

**Joint Agreement on Guidance for
Adoption Leave in
Further Education Colleges**

Between

The Association of Colleges (AoC)

and

Association for College Management (ACM)

**Association of Teachers & Lecturers
(ATL)**

GMB

Unite

University and College Union (UCU)

UNISON

September 2008

1 Introduction

- 1.1 The college recognises the need for effective policies which play a key part in supporting an appropriate work-life balance. Such agreements are intended to: allow a more effective combination of home and work responsibilities; enhance equality of opportunity at work; maintain the competitive advantage of the organisation by retaining skilled & valued employees.
- 1.2 No existing employees shall be disadvantaged, as compared with their existing position, by the implementation of the terms of this agreement.

2 Scope

- 2.1 This agreement describes the right to adoption leave which is available to all employees of the college who are adopting a child, with the expected placement date for adoption being on or after 5 October 2008, and who satisfy the qualifying conditions set out in this scheme. The most recent previous version of this agreement shall continue to apply to all employees of the college who are adopting a child, with an expected placement date for adoption before 5 October 2008. Employees are also encouraged to refer to other related agreements on guidance such as: {Parental leave, maternity leave, paternity leave, dependants leave, and time off for public duties}.
- 2.2 The college has an obligation to pay Statutory Adoption Pay (SAP) on behalf of the Benefits Agency to all employees who are eligible to receive it. This scheme explains entitlements to both statutory and contractual adoption pay.

3 Adoption Leave

- 3.1 Employees who are matched with a child for adoption will be entitled to paid adoption leave, subject to the service and notification requirements set out below.
- 3.2 Adoption leave will be available to parents where a child is placed for adoption within the UK as well as where a child is placed from overseas. Adoption leave is only available where the child is newly placed for adoption. It will be available to individuals who adopt or to one member of a couple where a couple adopt jointly. In the case of a couple, only one person may choose to take adoption leave.

4 Ordinary Adoption Leave (OAL) and Additional Adoption Leave (AAL)

- 4.1 An employee who has been continuously employed for at least 26 weeks leading into the week in which she/he is notified of being matched with a child for adoption will qualify for statutory adoption leave.
- 4.2 Employees who qualify will be entitled to 26 weeks ordinary adoption leave (OAL), immediately followed by a period of 26 weeks additional adoption leave (AAL), making a total of up to 52 weeks.
- 4.2 Only one period of leave will be available in respect of an adoption arrangement. If more than one child is being adopted at the same time, this will not affect the length of the leave. However, adoption leave may be taken at a later time in respect of a fresh adoption process.

5 Notification requirements and commencement of leave

- 5.1 In order to take adoption leave, the employee must notify the college of the date or expected date of the placement and the date when she/he wishes leave to commence. This information must be provided within 7 days of her/his being notified by the adoption agency when a match with a child will take place or, if this is not practicable, as soon as practicable.
- 5.2 This information should be put in writing. The employee may vary the date when leave is taken but the employee should give the college at least 28 days in writing before the start of the leave initially specified. Once the employee has notified the college of the date of the placement and the date when she/he wishes to start leave, the college must then write to the employee within 28 days, stating the date upon which she/he expects the employee to return to work.
- 5.3 An employee can commence adoption leave on the date when the placement commences or up to 2 weeks before this date (but no earlier). If the employee is working on the date when placement commences, adoption leave may start the day after.
- 5.4 Eligibility to share adoption leave
 - 5.4.1 If both prospective adopting parents are employees at the College, partners will be eligible to share adoption leave. In any case, adoption leave will be limited to one period of leave per 12 month rolling period.

6 Statutory Adoption Pay

- 6.1 Statutory Adoption Pay (SAP) is available to employees who have sufficient service to qualify to take adoption leave. SAP is available for up to 39 weeks and is paid at the current SAP flat rate or 90% of average weekly earnings if this is less than the standard SAP rate. Employees whose average weekly earnings are below the lower earnings limit for SAP purposes may be able to seek other financial support and should seek advice from their local Jobcentre Plus. Additional adoption leave, beyond the 39 weeks, is unpaid.
- 6.2 In order to satisfy the college that they are entitled to SAP, an employee must provide evidence of a letter from an adoption agency specifying the following:
 - i) name and address of agency;
 - ii) name and address of employee;
 - iii) date employee was notified of adoption or likely adoption;
 - iv) date on which child was placed for adoption or is due to be placed for adoption. The college may also ask for these matters in writing in order to satisfy itself that the employee is entitled to adoption leave.

