

JOINT NEGOTIATING COUNCIL FOR THE EDUCATION AND LIBRARY BOARDS

24 March 2011

**To: Chief Executives
Council Members
MSO/TUSO**

Joint Negotiating Council Circular No. 119 - Amended

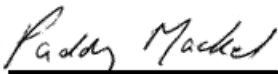
Adoption Leave Provision

The Joint Secretaries of the Joint Negotiating Council have agreed amendments relating to Adoption Leave Provision.

The Adoption Guidelines, which includes references to Keeping in Touch (KIT) days and Contact, are attached as an appendix to this circular. Please note that this circular replaces JNC Circular No 119 dated 29 April 2010 which should be destroyed.



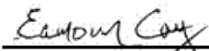
Management Side Secretary
J Curran



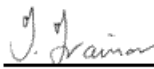
Trade Union Side Secretary
P Mackel



Trade Union Side Secretary
L Kerr



Trade Union Side Secretary
E Coy



Trade Union Side Secretary
T Trainor

..... EDUCATION AND LIBRARY BOARD

ADOPTION PROVISION

NOTES FOR GUIDANCE

These notes are not intended as a full and definitive statement of adoption rights or provisions.

Advice is available from Human Resources,

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ABBREVIATIONS AND TERMS

<i>AL</i>	Adoption Leave
<i>LEL</i>	Lower Earnings Limit – for National Insurance contributions. Used as the level of earnings for entitlements to SAP.
<i>OAP</i>	Occupational Adoption Pay
<i>SAP</i>	Statutory Adoption Pay
<i>AAL</i>	Additional Adoption Leave
<i>AL1</i>	Application for Adoption Leave
<i>KIT</i>	Keeping in Touch Days

INTRODUCTION

The Occupational Adoption Scheme shall apply to all non-teaching employees.

Occupational adoption leave and pay will entitle eligible employees to take paid leave when a child is newly placed for adoption by an adoption agency. Adoption leave and pay will be available to:

- Individuals who adopt;
- One member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave).

Adoption leave and pay is not available in circumstances where a child is not newly matched or placed for adoption, for example when a step-parent is adopting a partner's children.

NOTIFICATION OF INTENTION TO ADOPT

Employees are required to inform the Board of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. They must inform the Board of:

- The date the child is expected to be placed with them; and
- The date from which adoption leave is requested.

Employees will be permitted to amend the start date of their leave provided a minimum of at least 28 days notice is given (unless this is not reasonably practicable). They will have to advise the Board of the date they expect any payments of Occupational Adoption Pay to start at least 28 days in advance.

Employees can choose to start their leave:

- From the date of the child's placement (whether this is earlier or later than expected);
or
- From a fixed date which can be up to 14 days before the expected date of placement.

Leave can start on any day of the week.

OVERSEAS ADOPTIONS

Employees who intend adopting a child from overseas may require time off to visit the country involved prior to having the child placed with them. The Board will consider requests for paid leave in these circumstances up to a maximum of 2 weeks which, if used will be deducted from the occupational adoption pay entitlement. That is, if 5 days paid leave is granted for an overseas visit in preparation for placement, the equivalent of 5 days pay will be deducted from the 12 weeks occupational adoption pay paid at half pay. Alternatively adoption leave may commence 14 days prior to placement or annual leave may be used for visits.

Employees applying for adoption leave must provide the Board with documentary evidence i.e. a 'matching certificate' from the adoption agency as evidence of entitlement to Adoption Leave. Applications will not be processed without this certificate or other evidence such as a letter confirming the date the child is expected to be placed and the name and address of the adoption agency. Within 28 days of receiving this notice Human Resources will confirm in writing the date of return to work following the adoption leave.

ADOPTION LEAVE ENTITLEMENT

Provided that an employee has complied with the notification procedures he/she will be entitled to 39 weeks' ordinary adoption leave. This may be paid or unpaid (depending on eligibility) followed immediately by up to 13 weeks' additional unpaid adoption leave.

RETURN TO WORK

It will be assumed that an employee will be returning to work on expiry of the approved period of adoption leave or following any period of annual leave as agreed by the Line Manager/Principal.

