

## **NORTHERN IRELAND COLLEGE EMPLOYERS' FORUM**

**CIRCULAR NO: CEF 2011/07**

11 May 2011

To: Joint Secretaries, Lecturers' Negotiating Committee  
Directors/Principals and Chairpersons of Governing Bodies of Colleges of  
Further Education  
HR Managers of Colleges of Further Education  
Department for Employment and Learning  
UCU  
NASUWT

### **FURTHER EDUCATION LECTURERS' NEGOTIATING COMMITTEE**

#### **Adoption Leave Scheme for Employees in Colleges of Further Education**

In accordance with the provisions of Article 11, Schedule 3, paragraph 10.3 of the Further Education (Northern Ireland) Order 1997, the Constitution for Negotiating the Terms, Conditions of Service and Remuneration of Lecturers' Employed in Colleges of Further Education, it has been determined that the Adoption Leave Scheme for Employees in Colleges of Further Education has been agreed at the Lecturers' Negotiating Committee on 11 May 2011 and will be effective immediately.



Bertie Faulkner  
**Chairman**  
**College Employers' Forum**

**ADOPTION LEAVE SCHEME  
FOR EMPLOYEES IN COLLEGES  
OF FURTHER EDUCATION**

**11 May 2011**

## **ADOPTION LEAVE SCHEME**

This scheme applies to staff whose Conditions of Service are negotiated through the Lecturers' Negotiating Committee.

### **1. Introduction**

- 1.1 The college recognises the need for an effective adoptive leave scheme, which plays a key part in supporting an appropriate work-life balance.

### **2. Scope**

- 2.1 This scheme describes adoption rights, entitlements and obligations for all employees at the college who are adopting a child, with the expected placement date for adoption being on or after 1 April 2007, and who satisfy the qualifying conditions set out in this scheme.

### **3. To Whom This Scheme Applies**

- 3.1 An employee who has been continuously employed for at least 26 weeks leading into the week in which he/she is notified of being matched with a child for adoption will qualify for statutory adoption leave.
- 3.2 Employees who satisfy the conditions 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 adoption leave.
- 3.3 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.

## ADOPTION LEAVE SCHEME FOR EMPLOYEES IN INSTITUTIONS OF FURTHER/HER EDUCATION

### 4. ENTITLEMENT

Qualifying Service	Entitlement to Leave	Entitlement to Pay
Less than 26 weeks' continuous service leading into the week in which notified of being matched for adoption	<ul style="list-style-type: none"> <li>• No Statutory Adoption Leave</li> </ul>	No Statutory Adoption Pay
26 weeks' or more continuous service leading into the week in which notified of being matched for adoption	<ul style="list-style-type: none"> <li>• 26 weeks' Ordinary Adoption Leave; plus</li> <li>• 26 weeks' Additional Adoption Leave</li> </ul>	<p>Normally, Statutory Adoption Pay</p> <ul style="list-style-type: none"> <li>• 39 weeks at current SAP flat rate or 90% of average weekly earnings if this is less than the standard SAP rate.</li> <li>• No pay for any remaining period of absence up to the date of return notified by the employee.</li> </ul>
52 weeks' continuous service leading into the week in which notified of being matched for adoption	<ul style="list-style-type: none"> <li>• 26 weeks' Ordinary Adoption Leave; plus</li> <li>• 26 weeks' Additional Adoption Leave</li> </ul>	<p>Occupational and Statutory Adoption Pay</p> <ul style="list-style-type: none"> <li>• 4 weeks @ full NP – full pay, offset against payments made by way of SAP.</li> <li>• 2 weeks @ 90% NP– 9/10ths of a week's salary, offset against payments made by way of SAP.</li> <li>• 12 weeks @ 50% NP+ SAP. If the employee is also entitled to either SAP he/she will be entitled to receive these</li> </ul>

		<p>payments in addition to half salary. There will be no deductions unless the combined half salary and SAP exceeds full salary.</p> <ul style="list-style-type: none"> <li>• 21 weeks @ SAP.</li> <li>• No pay for any remaining period of absence up to the date of return notified by the employee.</li> </ul>
	<p><b>Notes</b></p>	<ul style="list-style-type: none"> <li>• NP = Normal Pay</li> <li>• SAP = Statutory Adoption Pay</li> <li>• Where figures are quoted at SAP or 50% NP + SAP, the rule applies that it is the lower of these figures OR 90% of the employee's average weekly earnings that applies.</li> </ul>

## **Circumstances in which Adoption Leave and SAP will end**

- 4.2 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 he/she will be matched with a child, the adoption agency notifies the employee that the child will not be placed;
  - The child dies; or
  - The child's placement ends.
- 4.3 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
- 4.4 In these circumstances, SAP will also terminate in accordance with these timescales.

