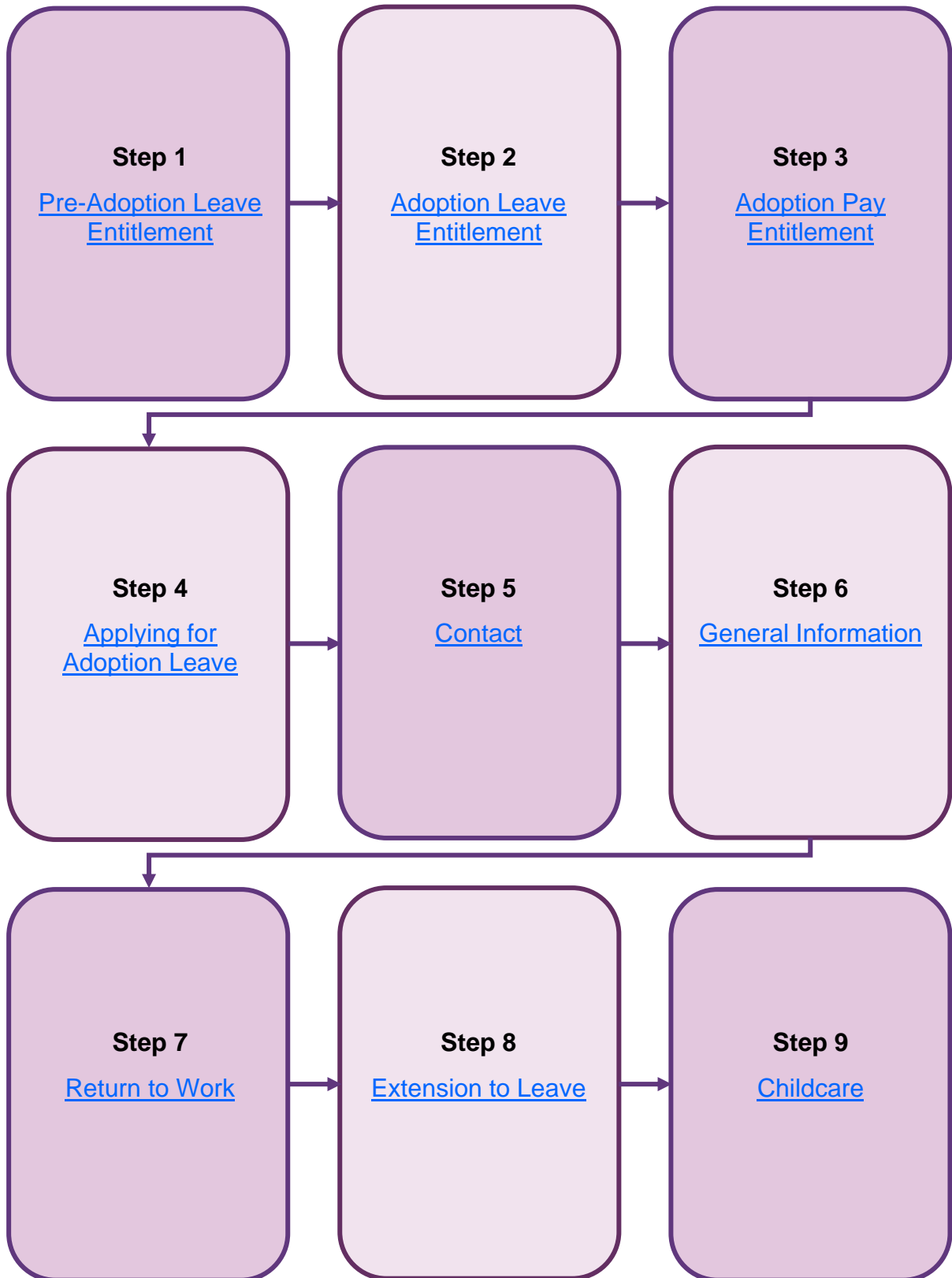


Adoption Leave Guidance for Local Government Employees

Review Date: 17th June 2024

Summary

A step-by-step guide to Adoption Leave for Local Government 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 employees of the Council with the exception of Teachers and other associated professionals who should refer to the [Adoption Leave Guidance for Teaching Employees](#).

Introduction

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

Pre-Adoption Leave Entitlement

It is recognised there are a number of courses and meetings which you must attend in relation to the adoption of a child. Aberdeenshire Council will approve paid leave to attend any approved pre-adoption course and also paid special leave for your attendance at any pre-adoption meetings if they cannot be scheduled out with your normal working day.

