

## *Policy Circular*

**Document No 03/07**

**Owner:** Strategy & Communications Directorate

**Subject:** Statutory Adoption Leave and Pay

**Version:** 2 of 2

**Last Amended:** 3 June 2010

**Date Reviewed:** 3 June 2010

**Next Review:** June 2012

### **1.0 Background**

#### **1.1 Adoption Leave**

Statutory Adoption leave is available for up to 52 weeks to individuals who adopt, or one member of a couple who adopts.

The partner of a person who takes adoption leave may be able to take paternity leave.

Adoption leave is organised in a similar fashion to Maternity leave.

**Ordinary adoption leave** is available for the first twenty-six weeks after a child is placed with a person and is normally paid leave.

**Additional adoption leave** is available for the remaining twenty-six weeks.

In order to be entitled to adoption leave an employee must:

#### **Independent Living Fund**

Equinox House, Island Business Quarter, City Link, Nottingham NG2 4LA

Tel: 0845 601 8815 or 0115 945 0700, Fax: 0115 945 0945, Textphone: 0845 601 8816

Email: [funds@ilf.org.uk](mailto:funds@ilf.org.uk), Website: [www.dwp.gov.uk/ilf](http://www.dwp.gov.uk/ilf)

The Independent Living Fund is an Executive Non-Departmental Public Body of the Department for Work and Pensions

- Be newly matched with a child for adoption by an adoption agency (It is not available where a child is not newly matched for adoption, e.g. where a step-parent is adopting a partners child).
- Have worked for their employer continuously for twenty-six weeks before the beginning of the week when you are matched with a child.

## **1.2 Overseas adoption leave**

If you are adopting from overseas there are differences in the qualifying criteria and date when you can begin your adoption leave. However, your rights to leave and pay are the same as if you were adopting within the UK.

To qualify for Statutory Adoption Leave you must:

- be the child's adopter
- have worked for your employer continuously for at least 26 weeks by the time you wish to start your adoption leave
- have received official notification confirming the central authority has, or is prepared to, issue a certificate confirming you are eligible to adopt and have been assessed and approved as being a suitable adoptive parent

You should tell your employer that you intend to take Statutory Adoption Leave and Pay within seven days of receiving official notification of the adoption. This is when you receive notification that the central authority is prepared to issue a certificate or has issued the certificate.

If you are adopting a relative from overseas you can also qualify for adoption leave and pay if you have been assessed and approved as being a suitable adoptive parent.

You may choose to start your Statutory Adoption Leave and Pay from the date your adoptive child enters the country or from a pre-agreed date up to 28 days later.

### **1.3 Statutory Adoption Pay**

Statutory Adoption Pay is available to employees who earn over the Lower Earnings Limit (LEL).

Employees must give their employers documentary evidence from the adoption agency in order to access Statutory Adoption Pay (SAP). A matching certificate may be provided.

SAP is available for 39 weeks.

### **1.4 Claiming SAP back**

Small businesses where the National Insurance Contributions (NIC) are £45,000 or less in the relevant tax year, can recover 104.5 % of SAP payments made in the same tax month from HMRC. For 2010-11 this is made up of:

- 100% of the SAP
- 4.5% of the SAP - this is an additional amount as compensation for the employer's NIC paid on the SAP

Larger businesses where the NIC is more than £45,000 in the relevant tax year, can recover 92% of the total of all payments of SAP made in the same tax month.

### **1.5 Advances**

Employers are able to offset any monies required for SAP payments against any payments that are due to be made to the Inland Revenue. If the amount they need to pay in SAP exceeds the Tax and NI due the employer may apply to HMRC for the additional funding

## **2.0 Policy**

In practice all ILF Users who directly employ personal assistants will fall into the category of small business employers (i.e. having an NI contribution of less than £45,000 per year) and will therefore be able to reclaim from HMRC the full amount of any statutory adoption pay.

ILF will make no contribution to these statutory payments or to any other (contractual) payments that a client may have agreed to make.

ILF monies may be used to pay for replacement care that is provided while the usual PA is on Adoption leave.

### **3.0 Procedure**

Where information is sought regarding the ILF approach to Adoption pay clients and Social Workers should be informed of the above policy. ILF staff should not act as advisers on Adoption pay matters, Clients should be advised to contact HMRC for full advice and relevant documentation.

### **4.0 Source**

Equal opportunities website  
Trustees meeting/away day December 2004  
Trustees meeting 13 September 2006  
Directgov & HMRC websites 27 May 2010

### **5.0 Cross References**

Statutory Sick Pay policy  
Statutory Maternity Leave and Pay policy  
Statutory Paternity Leave and Pay policy

### **6.0 History Date Reviewed**

19 September 2007  
3 June 2010

# Equality Impact Assessment

## Screening Template

This preliminary impact assessment form is to help you screen your policy, project, function or new service. It should help you consider whether a full Equality Impact Assessment is required by looking at whether there is a potential negative or positive impact on any of the equality groups, if there is an opportunity to promote equality, and whether further data is needed.

**Title of policy, project, function or service:**

Statutory adoption leave and pay

**Short description of aims and objectives**

The policy notifies of the ILF policy where a User has a PA who requires adoption leave and pay

**Thinking about each group below, does (or could) the policy, project, service or function have an impact on members of each equality group? If so, how?**

Equality Group	Yes – negatively	Yes – positively	Unclear	No impact
Age	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Gender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transgender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Socio-economic groups	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**What information or research has been considered in judging these impacts?**

This policy is written to reflect statutory entitlements set by government. The ILF adds nothing further to those entitlements and does not have any control over them.

You should consider a full Equality Impact Assessment (EIA) if:

- (a) you feel one or more equality groups will be negatively impacted by the policy, project or service, or
- (b) there is an opportunity to promote equality and eradicate discrimination.

You may also consider further research if it is unclear, at this stage, what the impact may be.

**Based on your findings, is a full EIA required?**

Yes       No

**Please provide a short summary of your decision-making below:**

This policy merely reflects statutory entitlements.

**Notes:**

- The completed EIA Screening Template should be sent to Jon Duckworth, User Liaison Manager for approval by the Equality Impact Assessment Board (EIAB).
- We will contact you with any comments or queries about the completed form.

**This form was completed by:**

Helen Sanderson