**Adoption Leave and Pay Entitlements in Early Permanence**

Since April 2015 Concurrent or Fostering for Adoption Carers have been entitled to claim adoption leave and pay (if they are eligible for them) from the point of a child being placed with them under such arrangements. They are **also** entitled to the LA fostering allowance as they are, at this stage acting as Foster Carers for the child.

All Early Permanence Carers will have their own particular circumstances and they should look into their entitlements and what their employer offers individually. However, the legal premise is that any entitlement they have to adoption leave and pay can start from the point of the placement and does not have to wait until a child has a Placement Order and a matching certificate has been issued to be triggered. The decision of the nominated person to place the child in such a placement and their subsequent placement triggers the entitlement to statutory adoption leave and pay if they are eligible.

Early Permanence Carers do not have to start taking adoption leave or pay at the point of initial placement. They may alternatively choose to take adoption leave should the child be matched for adoption. If choosing to take adoption leave at the later, matching stage, prospective adopters should be aware that statutory adoption pay is based on earnings in the 8 weeks immediately preceding their statutory adoption leave, and if they have reduced or no earnings while fostering, this will impact their statutory adoption pay.

Only one set of statutory adoption leave/statutory adoption pay/paternity leave can be taken per placement (so adopters cannot take paternity leave at the time of placement and again when matched, for example).

The April 2015 changes to entitlement to adoption leave and pay made no amendments to the regulations and law governing fostering placements and allowances. From the point of placement (in a Concurrent or Fostering for Adoption arrangement) the carers are acting as Foster Carers for the child until the courts agree the child’s final plan. The carers are therefore entitled to the fostering allowance rate paid by the placing LA. Some LAs pay additional sums for certain carers (often based on experience or skills) and it is within their discretion to do so; payments to Foster Carers should be equitable regardless of the nature of the placement.

If the placement becomes an adoptive placement due to the issuing of a Placement Order, then the fostering allowance stops at the point when the placement converts to a placement for adoption (i.e. once formally matched by a panel and the ADM decision has been made).

If the placement ends due to the child returning to their family, adoption leave can continue for 8 weeks after the child is moved (although this could be less, if fewer than 8 weeks of adoption leave remains). Adoption pay can also continue for 8 weeks, unless the full amount of adoption pay ceases earlier than this. If the adopters take on another early permanence placement in the future the same entitlements that that had originally would apply, i.e. they could get adoption leave and pay (if eligible) and the LA fostering allowance. If an EP carer is eligible for SAP/SAL and then takes on an EP placement which ends with the child returning

to birth family, the contract of employment is not broken, so the entitlement to SAP and SAL continues regardless of whether that time is spent working or on adoption leave (with or without the child remaining in placement). What changes though will be the level of SAP – which is calculated as an average over the weeks immediately before the period of SAL starts – so the calculation will be done on the SAP received, not the original pay level.

Technically an adopter could have a child placed every six months and be entitled to rolling SAL and SAP for years, although eventually the pay is likely to drop below the minimum entitlement – in the same way a birth parent could theoretically have a baby every nine months and continue to receive maternity leave and pay indefinitely without ever having to go back to work.

*This guidance has been produced by Lindy Wootton in consultation with CoramBaaf and First4Adoption.*