This leave should be applied for using the normal special leave procedures and evidence of attendance should be submitted to your line manager. It would be appreciated if as much notice as possible can be given to your line manager. Aberdeenshire Council will respect any request for 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 leave. Your adoption leave can start:

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 the child's or children's placement ends during the adoption leave period, you will be entitled to remain absent on adoption leave for up to eight weeks after the end of the placement.

The adoption leave can start on any day of the week.

If you are adopting a child from overseas you may choose to start your leave from the date the child enters the UK or from a fixed date (as notified to Aberdeenshire Council) no later than 28 days after the date the child enters the UK.

If you have less than 26 weeks continuous service prior to the week in which you are notified of being matched with a child for adoption, you will be entitled to 26 weeks ordinary adoption leave without pay.

Eligibility

All employees are entitled to 52 weeks adoption leave as indicate above however, you must have worked continuously for 26 weeks ending with the week in which you are notified of being matched with a child for adoption to be eligible for adoption pay.

For employees appointed before 1 July 1999

Reckonable service for the purposes of qualifying for adoption leave and pay includes current service with Aberdeenshire Council plus:

- All previous service with any local authority listed in the Redundancy Payments (Local Government) (Modification) Order 1983 and subsequent amendments thereto;

Any other public authority to which the Superannuation Inter-change rules apply; and

Any previous service with an employer which the Council deems to be appropriate.

For employees appointed from 1 July 1999

The implementation of the Single Status Agreement on 1st July 1999 has determined that employees who commenced with the Council on or after 1st July 1999 will only have previous reckonable service taken into account where the employee returned to local government service following a break for maternity reasons only. The break in service should not exceed eight years and no paid employment should have intervened.

Continuous service will include continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.

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.

If you have 26 weeks reckonable/continuous service ending with the week in which you are notified of being matched with a child for adoption and your earnings are not less than the lower earnings limit for NI Contributions Liability, you can expect to receive:

Six weeks at 90% pay (including Statutory Adoption Pay {SAP}) paid at the same rate as Statutory Maternity Pay.

Followed by 12 weeks at 50% pay (plus SAP), and

21 weeks SAP

The remainder of the leave is without pay.

You are entitled to the 12 weeks at 50% pay if you return to work for at least three months. If you cannot confirm your intention to return for three months, the 50% pay will be withheld until you have made a decision on whether or not you wish to return to work. You will of course receive the SAP during the ensuing 12 weeks regardless of whether or not you confirm your intention to return.

If you confirm your intention to return, receive 12 weeks at 50% pay and then do not return to work, you will be required to refund this money, or part thereof, 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 three months to fulfil the return to work requirement. This will only apply to employees changing to a relief contract following adoption leave and not to those already employed on a relief basis.

Entitlement for employees with less than 26 weeks continuous service.

If you have less than 26 weeks continuous service with the Council, you will not be entitled to Occupational Adoption Pay or SAP. If you have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions (please check with Human Resources as the amount changes each year) then you would not qualify for SAP. You should contact your adoption agency for information on alternative financial support in these circumstances.

Applying for Adoption Leave

Adopting a Child from the UK

You must inform the Council in writing of your intention to take adoption leave within seven days of being notified by the adoption agency that you have been matched with a child for adoption. You may change your mind regarding your start date, providing you give at least 28 days' notice, where reasonably practicable.

HR Transactional will write to you and your employing service confirming your adoption leave and pay entitlements. This letter will also indicate the latest date you are expected to return to work following your adoption leave.

Adopting a Child from out with the UK

Adoption leave and pay is available if you adopt a child or children from overseas as long as you have official notification.

Official notification means a written notification, issued by, or on behalf of, the relevant domestic authority stating 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, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

A copy of the official notification is needed as proof of eligibility for statutory adoption pay, and a declaration that it has been received is needed to claim statutory paternity pay.

You should complete the [Application for Adoption Leave ADOP 1 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. In such circumstances notice of the intended date of return should be given.

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 his/her return for up to 28 days or to the end of the adoption leave period if this is earlier.

Surrogacy or 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.

Any application for adoption leave should be made through the [Application for Adoption Leave ADOP 1 Form](#) and submitted to askHR.

