

Livewell Southwest

Adoption Leave & Pay Policy

Version No.1

Notice to staff using a paper copy of this guidance

The policies and procedures page of Intranet holds the most recent version of this guidance. Staff must ensure they are using the most recent guidance.

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Adoption Leave & Pay Policy

1 Introduction

- 1.1 After all the planning and excitement of finding out that you are adopting a child(ren) is over, you will want to know what you have to do next as far as your job is concerned and what leave and pay you are entitled to.
- 1.2 The following guidelines apply to all staff that are newly matched with a child for adoption.

2 Employee's Guide to Adoption Leave

2.1 Am I entitled to adoption leave?

- 2.1.1 Regardless of length of service, 52 weeks adoption leave (with or without pay) and the right to return to their job, is available to all permanent employees wishing to adopt a child and have primary care responsibilities for that child.
- 2.1.2 Where the child is below 18 years of age, adoption leave and pay will be in line with the adoption leave and pay provisions.
- 2.1.3 The agreement for time off after adoption should cover circumstances where the child is initially unknown to the adoptive parents. If there is an established relationship with the child, such as fostering prior to adoption, time for official meetings only should be considered.
- 2.1.4 If both adoptive parents are employed by Livewell Southwest (LSW), the period of leave and pay may be shared. One parent should be identified as the primary carer and take adoption leave, with the other parent being entitled to take paternity/partner leave and pay.

2.2 How soon should I tell my manager that I am going to be adopting a child(ren)?

- 2.2.1 It is important that you speak to your manager as soon as possible; keeping them informed of progress at each stage of the adoption process, i.e., once you have been approved as an adopter, when you have been matched with a child(ren) and the expected date of placement.

2.3 How can I find out about my adoption entitlements?

- 2.3.1 To receive information about your personal adoption entitlements you should contact HR & Corporate Services on 01752 (4)35024.

2.4 What paperwork do I need to complete before going on adoption leave?

- 2.4.1 You are required to give the organisation at least seven days written notice of being notified of being matched with a child(ren) for purposes of adoption, you

should do this by completing the adoption leave application form (Appendix 1). When completed you should return this to HR & Corporate Services for processing, you should also give your manager a copy. Your manager should then complete a change form.

2.4.2 On receipt of your completed form and within 28 days you will receive written confirmation of your notification setting out the details of your adoption entitlements. This will include your expected return to work date. The assumption is that you will take your full entitlement of 52 weeks adoption leave; however should you wish to return to work before this you are required to give your manager 28 days' written notice.

2.4.3 If you should wish to alter your leave commencement date you will need to give 28 days' written notice (or if this is not reasonably practicable, as soon as is reasonably practicable).

2.5 What adoption pay will I be entitled to?

2.5.1 Adoption pay is based on your length of service. To qualify for Occupational Adoption Pay (OAP), you must have 12 months continuous service with LSW (previous NHS continuous service will be considered) ending with the week in which you are notified of being matched with the child for adoption. This will also cover the circumstances where employees are newly matched with the child by an adoption agency. Adoption pay commences from the date that you start your adoption leave and is paid for 39 weeks in total.

2.5.2 The amount payable is calculated on your average earnings during the two pay dates falling in or before your 15th week prior to your matching date and is not based on basic pay, but the pay that you would pay national insurance contributions on. Therefore any salary deductions that you receive for example a salary sacrifice will lower your rate of average earnings.

2.5.3 Currently OAP is paid at full pay for the first eight weeks, for the next 18 weeks you will receive half of your full pay plus any Statutory Adoption Pay (SAP) due, providing that the total does not exceed full pay and the remaining 13 weeks you will receive SAP only. Any adoption leave taken after this will result in nil pay.

2.5.4 OAP may be paid in a different way for example you may wish to have a fixed amount spread equally over your adoption leave period. If you wish to do this you will need to specify what arrangements you would like when you complete your adoption leave form.

2.5.5 If you do not meet the service criteria to receive OAP, you may be able to receive SAP. To qualify for SAP you must have 26 weeks continuous service with LSW at the beginning of your 15th week before your matching date. If you meet this you will receive 90% of your average weekly earnings for six weeks and then 33 weeks of payment of the current SAP rate.

2.5.6 If you do not meet either of these criteria you may still be entitled to Income

Support which can be claimed via the Jobcentre Plus. SBS Payroll will advise you if this is the case and provide you evidence supporting this.

- 2.5.7 Your adoption pay will be paid directly into your bank account and you will receive your payslip via the post.
- 2.5.8 You will have the opportunity to discuss your personal adoption entitlements in more detail when you speak to a representative from HR & Corporate Services.
- 2.5.9 Once you have adopted, you may also be entitled to the Working Tax and Child Tax Credits. Please contact your local Inland Revenue & Customs office for further information, or go to www.hmrc.gov.uk/taxcredits , Tel 0845 300 3900.