## **Circumstances in which the right to SAP or OAP will be lost**

- 4.5 An employee will lose his/her right to receive SAP (and OAP) if:
- He/she starts working for another employer who is liable to pay him/her SAP and he/she has been working with that employer for whom he/she has worked in the week in which he/she is notified of being matched with the child
  - He/she returns to work (except in circumstances when a 'keeping in touch' day is undertaken under section 11)
  - He/she is receiving statutory sick pay
  - The child reaches the age of 18
  - He/she is taken into legal custody or sentenced to imprisonment.

## **5. Initial Obligations on the Employee**

- 5.1 To benefit from the scheme the employee must:
- a. continue to be employed by a college (whether or not at work) immediately before the start of his/her absence;
  - b. notify the college, in writing, of the date or expected date of placement and the date when he/she wishes leave to commence. This must be done within 7 working days of the employee being notified by the adoption agency when a match with a child will take place, or as soon as is practicable
  - c. forward a 'matching certificate' to confirm the child is being placed, issued by the adoption agency, to the [HR Department].
- 5.2 An employee may change the date on which he/she wishes his/her leave to commence provided he/she gives at least 28 days notice, in writing, before the start date of the leave initially notified, unless this is not reasonably practicable.

## **6. Initial Obligations on the Employer**

- 6.1 Within 28 days of the date on which the [HR Department] received the adoption leave notification and the date when the employee wishes to start leave, the college will ensure that the employee is notified in writing of his/her expected date of return from adoption leave.

## **7. Rights of the Employee to Adoption Leave**

- 7.1 All employees, with 26 weeks' or more continuous service leading into the week in which notified of being matched for adoption, are entitled to 26 weeks OAL followed by 26 weeks AAL, making a total of up to 52 weeks Adoption leave.
- 7.2 An employee can commence adoption leave on the date when the placement commences or up to 2 weeks before this date (but no earlier)
- 7.3 An employee can also commence leave on a specified date, which is no more than 14 days after the expected placement or the actual placement.
- 7.4 Shared adoption leave. If both prospective 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.

## **8. Adoption Pay**

### **Statutory Adoption Pay**

- 8.1 An employee who has less than 52 weeks' but 26 weeks' or more continuous service as an employee with a college leading into the week in which notified of being matched for adoption, shall only receive an entitlement to Statutory Adoption Pay (SAP). Please refer to Entitlements Table at Section 4.
- 8.2 An employee will be eligible to receive Statutory Adoption Pay (SAP) if he/she satisfies the following criteria:
- He/she must be earning an amount equivalent to at least the lower earnings limit for National Insurance contributions; and
- 8.3 Statutory Adoption Pay is paid as follows:
- 39 weeks at SAP or 90% of weekly earnings if this is less than the current SAP flat rate
  - No pay for any remaining period of absence up to the date of return notified by the employee.
- 8.4 Not all employees will be eligible for SAP, in which case employees should apply to Incapacity Benefits Branch or local Social Security Office, to see whether they may be entitled to other financial support.

### **Occupational Adoption Pay**

- 8.5 An employee who has completed not less than 52 weeks' continuous service as an employee with a college/institute leading into the week in which notified of being matched for adoption and satisfies the criteria in Paragraph 8.2 shall receive Occupational Adoption Pay.
- 8.6 Occupational Adoption pay is paid as follows:
- 4 weeks @ full NP – full pay, offset against payments made by way of SAP
  - 2 weeks @ 90% NP– 9/10ths of a week's salary, offset against payments made by way of SAP
  - 12 weeks @ 50% NP+ SAP. If the employee is also entitled to SAP he/he/she will be entitled to receive these payments in addition to half salary. This/here will be no deductions unless the combined half salary and SAP exceeds full salary
  - 21 weeks @ SAP
  - No pay for any remaining period of absence up to the date of return notified by the employee.
- 8.7 Any employee who does not return to work for a period of at least 13 weeks service following his/her adoption leave can be required to repay the occupational element of adoption pay. This equates to 4 weeks normal pay less payments made by way of SAP, 2 weeks at 90% of normal pay less



payments made by way of SAP and 12 weeks at 50% normal pay. He/she cannot be required to repay any of the SAP. An employee, who is uncertain about his/her return to work, may elect to have the occupational element paid on his/her return to work.