Eligibility for Adoption Leave - Surrogacy or Parental Order Parents

An employee who adopts a child through surrogacy will only qualify for adoption leave if they meet all the following criteria:

- The baby's expected week of birth is on or after 5 April 2015.
- The employee is one of a couple who has obtained a Parental Order for the child or who have, on the day of the child's birth, applied for or intend to apply for, a Parental Order for the child.
- The application for a Parental Order must be made within 6 months of the child's birth and the intended parents must expect the Parental Order to be made.
- Notice of entitlement to adoption leave must be given by the 15th week before the expected week of birth using [Application for Adoption Leave ADOP 1 Form](#). A copy of the surrogate's MATB1 form must be submitted along with this form.
- The employee must provide ask HR with a statutory declaration that they have obtained or have applied for/intend to apply for a Parental Order, and that it is likely that they will receive the Parental Order in respect of the child that they are having with the help of a surrogate.
- The employee must provide askHR with a copy of the Parental Order once it has been granted.
- The employee must give askHR the actual date of the child's birth as soon as reasonably practicable after birth.

Where the intended parents' application for a Parental Order is refused by the court, the employee's entitlement to adoption leave will end 8 weeks later or at the end of the adoption leave, whichever is earlier.

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

Have a child with the help of a surrogate mother, where the intended parent are not eligible for a Parental Order.

Adopt a family member or stepchild

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. The employee should also be apprised of changes to the workplace or work organisation which may impact on her.

Keeping in Touch Days

You may with agreement from your line manager undertake up to ten days work ('Keeping in Touch' days) under your contract of employment during your adoption leave period. The type of work undertaken for example may be to undertake your normal duties, attend a training course, meeting or team briefing. If you are required to attend a training course out with your normal place of work on any of these days, you will be eligible for claim for travel expenses as normal.

You will receive normal pay for the 'Keeping in Touch' days. Normal pay will be an amount inclusive of SAP as appropriate. Working for part of a day will count as a day towards the ten days maximum that can be taken. You have no obligation to undertake these 'Keeping in Touch' days or to undertake a maximum (within the limit of ten) or minimum number. Your line manager will be responsible for providing you with a timesheet for detailing any days worked which should be forwarded to the payroll section in Finance Services on a monthly basis or as appropriate.

Please contact your line manager either before or during your adoption leave to discuss if you want to undertake these days and to arrange mutually appropriate dates for these days. Please note that they do not have to be taken consecutively.

General Information

Pensions

If you are a Local Government Pension Scheme member, you will accrue pension benefits during Ordinary Adoption Leave and any period of paid Additional Adoption Leave. You will make contributions during any period of paid adoption leave.

You will not pay contributions or accrue pension benefits during any periods of unpaid Additional Adoption Leave. However, you can 'buy back' pension accrual by taking an Additional Pension Contract. The cost of buying back the "lost" pension is shared between you and the Council provided your PEN11 application form is received by Payroll before the expiry of a period of 30 days beginning with the day on which you return to work. In such cases the Council will meet 2/3rds of the cost.

The PEN11 form together with guidance on completing it, including how to obtain the cost of the APC, is available from the Pension Fund website at: [Publications & Forms | NESPF](#) or may be requested;

By phone: 01224 264264

By e-mail: pensions@nespf.org.uk

By post: North East Scotland Pension Fund, Corporate Governance, Business Hub 16, 3rd Floor – West, Marischal College, Broad Street, Aberdeen, AB10 1AB.

The form may be sent to Payroll via [askHR](#) or by post to Payroll Section, Aberdeenshire Council, Woodhill House, Westburn Road, Aberdeen, AB16 5GB.

The Pension Fund will make arrangements with Payroll for deduction of the cost of the APC from your pay.

Please note that:

Your return-to-work date is the day after your Adoption Leave ends (not the day you physically return to work if this is later, for instance due to taking Annual Leave).

If you do not return to work after your Adoption Leave you will not be eligible to take an Additional Pension Contract – you must be an active member of LGPS.

The Pension Fund will determine whether payment can be made as a regular amount over a period of time or whether it must be made as a one-off lump sum.

The Pension Fund may require you to provide a report from a registered medical practitioner prior to agreeing the APC – this would be at your expense.

For further information contact the North East Scotland Pension Fund as above.

Annual Leave and Public Holiday Entitlement

As is normal practice you must agree how best the leave should be taken, both prior to and following your adoption leave, with your line manager. We would ask, where possible, that you use your proportion of annual leave entitlement for the period leading up to you commencing adoption leave.

You will accrue entitlement to annual leave and public holidays throughout the whole period of your adoption leave (irrespective of whether your leave covers two leave years). Any annual leave/public holiday entitlement that you have accrued during your adoption leave period should be taken in a block following your adoption leave but immediately before your first day back at work.

This should be discussed and confirmed with your line manager either before you commence adoption leave or prior to your return date.

A request to take this accrued leave at any other time will be only be considered in exceptional circumstances in accordance with the operational requirements of your Service.