7 Contractual Adoption Pay

7.1 In order to be eligible for Contractual Adoption Pay (CAP), an employee must have been employed for 52 weeks or more leading into the week in which she/he is notified of being matched with a child for adoption.

7.2 Entitlements available for Contractual Adoption Pay (CAP) for staff with 52 weeks continuous service at the point of adoption are as follows:

For children up to 16 years old who are new to the home:

- 6 weeks leave at 90% of normal pay (or SAP if this is greater than 90% of normal pay);
- 12 weeks leave at 50% of normal pay plus the rate of Statutory Adoption Pay (SAP), not exceeding full pay;
- 21 weeks SAP.

8 Terms and Conditions during Adoption Leave

8.1 During both the 26 weeks OAL and the 26 weeks AAL, an employee is entitled to the benefit of the terms and conditions of employment that would have applied if she/he had not been absent except in relation to remuneration. The employee is bound by any obligations under her/his contract except those that are inconsistent with her/his right to take ordinary adoption leave, such as the obligation to attend work.

8.2 Contractual annual leave that would normally accrue while the employee was at work continues to accrue during both OAL and AAL.

9 Returning after Adoption Leave

9.1 It should be presumed that the employee will take his or her full statutory adoption leave entitlement, i.e. the full 52 weeks, unless s/he notifies the college of his or her intention to return early in accordance with paragraph 9.3.

9.2 An employee returning to work at the end of additional adoption leave need not give the college notice of his or her return. The employee can simply turn up to work on the first working day after the end of the leave period.

9.3 An employee has the right to return from adoption leave at any point before the end of the ordinary or additional adoption leave period. If she/he wishes to return to work earlier, the employee must give at least 8 weeks notice of the date on which she/he intends to return. The employee should give this notice in writing.

9.4 If the employee attempts to return to work earlier without having given the 8 weeks notice in accordance with paragraph 9.3, the college is entitled to postpone her return but not beyond the date on which the 8 weeks would have elapsed and not beyond the end of the adoption leave period. The college will inform the employee in writing if it decides to postpone her return in these circumstances.

9.5 An employee returning from ordinary adoption leave is entitled to return to the same job that she/he left, on the same terms and conditions as before. Notice is required in accordance with paragraph 9.3.

9.6 An employee returning from additional adoption leave has the right to return to the same job as before unless this is not reasonably practicable. If it is not reasonably practicable, the College should find another job which is both suitable and appropriate in the circumstances.

9.7 If an employee wishes to return to work on a part-time/fractional basis, the College will give due consideration to any such request, which should be made in writing. Returning to work on a part-time/fractional basis can be for example:

- a phased return, or reduced working hours; or
- job sharing

Such arrangements could be for the short-term or a permanent reduction. Where changes to work patterns are not possible, the reasons will be fully discussed and put in writing to the employee concerned.

10 Redundancy

If the employee's job becomes redundant during the course of their adoption leave, the college will offer him/her any other reasonable suitable alternative work that becomes available and she/he will have the right to be considered for such work, even though she/he is on adoption leave. The offer will be made before her/his previous employment ends and (if accepted) the new employment will commence immediately. It must involve suitable work and the terms and conditions will not be less favourable than the old contract. If there is no suitable alternative work available, then she/he will be made redundant, and receive redundancy pay in line with her/his statutory and contractual entitlements.

11 Keeping in Touch

11.1 A "keep in touch" day may be used during the adoption leave period to enable the employee to attend work without losing his/her right to SAP or contractual adoption pay. Up to 10 keep in touch days may be undertaken during the adoption leave period without bringing the adoption leave to an end.

11.2 There should be no pressure on employees to come into work. There is no obligation on an employee to undertake work, nor is there any obligation on the college to provide work. The keep in touch days (and the amount of salary paid for work done on such keep in touch days) must only be arranged by mutual agreement. It is recommended that the employee should receive his/her normal salary for working on a KIT day.

11.3 If a KIT day is agreed, the purpose should be agreed in advance so that both parties are clear what the employee will actually do. This can include training, a meeting or other activities to help the employee keep in touch.

12 Circumstances in which Adoption Leave and SAP will end

12.1 In certain circumstances, placements may be disrupted and so adoption leave and pay will end after a prescribed time. The adoption leave will end if more than 8 weeks of adoption leave remain and one of the following circumstances applies:

- after having notified an employee that she/he will be matched with a child, the adoption agency notifies the employee that the child will not be placed with the employee;
- the child dies; or
- the child's placement ends.