2.6 When can I start my Adoption Leave?

2.6.1 For children adopted from Great Britain:

- You can start your Adoption leave on any day of the week.
- You can choose to start your adoption 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.

2.6.2 For children adopted from Overseas:

You can start your adoption leave:

- On the date that the child(ren) enter(s) Great Britain (If you are at work on this day, adoption leave can begin the next day).
- A pre-determined date, specified in writing that is no later than 28 days after the date on which the child(ren) enter(s) Great Britain.
- Only one period of leave is available irrespective of whether more than one child is placed for adoption (as part of the same adoption arrangement).

2.6.3 You are required to inform LSW of your intention to take adoption leave within seven days of being notified by your adoption agency that you have been matched with a child for adoption, unless this is not reasonably practicable. To do this you need to complete the Notification to take Adoption Leave form and submit your Matching Certificate. You need to detail when the child is expected to be placed with you and when you want to start adoption leave.

2.6.4 If the placement does not go ahead or ends during leave, in the event that:

- The adoption agency notifies you that the child will not be placed.
- The child dies.
- The child's placement ends.

2.6.5 Your adoption leave will normally end eight weeks after the end of the week in which the disruption occurs.

2.6.6 Payment of SAP continues for eight weeks after the end of the week in which the disruption occurs, or at the end of the 39 week SAP period, whichever is sooner.

2.6.7 If the placement is delayed and you have already begun your adoption leave, you cannot stop adoption leave and start again later.

2.7 I am on a fixed term contract what am I entitled to?

2.7.1 If your contract is due to expire before the qualifying week, your contract will end naturally at the fixed date.

2.7.2 If your contract is due to expire after the qualifying week but before the end of the 39 week period, then your contract should be extended to allow the 39 weeks adoption leave period, (with or without pay).

2.7.3 Therefore, all employees are entitled to 39 weeks adoption leave (with or without pay) if their contract date expires after the matching date.

2.7.4 If you have at least one year's continuous service with LSW at the qualifying week and your contract runs beyond the 39 weeks period of adoption leave, you will receive 39 weeks paid adoption leave (including SAP). You must return to work and complete your contract or you will have to repay any adoption pay received, which you are not entitled to.

2.7.5 If you are unsure of your entitlements please speak to HR & Corporate Services.

2.8 Rotational training contracts

2.8.1 If you are on a planned rotation of appointment with one or more NHS employers as part of an agreed programme of training, you have the right to return to work in the same post or in the next planned post irrespective of whether the contract would otherwise have ended if adoption had not occurred. In such circumstances your contract will be extended to enable you to complete the agreed programme of training.

2.9 Keeping in touch

2.9.1 From the start of your adoption process it is important to keep in touch with your manager. This will help us to understand and support you during

adoption.

2.9.2 You will be allowed to work a maximum of 10 Keeping-in-Touch (KIT) days without losing your adoption pay or bringing your adoption leave to an end. KIT days are by mutual agreement with your manager, there is no requirement for you to undertake this work, nor is there a requirement for your manager to provide work. You must not exceed the 10 day maximum as this will result in the loss of one week's SAP for each week that you undertake a KIT day that exceeds the 10 day maximum.

2.9.3 Before going on leave, you and your manager should discuss and agree any voluntary arrangements for keeping in touch during your adoption leave period, including; any voluntary arrangements that you may find helpful to keep in touch with developments at work and, nearer the time of return, to help facilitate your return to work; keeping your manager in touch with any developments that may affect your intended date of return.

2.10 I am returning to work following my adoption leave what do I need to do?

2.10.1 Unless you tell us differently we will assume that you are taking your full entitlement (52 weeks). If you are planning on returning to work before this you must provide your manager with at least 28 days' written notice of your intention to return to work. If you do not give enough notice then the organisation can postpone your return to work date until the expiry of the 28 days' notice or the end of your adoption leave, whichever comes earlier.

2.10.2 If you are unfortunately sick following the date that you are due to return to work then your normal sickness entitlements will be applied.

2.11 I want to change my hours on my return to work what should I do?

2.11.1 You have the right to return to work following adoption leave on the basis of your existing contract with the same grade and status, and you must return for a minimum of three months in order to retain your OAP.

2.11.2 It is always advisable to discuss this with your manager at the earliest opportunity; you may wish to do this prior to commencing adoption leave. To apply for a change to your work pattern you must complete a flexible working application which is available from HR & Corporate Services and send it to your manager. On receipt of this document your manager will arrange to meet with you to discuss your request, this will take place within four weeks.

2.11.3 Following the meeting your manager will write to you within 14 days to confirm the outcome. If your request is accepted your manager will complete a change form to effect the changes, if your application is unsuccessful you are able to appeal this decision. Details of the appeal process can be found in the Flexible Working Policy.