If you worked full time prior to your adoption leave and are returning to work on reduced hours, then your annual leave would be at the full-time rate up until the date you resume work at which time it would be prorated. If you are unsure of your annual leave entitlement, please seek confirmation from your line manager.

The whole period of your adoption leave shall be taken into account when calculating your period of reckonable service for annual leave, sickness allowance, period of notice or further adoption leave.

Higher Duty Payments

If you are currently in receipt of Higher Duty Payments, these are only payable when you are carrying out the higher graded duties. Therefore, the payments will automatically cease from the date your adoption leave starts or earlier if your Service has notified askHR to do so.

Pay Awards and Incremental Progression

Adoption leave will not affect any entitlement you may have to progress within your grade or to any of the pay awards.

SSSC Registration

As you may be aware, each year you pay a registration fee to the SSSC.

It is essential that you pay your registration fee during your adoption leave as this is a requirement of your employment with Aberdeenshire Council. If you have allowed your registration to lapse you will be unable to return to work and may face disciplinary proceedings.

Each year, around the time of your registration date, the SSSC ask you to complete an annual declaration, however it is the employee's responsibility to ensure that their registration is up to date. Should you wish to contact the SSSC the contact number is 0345 603 0891.

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, you will accrue your full entitlement for the full 52 weeks 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

Employees on fixed term contracts will be treated the same as permanent employees 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, employees will not be required to return to work. If you are unable to return to work for the full three months following your adoption leave you will be required to pay back your occupational adoption pay. You will have the option to withhold this payment at the start of your adoption leave if you are unsure if you will be able to fulfil the three month requirement.

If an employee 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 employee will not accrue annual leave or continuous service past the date their contract ended.

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 Guidelines \(Adoption\)](#).

Returning to Work

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 eight weeks in advance of the date you propose to return to work by completing sections 1, 2 and 4 of the [Notification of Intended Return to Work ADOP 2 Form](#).

HR Transactional 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.

Should you decide that you do not wish to return to work following your adoption leave then we would ask that you indicate your wish by completing sections 1, 3 and 4 of the Notification of Date of Intended Return to Work ADOP2 Form and submit it to askHR at the earliest opportunity.

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 initiatives, which will hopefully assist you. Please refer to the Flexible Working procedure for more information. All requests for flexible working or reducing hours must go through the [Flexible Working Procedure](#).

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.

Part Time Working

If you previously worked full time but do not wish to return to full time working after adoption leave you could request that you return to work in your existing job on a part time basis.

If you are considering returning to work on a part time basis, please discuss this with your line manager as far in advance as possible. This will allow the Council time to give your request full consideration and to make any necessary arrangements before you return to duty.

Scheme of Flexible Working Hours

The flexible working arrangements adopted by the Council have been designed to introduce flexibility in the pattern of working hours. It is worth considering therefore how this scheme can assist you to organise your childcare/domestic arrangements when you return to work.

If you opted to take your occupational adoption pay and you return to work on a relief contract you must ensure you work at least once a week for the first three months. Failure to do so will mean that you will be required to pay back your occupational pay.

This does not apply to employees who were on a relief contract prior to starting their adoption leave.

For further information on flexible working hours or part time/flexible working please refer to the [Flexible Working Procedure](#).

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 [Career Break Procedure](#).

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 all documents			
002	18 Sep 2013	Addition of information relating to extending time off			
003	11 Nov 2014	Amendment to pensions contact number			
004	24 Apr 2015	Addition of information relating to shared parental / adoption leave			
005	02 Jun 2015	Amendment to Pension information			
006	20 Jul 2015	Addition of information relating to parental orders and dual approved prospective adopters			
007	02 Feb 2016	Amendment to Pension information			
008	11 Jan 2019	Removal of Aberdeenshire Childcare Voucher Scheme			
009	04 Aug 2022	Update to reflect askHR, Transactional team and incorporation of policy statement			
010	17 Jun 2024	Format update	HR Ops	L McLean	2025

Appendix One – The Resource Pack

Resource Pack

Forms

[ADOP 1](#)

[ADOP 2](#)

Factsheets

[Family Friendly Initiatives](#)

[Keeping in Touch Days](#)

[Parental Leave](#)

Related Procedures

[Family Leave – Surrogacy Guidance](#)

[Paternity Leave Guidance - Adoption](#)

[Flexible Working Procedure](#)

[Shared Parental Leave Procedure](#)

Useful Links

[askHR](#)

[Childcare Costs](#)

[SSSC](#)

[SAP Rate](#)