If, for health reasons, the employee is unable to return on the proposed date he/she must contact the Line Manager/Principal and submit the relevant medical documentation as soon as possible confirming that he/she is unfit to return to work.

If an employee proposes to return to work before the end of their adoption leave period, they must give the Board 28 days notice of the date they intend to return.

An employee must inform the Board if she intends to resign from her job.

PAYMENT DURING ADOPTION LEAVE

An employee may qualify for Occupational Adoption Pay (OAP) and/or Statutory Adoption Pay (SAP). To assess eligibility for OAP and SAP the following criteria must be met.

OCCUPATIONAL ADOPTION PAY (OAP)

If an employee has one year's continuous service at the week they have been informed by an adoption agency that they have been matched with a child, he/she will be entitled to Occupational Adoption Pay. Payment will be as follows:

For the first 6 weeks of absence an employee will be entitled to $\frac{9}{10}$ ths of a weeks pay which would include any payment made by way of Statutory Adoption Pay (SAP) if applicable.

Employees will be entitled to the next 12 weeks at half pay and for the remaining 8 weeks, SAP only if eligible. If an employee is entitled to SAP these payments will be made in addition to half salary. If half pay plus SAP exceeds full pay the excess will be deducted.

If an employee does not return to work for a period of at least three months following adoption leave, the Board will be entitled to recover 12 weeks at half pay.

STATUTORY ADOPTION PAY (SAP)

An employee will be entitled to Statutory Adoption Pay if:

- (a) Average weekly earnings are above the lower earnings limit for national insurance contributions;
- (b) They have been employed continuously for 26 weeks into the week they are notified by an approved adoption agency that they are matched with a child.

Statutory Adoption Pay is payable at:

Statutory Adoption Pay will be paid by employers for up to 39 weeks. The rate of Statutory Adoption Pay will be the same as the standard rate of Statutory Maternity Pay or 90% of average weekly earnings if this is less.

EMPLOYEE NOT ENTITLED TO STATUTORY ADOPTION PAY

If an employee does not qualify for SAP, he/she may be able to seek financial support from their local Social Security Office. Additional financial support may be available from Housing Benefits, Council Tax Benefit or Tax Credits. Further information is available from the local Job Centre or Social Security Office.

If an employee is not entitled to SAP he/she will be issued with form SAP1 (why I cannot pay you SAP) This form can only be issued by the Board on receipt of the employee's adoption leave application form and matching certificate from the adoption agency.

SUMMARY OF PAYMENT

Employees who intend to return to work, who have at least one year's continuous service at the week they have been informed by an adoption agency that they have been matched with a child for adoption regardless of the number of hours worked, and satisfies the SAP criteria, payment will be as follows:

- 6 weeks at $\frac{9}{10}$ ^{ths} of average earnings, inclusive of Statutory Adoption Pay;
- 12 weeks at half pay, plus Statutory Adoption Pay; if half pay and SAP exceeds full pay the excess will be deducted;
- 21 weeks Statutory Adoption Pay;
- 13 weeks unpaid Additional Adoption Leave.

Employees who do not intend to return to work, who have at least one years' continuous service, at the week they have been informed by an adoption agency that they have been matched with a child for adoption regardless of the number of hours worked, and satisfies SAP criteria, payment will be as follows:

- 6 weeks at $\frac{9}{10}$ ^{ths} of average earnings, inclusive of Statutory Adoption pay;
- 33 weeks Statutory Adoption Pay.

Employees who intend to return to work, with less than one years' continuous service, at the week they have been informed by an adoption agency that they have been matched with a child for adoption regardless of the number of hours worked, and satisfy SAP criteria, payment will be as follows:

- 39 weeks Statutory Adoption Pay;
- 13 weeks unpaid Additional Adoption Leave (if eligible).

Employees who do not intend to return to work, with less than one years' continuous service at the week they have been informed by an adoption agency that they have been matched with a child for adoption regardless of the number of hours worked, and satisfies SAP criteria, payment will be as follows:

- 39 weeks Statutory Adoption Pay.