2.11.4 Although there is NO RIGHT to return on fewer hours, there is a legal right to

request a variation to working hours and/or flexible working for parents of children less than 16 years of age or a disabled child under the age of 18. Your manager will give as much consideration as possible to a reasonable request to vary your hours. If this request is turned down, your manager should provide you with written objective reasons for the refusal. If you are thinking of changing your hours please discuss this with your Manager as soon as possible.

2.11.5 If it is agreed that you can return to work on a flexible basis, including changed or reduced hours for a temporary period of time, this will not affect your right to return to your job under your original contract at the end of the agreed period.

2.11.6 I have decided not to return to work at the end of my adoption leave, what do I need to do?

2.11.7 If you have decided not to return to work you need to let your manager know, you should put this in writing making sure that you give your contractual notice (normally one calendar month). Depending on which adoption pay option you have taken, you may be liable to repay some of your adoption pay.

2.12 What happens to my annual leave entitlement?

2.12.1 Prior to commencing adoption leave you should discuss and agree arrangements with your manager for taking your outstanding annual leave prior to commencing your adoption leave.

2.12.2 For the whole duration of your adoption leave you will continue to accrue your annual leave and public holiday entitlement. (NB: If you are employed on a term-time only contract the accrual of your annual leave and public holiday entitlement will be based on your notional hours).

2.12.3 Before your return to work you must make arrangements with your manager to take your accrued leave, the expectation is that you will take your leave after your adoption leave but before returning to work.

2.12.4 If you are employed on a term-time only contract, you will not accrue annual leave whilst you are on adoption leave. This is because your usual salary payment consists of your salary over the declared weeks that you work plus payment for your holiday and public holidays; this is then equalled out over 12 months. You are already benefiting from your annual leave as it is being paid to you and this higher average is used to calculate your adoption pay, therefore with this in mind you would not accrue leave during your adoption leave period.

2.12.5 In order to accrue annual leave during your adoption leave we would have to make an adjustment for leave that you would have taken prior to your adoption leave which in some circumstances may mean that you would have been overpaid, your average hours would need to be altered and therefore your adoption pay would also be calculated on a lesser amount.

2.13 What happens to my pension whilst I am on adoption leave?

2.13.1 During the period that you are receiving OAP you will continue to make pension contributions, however we are unable to make deductions from statutory payments, therefore for any period of adoption leave that is either covered by SAP only or you are receiving nil pay, the pension contributions for that period will be collected on your return to work.

2.14 What childcare support can I receive when I return to work?

2.14.1 All parents with childcare responsibilities can access help with the cost of childcare with the use of childcare vouchers, currently provided by Allsave Limited.

2.14.2 Each month part of your salary is exchanged for childcare vouchers, within certain limits these vouchers are non-taxable and exempt from both NI and pension contributions and can in some cases represent a substantial saving on childcare costs.

2.14.3 For more information on this benefit either contact Allsave Limited website www.allsaveuk.com password - ply821d/ telephone (01256) 339100 or alternatively the scheme administrator on 01752 (4)35024.

2.15 I am already in receipt of childcare vouchers what do I need to do?

2.15.1 You should contact the childcare voucher administrator on 01752 (4)35024 at the earliest opportunity as vouchers may have a negative effect on your adoption pay.

2.15.2 Adoption pay is calculated on the amount of average weekly earnings during the two pay dates falling in or before your 15th week of confinement and is not based on basic pay, but the pay that you would pay national insurance (NI) contributions on. Salary sacrifice schemes such as childcare vouchers would reduce your average earnings. This does mean though that although your adoption pay would have already taken into account your childcare vouchers you can continue to receive them during the whole of your adoption leave, both paid and unpaid, you will only contribute to the payment of these whilst you are receiving OAP, essentially you will only pay for your vouchers for the first 26 weeks of your adoption leave but receive them for up to 52 weeks.

3 Training

3.1 Training will be provided to managers on their duties in relation to this Policy.

4 Monitoring Compliance and Effectiveness

4.1 The effectiveness of this Policy will be monitored both in terms of whether the

process was properly followed leading to a legal and fair outcome and whether managers at all levels are taking the opportunity learn from any problems and improve their overall approach to people management.