Adoption leave will end 8 weeks after any of the three dates referred to below:

- the week during which the employee is notified that the placement will not take place;
- the week during which the child dies;
- the week during which the child's placement ends.

In these circumstances, SAP will also terminate in accordance with these timescales.

13 Circumstances in which the right to SAP or CAP will be lost

13.1 An employee may lose her/his right to receive SAP [and CAP] if:

- a) she/he changes employer;
- b) she/he returns to work (except in circumstances when a “keeping in touch” day is undertaken under section 11);
- c) she/he is receiving statutory sick pay;
- d) the child reaches the age of 18;
- e) she/he is taken into legal custody or sentenced to imprisonment.

[NB: In determining whether the right to SAP [and CAP] is lost, colleges should seek expert advice from HM Revenue & Customs.]

14 General points

14.1 The employer will keep the employee informed of staff vacancies during the period of adoption leave.

14.2 The college is entitled to maintain reasonable contact with the employee during the adoption leave period should circumstances make this necessary. This entitlement is separate from the keeping in touch arrangements described in Section 8 above, and may be necessary to communicate and consult with the employee about issues relevant to her/his employment. For example:

- to communicate important news about the college or to update the employee on any developments which have occurred during her absence;
- to keep the member of staff advised of any changes that may arise which could affect her job, such as mergers, restructuring or job evaluation; and
- to discuss and plan the employee's return to work.

Communication could take the form of a staff newsletter, HR bulletin or individual letter.

- 14.2 It is unlawful to subject an employee to a detriment or to dismiss him/her for having exercised her/his lawful right to adoption leave or for seeking to exercise it. Any such dismissal will automatically be unfair, regardless of length of service.
- 14.3 If the employment is terminated before the adoption pay period the right to SAP will be retained. In those circumstances, the adoption pay period will begin either:
- on the date the child is placed for adoption; or
 - on the date immediately after the last day of employment where the termination occurs on or within 14 days before the expected date of placement.
- 14.4 Adoption leave is not sick leave, and will not be taken into account when calculating any period of sick leave entitlement.
- 14.5 During the adoption leave period, the contract continues to run and the employee continues to accrue statutory and contractual annual leave entitlement.
- 14.6 Periods of adoption leave and adoption absence are regarded as continuous service for the purpose of calculating entitlements to employment benefits.

15 Records

- 15.1 The college will keep records of adoption leave taken by employees.
- 15.2 The College will comply with any reasonable requests to disclose relevant records to the employer of an individual who was previously employed at the college.

16 General

- 16.1 If an employee acts dishonestly in respect of any element of the college's adoption leave policy this will be regarded as serious misconduct and will result in the employee being subject to the college's disciplinary procedure.
- 16.2 If an employee believes that they are not being treated fairly in relation to the right to take adoption leave, the matter should be dealt with through the grievance procedure or by contacting (a senior manager) if the issue needs to be resolved quickly.

17. Review and Consultation

- 17.1 This policy should be reviewed on a regular basis in accordance with legislative developments and the need for good practice.
- 17.2 As part of the review, the college should seek and take into account the views of stakeholders including the consultation and negotiating arrangements within the college.

15 Definition of Joint Agreement



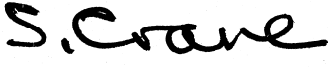

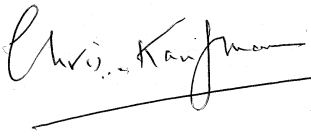


This policy should not be read in isolation, but cross-referenced with all relevant college employment policies. The agreement on these guidelines is a recommendation to colleges as to how to deal with issues relating to adoption and will ensure that colleges meet their legal obligations.

Commentary Notes:

This joint agreement has been updated in accordance with The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2008. The BERR has useful guidance on Adoption Leave and Pay on the Business Link website: www.businesslink.gov.uk

**JOINT AGREEMENT ON GUIDELINES FOR
ADOPTION LEAVE
IN FURTHER EDUCATION COLLEGES**

SIGNATURES OF THE PARTIES TO THIS AGREEMENT

- | | | |
|-----|-------------------|--|
| (a) | AoC |  |
| (b) | ACM |  |
| (c) | ATL |  |
| (d) | GMB |  |
| (e) | Unite - the Union |  |
| (f) | UNISON |  |
| (g) | UCU |  |

Date of Commencement of this Agreement:

September 2008