TERM TIME / OPTION 1 EMPLOYEES

If you are employed on a Term Time basis and qualify for both OAP and SAP, during school closure in July and August only Statutory Adoption Pay (SAP) will be received.

KEEPING IN TOUCH DAYS

Up to 10 'Keeping in Touch' (KIT) days may be worked without bringing an end to adoption leave. These days may be taken in single or multiple days up to a maximum total of 10

'KIT' days. Working for part of a day will count as one full day out of the entitlement of 10 days. Pay will be pro-rata for the hours worked. Training or attending team meetings may also be included in the entitlement to work up to 10 days. SAP will be offset against wages earned on a 'KIT' day as total payments made may not exceed normal pay. If the 'KIT' day falls outside the SAP period, pay will be at employees daily rate.

These days must be agreed between the employee on adoption leave and her line manager. Line managers may not compel the employee to attend work and similarly the employee may not insist on working up 'KIT' days. Employees on adoption leave who refuse to attend work in respect of a 'keeping in touch' day are protected from any detriment.

PENSION SCHEME (NILGOSC)

If an employee is a member of the Pension Scheme (NILGOSC), he/she must pay contributions for the first 30 days of any period of unpaid leave. Payment of the remaining period of unpaid leave is optional and the Board requires confirmation in writing if an employee wishes to continue paying contributions. Any period for which the employee does not pay will not count as pensionable service.

CONTACT

During the adoption leave period an employer may make reasonable contact with the employee in order to discuss for example arrangements for the return to work such as dates or working hours, or to keep the employee abreast of developments at the workplace. In the same way, an employee may make contact with her employer. This contact can be made in any way that best suits both parties such as by telephone or in writing. It is recommended that, before adoption leave commences, arrangements for staying in touch are discussed and agreed.

AUTHORISED LEAVE

Any period of authorised leave (paid or unpaid) shall be regarded as service for the purposes of calculating annual leave entitlement. If an employee intends to take annual leave before or after their Adoption Leave they will require the authorisation of their Line Manager/Principal.

PAYMENT OF ESSENTIAL CAR USER ALLOWANCE

The Education and Library Boards consider that, for all staff, the essential car user allowance should be treated as a 'reimbursement' to offset costs associated with the member of staff being designated as an 'essential car user' for the purposes of conducting the Board's business. This payment is intended to be a reimbursement of expense and is not simply cash that is a 'transferrable benefit' (i.e. insurance, road tax etc). In these circumstances the allowance is considered to be a benefit and employees on adoption leave will be entitled to essential car user allowance throughout the entire adoption leave period (*i.e. ordinary adoption leave and additional adoption leave*) for women whose expected week of adoption is on or after 5 October 2008.

**JNC Circular No 119 - Issued 23 May 2005
Amended 29 April 2010
Amended 24 March 2011**

ADOPTION APPLICATION FORM (AL1)

This form must be completed, signed and returned by the person requesting Adoption Leave and countersigned by Line Manager/Principal to Human Resources, not later than 28 days before their Ordinary Adoption Leave commences.

Please note that failure to comply with the conditions of the Adoption Scheme without good reason may lead to a loss of benefits.

Name: _____	Address: _____
Staff Number: _____	_____
NI Number: _____	_____
Location(s): _____	Post(s) Held: _____
Hours Per Week: _____	
Expected Date of placement: _____	
Matching Certificate (from adoption agency)	Yes/No
Date Ordinary Adoption Leave to commence: _____	
Is it your intention to resign from work?	Yes/No
Is it your intention to apply for Additional Adoption Leave? Yes/No	
Date Additional Adoption Leave to end: _____	
If applying for Additional Adoption Leave, do you wish to pay pension contributions after the first 30 compulsory days? Yes/No	
<p>I wish to claim for adoption leave/pay in accordance with the Board's adoption scheme and the government's statutory adoption pay scheme. I have read the notes for guidance and agree to comply with the conditions of both schemes. I authorise the Board to seek recovery of any monies paid to me under the Board's Occupational Adoption Scheme if I do not return for a period of 3 months.</p>	
Signature: _____	Date: _____
Line Manager/Principal Counter Signature: _____	Date: _____