5 Other Relevant LSW Policies

- Paternity Leave Policy
- Parental Leave Policy
- Flexible Working Policy

All policies are required to be electronically signed by the Lead Director. Proof of the e-signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

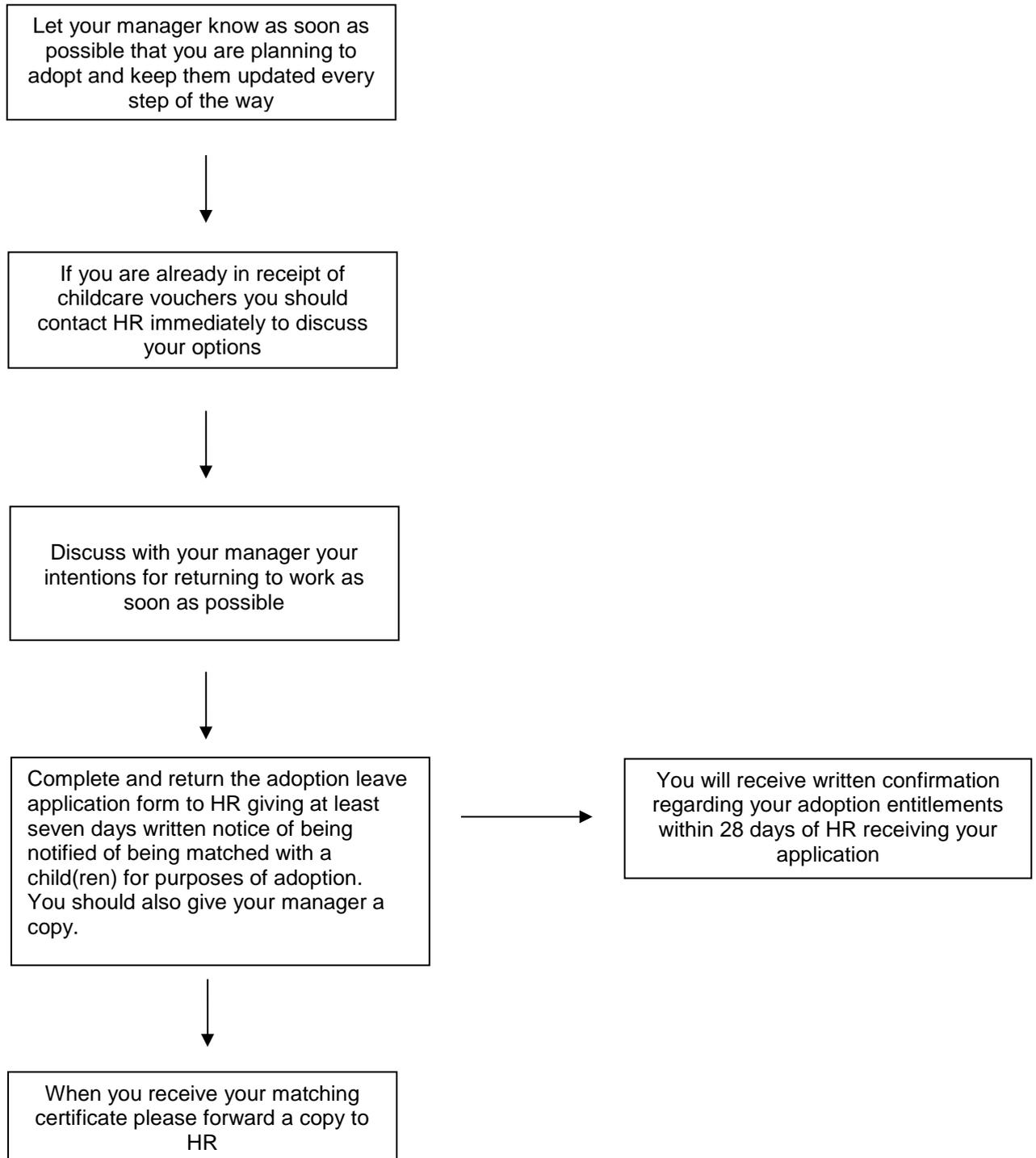
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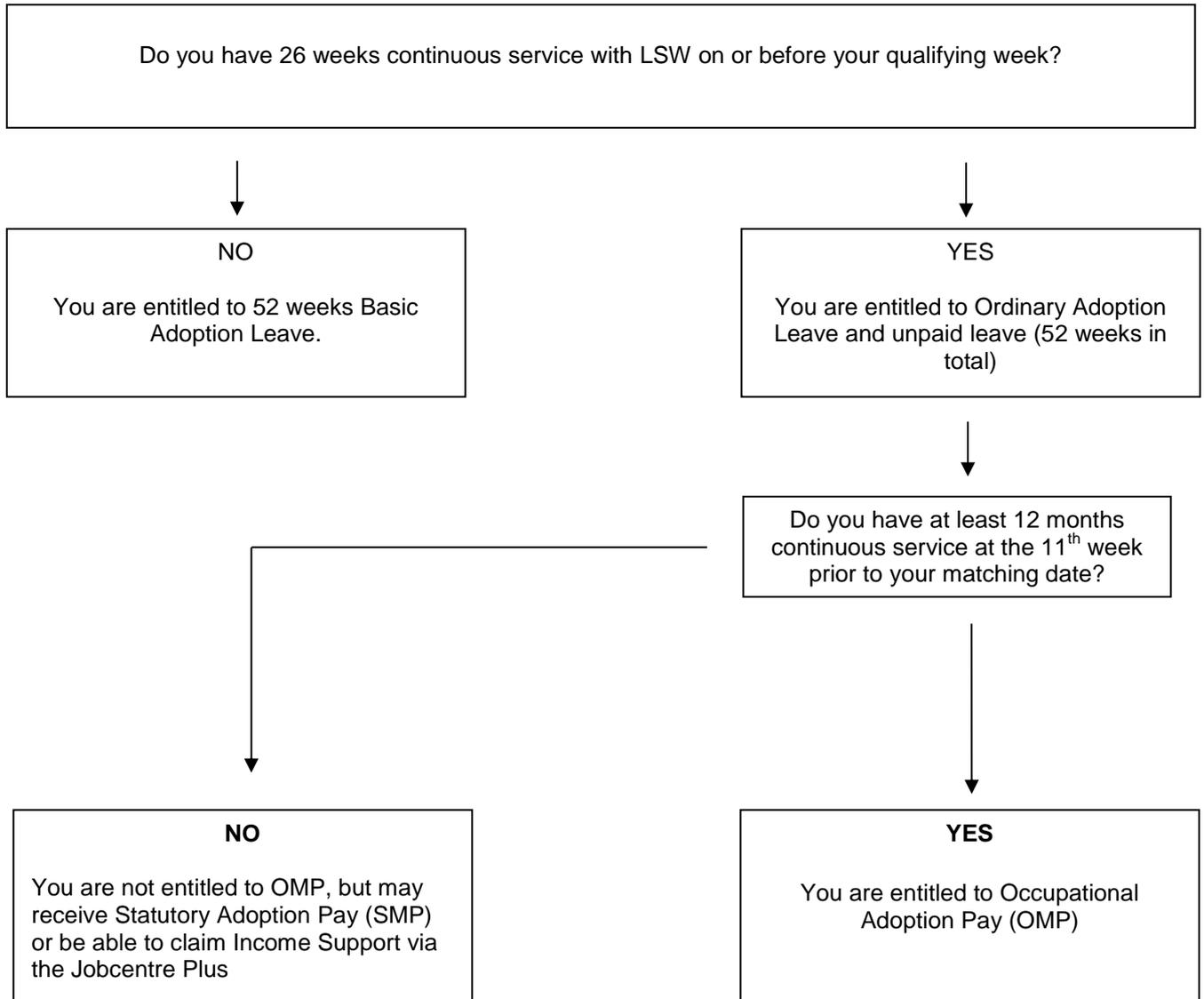
Signed: Head of Human Resources