## **9 Return to Work**

- 9.1 It should be presumed that the employee will take his/her full statutory adoption leave entitlement, i.e. the full 52 weeks, unless he/she notifies the college of his/her intention to return early in accordance with Paragraph 10.1. The employee can simply turn up to work on the first working day at the end of AAL.
- 9.2 From 3 April 2011, Additional Paternity Leave (APL) is available to eligible employees to take up to 26 weeks' leave to care for their new child, possibly with additional statutory paternity pay. This leave and pay is only available to qualifying employees if the adopter has returned to work and has an element of her Statutory Adoption Leave left untaken. Details can be found in the College Paternity Leave Scheme.
- 9.3 An employee who returns during or at the end of the first 26 weeks (ordinary adoption leave) is entitled to return to the same job on the terms and conditions as if he/she hadn't been away. If an employee takes more than 26 weeks (additional adoption leave) he/she is entitled to return to the same job or to another suitable job if that is not reasonably practicable.
- 9.4 Where it is not practicable by reason of redundancy to permit the employee to return to work in his/her job as defined in sub-paragraph 9.2, the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to him/her and appropriate to the circumstances, and that the capacity and place in which he/she is to be employed and his/her terms and conditions of employment are not substantially less favourable to him/her than if he/she had been able to return to the job in which he/she was originally employed.

## **10. Notification of Early Return to Work**

- 10.1 An employee shall notify the college, in writing at least 8 weeks before the day on which he/she proposes to return, of the date of his/her intended return if this is before the date specified on the adoption leave notification form. Where this notification is not given, the college can postpone his/her return for a period of up to 8 weeks, or until the end of his/her 52 weeks if this is sooner. The college will inform the employee in writing if it decides to postpone his/her return in these circumstances.

## **11. Keeping in touch days (KIT's)**

- 11.1 Up to 10 “keep in touch” days may be undertaken during the adoption leave period without bringing the employee’s adoption leave to an end.
- 11.2 A “keep in touch” day may be used to enable the employee to attend work without losing his/her right to SAP or contractual Adoption pay.
- 11.3 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. Any Keeping in Touch day worked by agreement with the employee and College will be paid normal pay and conditions abated by statutory/occupational adoption pay payable.
- 11.4 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. Other Contact While on Adoption Leave**

- 12.1 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 11 above, and may be necessary to communicate and consult with the employee about issues relevant to his/her employment. For example:
  - To communicate important news about the college or update the employee on any developments which have occurred during his/her absence;
  - To keep the employee advised of any changes that may arise which could affect his/her job, such as mergers, restructuring or job evaluation; and
  - To discuss and plan the employee’s return to work.
- 12.2 Communication may take the form of a staff newsletter, HR bulletin, individual letter, e-mail or telephone contact.
- 12.3 Both parties should attempt to discuss/agree the likely approach prior to the commencement of adoption leave.

## **13 Other Provisions**

- 13.1 A period of adoption leave shall not be discounted in any reckoning of experience to which the employee may be entitled.
- 13.2 During the period of adoption leave (both ordinary and additional adoption leave) contractual benefits such as annual leave accrual will continue, as if the employee is at work.

- 13.3 If an employee is awarded a pay increase between the beginning of the original calculation period and the end of his/her period of statutory adoption leave, his/her normal weekly earnings for the purposes of calculating entitlement to OAP will be recalculated. The employee will be paid retrospectively for any difference between the SAP already paid and the amount payable as a result of the pay increase.

### **Pension Provisions**

- 13.4 Where an employee's contributable salary is reduced due to Adoption leave, the employee's contributions are based on the reduced rate of salary paid. Employer contributions during such a period of leave are paid on a rate of pensionable pay as if no reduction has been made.
- 13.5 If an employee chooses not to pay contributions during unpaid leave, that period will not count as reckonable for pension purposes. Any queries regarding contributions during a period of unpaid leave for pension purposes should contact the relevant pension provider as detailed below.
- 13.6 Any enquiries regarding an employee's pension position should be made to Teachers' Pensions Branch (Tel: 028 7131 9000) or NILGOSC (Tel: 028 9076 8025).

### **14. Protection from Detriment and Dismissal**

- 14.1 Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Employees who believe they have been treated unfairly may invoke the appropriate College Procedure.

### **15. Definitions**

- 15.1 For the purpose of this scheme, **a week's pay** shall be treated as the amount payable to the employee under the current contract of employment. If there are significant variations in the employee's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.

### **16. Further Advice/Enquiries**

- 16.1 Further information on rights of adoptive parents is available from the Employment Rights page of the Department for Employment and Learning's (DEL) website [www.delni.gov.uk](http://www.delni.gov.uk)
- 16.2 Any enquiries regarding this Scheme should be made to the college's Human Resources/Personnel Department.