

Adoption Policy

Purpose

This policy sets out the statutory rights and responsibilities of employees who are adopting and gives details of the arrangements for adoption leave and pay.

Legal Framework

This policy is directly aligned to employees terms and conditions of employment and in particular aligned to the requirement of UK employment legislation, specifically the following:

Paternity and Adoption Leave Regulations 2002
Paternity and Adoption Leave (Adoption from overseas) Regulations 2003
Paternity and Adoption Leave (Amendment) Regulations 2004
Paternity and Adoption Leave etc (Amendment) Regulations 2006
Paternity and Adoption Leave etc (Amendment) Regulations 2008
Shared Parental Leave 2015

Adoption Leave

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave. Surrogate parents will also become eligible for adoption leave. The leave will be available to employees who are, or expect to be, the parents of a child under a parental order, where the child's expected week of birth begins on or after 5 April 2015.

The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave. The employee's maximum entitlement is thus to take up to 52 weeks' adoption leave.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave subject to their following the correct notification procedures as set out below.

Ordinary Adoption Leave and Additional Adoption Leave

During the period of adoption leave, the employee's contract of employment continues in force and he/she is entitled to receive all his/her contractual benefits, except for salary. In particular, any benefits in kind (such as life assurance, private medical insurance, permanent health insurance, private use of a company car, laptop, mobile phone and gym membership) will continue; contractual annual leave entitlement will continue to accrue; and pension contributions will continue to be made provided that the employee is receiving statutory adoption pay (SAP) or Company adoption pay. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had they not gone on adoption leave.

Employees are encouraged to take any outstanding annual leave due to them before the commencement of adoption leave. However, employees are reminded that normal holiday arrangements will apply during adoption leave in accordance with their contract of employment.

Salary will be replaced by statutory or Company adoption pay if the employee is eligible to receive it.

Pension contributions will continue to be made during the period when the employee is receiving SAP or Company adoption pay (if applicable) but not during any period of unpaid adoption leave.

Shared Parental Leave

A couple who adopt a child where the placement is on or after 5 April 2015 may be entitled to shared parental leave of up to 50 weeks, to be shared between them during the first year of adoption. Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

For more information please refer to the Shared Parental Leave Policy.

Timing of Adoption Leave

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier (subject to compliance with the notice requirements below).

In order to make administration as easy as possible, the employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

Notice Requirements

In order to be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the Employer written notification of his/her intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. If it is not reasonably practicable for the Employee to meet this deadline, they should inform the Employer as soon as possible. Notice, which must be in writing, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends his/her adoption leave to start.

The employee is permitted to bring forward his/her adoption leave start date, provided that he/she advises the Company in writing on whichever is the earlier of 28 days before the adoption placement date or 28 days before the new adoption leave start date, or if that is not possible, as soon as reasonably practicable. The employee may also postpone his/her adoption leave start date, provided that he/she advises the Company in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The employee must also, if the Employer requests it, provide evidence of entitlement to adoption leave and pay by producing a 'matching certificate' from the adoption agency. Any failure to give proper notice of an intention to start adoption leave will be regarded as a disciplinary offence, leading potentially to disciplinary sanctions for misconduct if appropriate.

Within 28 days of receiving the employee's notice of intention to take adoption leave, the Employer will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

Time off to attend appointments

The main adopter will be able to take time off to attend up to five, while the secondary adopter will be entitled to take time off for up to two such appointments.

Statutory Adoption Pay (SAP)

Statutory adoption pay is payable for up to 39 weeks during adoption leave provided the employee has been continuously employed for at least 26 weeks ending with the week in which he/she is notified of having been matched with the child.

An employee is entitled to SAP provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions.

For the first six weeks, SAP is paid at the higher rate, which is equivalent to 90% of the employee's average weekly earnings. For the purpose of calculating average weekly earnings, shift allowances, overtime payments, bonuses and commission are all included.

The standard rate of SAP is paid for the remaining 33 weeks (or less if the employee returns to work sooner). This is paid at a rate set by the Government for the relevant tax year, or 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of his/her adoption leave, the higher or standard rate of SAP will be recalculated to take account of the employee's pay rise, regardless of whether SAP has already been paid. This means that the employee's SAP will be recalculated and increased retrospectively, or that he/she may qualify for SAP if they did not previously. The employee will be paid a lump sum to make up any difference between SAP already paid and the amount payable as a result of the pay rise.

Company Adoption Pay

In addition to SAP, employees who have completed 1 year's service are also entitled to Company adoption pay.

This becomes payable once 6 weeks SAP at the higher rate has been paid. The lower rate SAP is made up to one half of the employee's current salary. This is paid for the following 12 weeks only of the Adoption Leave period.

If the employee subsequently elects not to return to work, the Company adoption pay must be repaid. The employee will sign a declaration to this effect when applying for adoption absence and this will also authorise the deduction by the Company of the monies due from the Employee from any sums payable to the Employee upon termination of employment. Employees must return to work for at least 13 weeks following adoption leave to avoid paying back any Company adoption pay.

Both Company and statutory adoption pay are treated as earnings and are therefore subject to PAYE and national insurance deductions.

Contact during Adoption Leave

Shortly before an employee's adoption leave starts, the Company will discuss the arrangements for he/she to keep in touch during their leave, should they wish to do so. The Company reserves the right in any event to maintain reasonable contact with the employee from time to time during his/her adoption leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease his/her return to work or simply to update on developments at work during their absence.

Keeping-In-Touch Days

Employees can agree to work for the Company (or to attend training) for up to 10 days during their adoption leave without that work bringing their adoption leave to an end and without loss of a week's Statutory / Company Adoption pay. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes.

The Company has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her adoption leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between the Company and the employee. Any keeping-in-touch days worked do not extend the period of adoption leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SAP for any week in which she agrees to work for the Company.

Returning to Work

The employee will have been formally advised in writing by the Company of the date on which he/she is expected to return to work if he/she takes her full 52-week entitlement to adoption leave. The employee is expected to return on this date, unless he/she notifies the Company otherwise. If he/she is unable to attend work at the end of their adoption leave due to sickness or injury, the Company's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

While the employee is under no obligation to do so, it would assist the Company if he/she confirms as soon as convenient during the period of adoption leave that they will be returning to work as expected.

If the employee wishes to return to work earlier than the expected return date, she must give the Company at least eight weeks' notice of her date of early return, preferably in writing. If he/she fails to do so, the Company may postpone their return to work until the full notice has been served or the end of their adoption leave (if earlier).

Policy on Holiday Entitlement during Adoption Leave

Employees will continue to accrue both statutory and any additional contractual holiday entitlement during both the 26-week ordinary adoption leave period and 26-week additional adoption leave period.

An employee who has requested adoption leave will be advised before he/she starts ordinary adoption leave whether he/she has any outstanding holiday entitlement. The Employer may:

- Require the employee to take such outstanding holiday before commencing adoption leave; Agree in conjunction with the relevant department manager that the employee should carry the leave over and take it on return to work after adoption leave; or
- (For holiday entitlement in excess of the statutory minimum) pay the employee for any outstanding holiday leave as if the Employee were leaving.
- These options will be discussed with the employee prior to the start of adoption leave.

All those to whom this policy refers are required to familiarise themselves with the terms of this policy.

Managers are responsible for ensuring this policy is applied fairly and consistently with their own area. Any queries on the application or interpretation of this policy must be discussed with your HR Department / representative prior to action being taken.