Date: 17th September 2014.

Employee Guidance – adoption leave



Employee Guidance - adoption leave



Employee Guidance - adoption pay

Do you have 26 weeks continuous service with LSW on or before your qualifying week?

YES

You are entitled to 26 weeks Statutory Adoption Pay (SMP) provided that you meet the NI Lower Earnings Level (LEL)

You will receive:

6 weeks at 90% of your average earnings;
followed by:

20 weeks at either 90% of your average earnings or the standard SMP rate whichever is the lower.

NO

You are not entitled to Statutory Adoption Pay (SMP)

However you may be able to claim Income Support via Jobcentre Plus.

Payroll will send you an SMP1 Form to confirm this.

Do you have 12 months continuous service within PCH on or before your matching date?

NO

You are not entitled to 39 weeks Occupational Adoption Pay (OMP)

However you should be entitled to SMP

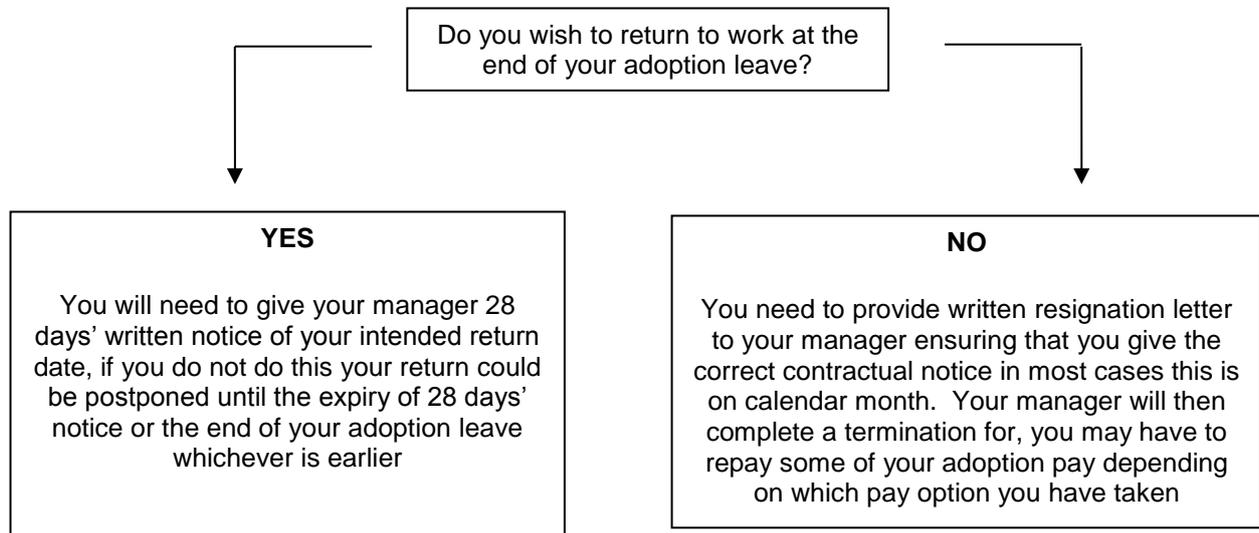
YES

You are entitled to 39 weeks Occupational Adoption Pay (OMP)

You will receive:

Eight weeks at full pay (based on your average earnings); followed by 18 weeks at half average pay + SMP or 90% of average earnings, whichever is lower and 13 weeks at the standard SMP rate

Employee Guidance – returning to work after adoption leave



Managers Guidance - adoption leave

As soon as you are informed that the employee is adopting a child(ren) you should advise them to contact HR

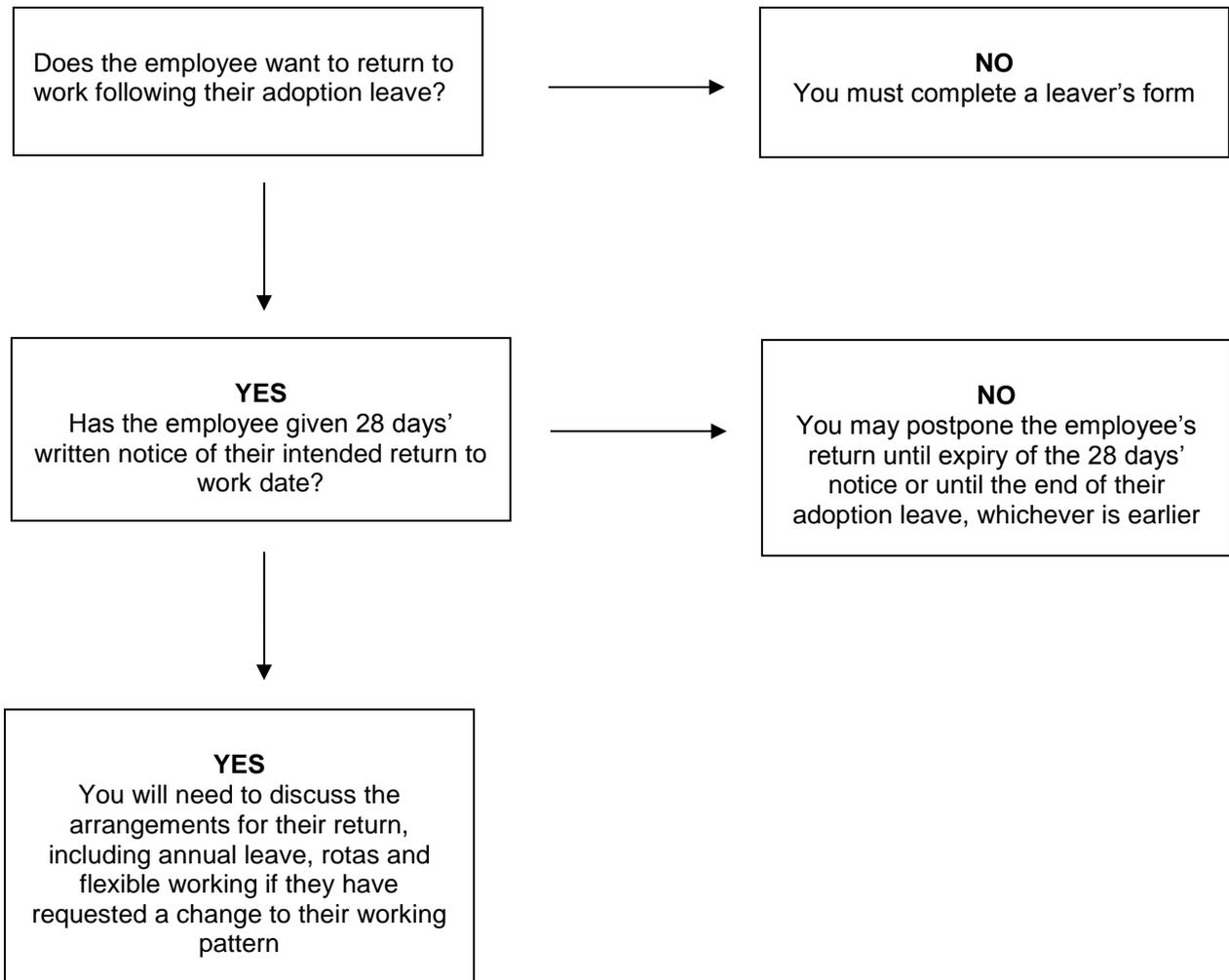


Discuss with the employee their arrangements for adoption leave as soon as possible; this should include annual leave, keeping in touch days, contact during adoption leave and flexible working following adoption leave

