



Talking Adoption: Adoption Leave

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Welcome

Prior to deciding whether to adopt one or more children, there are many questions that you may have in relation to adoption leave and pay. This document provides answers to some of those key questions so potential adopters have the information available to make the best decisions for them and their families.

The law and amounts set (for aspects such as adoption pay) change regularly, you can find out the most recent updates on www.gov.uk

1. What is adoption leave?

Adoption Leave is available to individuals who adopt a child. Where a couple adopt jointly, the couple need to choose which partner takes adoption leave as only one of the individuals can choose to take adoption leave. This partner is usually referred to as the 'primary or main adopter'.

2. Who is entitled to adoption leave?

An employee is entitled to adoption leave if they meet all the following conditions:

- They are adopting a child through a UK or overseas adoption agency.
- The adoption agency has given them written notice that it has matched them with a child for adoption and tells the individual the date the child is expected to be placed into their care with a view to adoption (Expected Placement Date).
- They have notified the agency that they agree to the child being placed with them on the Expected Placement Date.
- Their spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave or shared parental leave).

Adoption Leave and Pay are not available in the following circumstances:

- Where a child is not newly matched for adoption, e.g., adopting a family member or step-child.
- A private adoption, not arranged by an adoption agency.
- Becoming a special guardian or kinship carer.

3. If you are in a couple, can both people take adoption leave?

If you are in a couple, only one partner can take adoption leave, therefore the couple need to choose which partner takes adoption leave. The partner of an individual who adopts, or the other person of a couple who are adopting jointly, may be entitled to paternity leave and pay. Please refer to question 17 for further information.

4. How long do people have to work for an employer to qualify for adoption leave?

Employees have the right to take adoption leave from the first day of their employment, however, an employee will only qualify for statutory adoption pay (SAP) if they have at least 26 weeks' continuous employment with their employer at the end of the week in which they are notified of being matched with a child for adoption, and their average earnings are not less than the lower earnings limit set by the government each tax year, currently £123 per week.

5. How long do new parents have to take off work when their child/ren are placed?

All employees are entitled to take up to 52 weeks adoption leave, regardless of their length of service or hours of work. This is made up of 26 weeks Ordinary Adoption Leave (OAL) and 26 weeks Additional Adoption Leave (AAL). Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

6. When would you suggest people begin to talk to their employers about adoption leave?

Employees should inform their Line Manager as soon as possible about their adoption placement, as this can be helpful for employees to discuss when they'd prefer to take the leave and help their employer plan for the period of leave. The employee can notify their employer by using a Notification of Intention to Take Adoption Leave Form.

Employees are required to inform their employer of their intention to take Adoption Leave within 7 days of either being notified by the adoption agency that they have been matched with a child for adoption, or their adoption placement being confirmed if you're fostering a child permanently and becoming their legal parent ('fostering to adopt'). If this is not reasonably practical, employees should inform their employer as soon as possible.

7. When can people start their adoption leave?

Adoption Leave can start on a predetermined date i.e., the day the child is placed, or up to 14 days before. The employee is required to provide the following details to their employer:

- When the child is expected to be placed with them
- When they wish Adoption Leave to commence

Once the employee has received the matching certificate issued by the adoption agency, they are required to provide a copy to their employer. The employer should then write to employee within 28 days to confirm their expected return to work date which is based on the assumption that they will take their full entitlement to adoption leave i.e., 52 weeks.

If the employee would like to change the date that their Adoption Leave starts, they must inform their employer within 28 days if the date of placement (or UK arrival date for overseas adoptions) changes.

8. Can people take time off to attend adoption placement meetings?

The main adopter can take paid time off for up to five adoption appointments. The secondary adopter can take unpaid time off for up to two appointments. An employer may ask to see an appointment card or other proof of the appointment unless it's the first appointment.