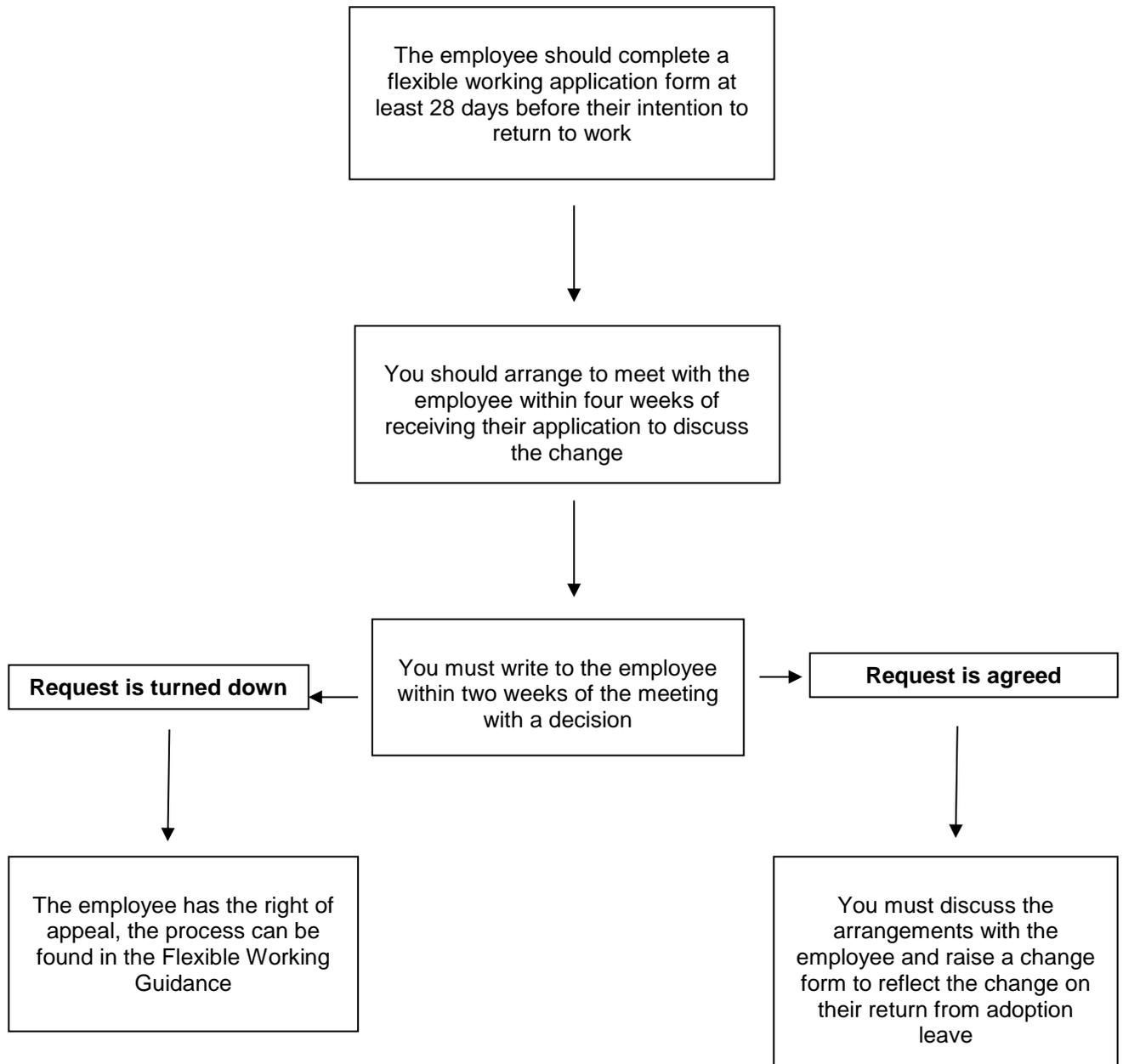


When you receive a copy of the employee's adoption leave application form you will need to raise a change form. You will also receive a copy of the written confirmation which has been sent to the employee

Managers Guidance – employees returning to work following adoption leave



Managers Guidance – employees wishing to change their hours on their return from adoption leave



APPLICATION FOR ADOPTION LEAVE			
Please note this form needs to be returned to the HR Department 28 days before you commence adoption leave, along with your matching certificate. <i>(If your certificate is not available at this time please forward as soon as you receive it).</i>			
Name		Pay Number	
Home Address		Job Title	
		Grade	
		Line Manager	
		Locality	
		Work Base	
Home Tel No		Work Tel No	
Home Email Address		Work Email Address	
I hereby apply for adoption leave under Livewell Southwest provisions, or the Social Security Contributions and Benefits Act <i>(as appropriate)</i>.			
I confirm that the child is expected to be placed on <i>(please attach Matching Certificate)</i>			
Employees who qualify for Occupational Adoption Pay			
Option 1 – Definitely returning to NHS Employment			
<ul style="list-style-type: none"> I wish to absent myself from duty from _____ for a period of 52 weeks, to return no later than _____ I agree to return to work for the NHS for a minimum period of three months after expiry of this leave I accept that LSW will assume I am taking my full entitlement to 52 weeks leave (39 weeks paid and 13 weeks unpaid) I understand that if I wish to return before the date above I must write to my manager and give 28 days' notice 			
Option 2 – In Doubt			
<p>I wish to absent myself from duty from _____ but I am in doubt about my precise intentions and would therefore like to hold open the opportunity to return to work following my adoption leave. I therefore agree to receive statutory adoption payments only. However, if I should return to work for the required three month period, I will be entitled to the balance of adoption pay due. I accept that LSW will assume I am taking my full entitlement of 52 weeks (39 weeks paid and 13 weeks unpaid). I understand that if I wish to return before this time I must write to my manager and give 28 days' notice. If I do not intend on returning to</p>			

work I will tender my resignation in line with my contract of employment.

Employees who do not qualify for Occupational Adoption Pay

Option 3 – Employees who qualify for statutory adoption pay but not occupational adoption pay

I wish to absent myself from duty from _____ for a period of 52 weeks, to return no later than _____. I accept that LSW will assume I am taking my full entitlement of 52 weeks leave. I understand that if I wish to return before this time I must write to my manager and give 28 days' notice. If I do not intend on returning to work I will tender my resignation in line with my contract of employment.

Option 4 – Employees with less than 26 weeks service

I wish to absent myself from duty from _____ for a period of 52 weeks, to return no later than _____. I accept that LSW will assume I am taking my full entitlement of 52 weeks leave. I understand that if I wish to return before this time I must write to my manager and give 28 days' notice. I accept that I am not entitled to either SAP or OAP and may receive Income Support directly from Jobcentre Plus. SBS Payroll will send me a SAP1 Form which I will be required to send to Jobcentre Plus along with a copy of my matching certificate. They will inform me if I am entitled to receive any additional benefits. If I do not intend on returning to work I will tender my resignation in line with my contract of employment.

I would like to receive my adoption pay in 12 equal instalments (*please tick*)

Yes

No

	Employee	HR Representative
Signed		
Name (<i>please print</i>)		
Date		

Model letter

Dear

Congratulations and thank you for telling me about your adoption and the date that you are planning to start your leave.

I am writing to confirm the arrangements for your adoption leave and pay. You are entitled to 52 weeks adoption leave (39 weeks ordinary adoption leave and 13 weeks additional adoption leave) and you have told me that you wish for your adoption leave to commence on **[insert date]**.

May I remind you that if you want to make any changes to your dates you must notify me 28 days before the new intended start date, or if that is not reasonably practicable, as soon as is reasonably practicable.

You have told me that you intend to return to work the expectation is that you will return at the end of your full leave entitlement which given your chosen start date, will be **[insert date]**.

In relation to planning your return to work, if you decide to come back to work before the date above you must notify your manager 28 days before your new intended return date, or if that is not reasonably practicable, as soon as is reasonably practicable. If you do not give this notice, we may have the right to postpone your return until 28 days from the date you informed us that you would like to return early. Please copy any such letter to HR & Corporate Services.

In regards to your adoption pay I am pleased to confirm that: **[delete as appropriate]**

- you are eligible for 39 weeks Occupational Adoption Pay (a combination of full pay, half pay and SMP)
- you are eligible for 39 weeks Statutory Adoption Pay
- you are not eligible for Occupational Adoption Pay
- you are not eligible for Statutory Adoption Pay but may be able to claim Adoption Allowance from Jobcentre Plus

If you do not qualify for SAP payroll will send you form SAP1 which explains why. You should take these documents to Jobcentre Plus who will advise on your eligibility to claim may be entitled to claim Income Support.

Before commencing your adoption leave it is a good idea to discuss and agree with your manager voluntary arrangements for keeping in touch during your adoption leave and any keeping in touch days that you wish to work.

Finally it is important that prior to commencing your adoption leave you agree with your manager any arrangements for taking accrued annual leave at the end of your adoption leave period.

I hope that all goes well and if you have any queries that have not been covered in the adoption guidelines please feel free to contact me.