9. How does adoption leave work for parents adopting through the Foster for Adoption scheme?

The adoption leave and pay scheme was initially limited to those who were "matched for adoption" with a child by an "adoption agency", and those who adopted children from overseas, however, the availability of adoption leave and pay was extended on 5 April 2015 to include foster parents who are approved for adoption under a "fostering for adoption" scheme, therefore this is no difference in eligibility between parents who are matched for adoption and parents who are adopt through a Foster for Adoption scheme.

10. What about self-employed people?

Freelancers, agency workers, zero hours contracts and casual workers may still qualify for SAP, see below, but if you do not qualify for adoption leave you will have to agree the time off with your employer.

11. How much is Statutory Adoption Pay (SAP)?

Statutory adoption pay is payable for up to 39 weeks at the flat rate of 90% of your average earnings for the first six weeks, then the statutory rate of £172.48 (April 2023 – April 2024) for the remaining 33 weeks or 90% of your average weekly earnings where that is less than £172.48.

The remaining 13 weeks are unpaid.

12. What qualifies people for SAP?

In order to qualify for SAP you must have:

- been employed by your employer for at least 26 weeks ending with the end of the Matching week, and
- earned at least £123 (April 2023 – April 2024) on average in the eight weeks (if paid weekly) or two months (if paid monthly) ending with the Matching week.

If an employee does not qualify for Statutory Adoption Pay, they may be eligible to claim financial support from the Department of Work and Pensions. Further information is available from your local Job Centre plus office.

13. What are people's rights during adoption leave?

All the terms and conditions of employment remain in force during OAL and AAL, except for the terms relating to pay.

Annual leave entitlement continues to accrue during both OAL and AAL. If the adoption leave continues into the next holiday year, any holiday entitlement that cannot reasonably be taken before starting the adoption leave can be carried over.

If the employee is a member of the pension scheme, the Company shall make employer pension contributions during OAL and any further period of paid adoption leave based on the employee's normal salary, in accordance with the pension scheme rules. Any employee contributions made will be based on the amount of adoption pay the employee receives, unless they inform their manager that they wish to make up any shortfall. This is standard practice unless any existing policy states otherwise.

An employee also has protection from detriment or dismissal relating to taking adoption leave.

14. Can an employer keep in touch with the employee during their Adoption Leave?

Your employer may contact you from time to time during your adoption leave although this is usually kept to a minimum. The employee and manager should discuss and agree reasonable contact before the leave commences.

Whilst on adoption leave, an employee can work up to a maximum of 10 days, providing it is mutually agreed between both the employee and their line manager. This is known as a Keeping in Touch (KIT) day. Examples of what KIT days may be used for are to attend training relevant to your role or to attend team events. KIT days are not compulsory and must be discussed and agreed with the manager.

KIT days can only be taken in whole days, with any work completed on any given day amounting to one KIT day. An employee is usually paid at their normal basic rate of pay for time spent working on a keeping-in-touch day and this is inclusive of any adoption pay entitlement.

15. Do people have to give notice of their intention to return to work?

If the employee returns to work on the Expected Return Date, they don't need to give notice of their intention to return and the employer will expect that the employee will return to work on this date unless they tell the Company otherwise. If the employee wishes to return to work earlier than the Expected Return Date, they must provide the Company with eight weeks' prior written notice of the date. If insufficient notice is given, the Company may postpone their return date until eight weeks after notice was given, or to the Expected Return Date.

If the employee wishes to return to work later than the Expected Return Date, they should either request unpaid parental leave giving as much notice as possible but not less than 21 days, or request paid annual leave, which would be subject to approval by their line manager.

Employees are normally entitled to return to work in the position they held before starting adoption leave, and on the same terms of employment. However, if they have taken AAL and it is not reasonably possible for the Company to allow the employee to return into the same position, the Company may offer the employee another suitable and appropriate job on terms and conditions that are not less favourable.

16. Can an employee decide not to return to work after Adoption Leave?

If an employee decided not to return to work following adoption leave, they would need to give notice of resignation in accordance with their contract of employment. The amount of adoption leave left to run when notice is given must be at least equal to the contractual notice period; otherwise the Company may require the employee to return to work, use any outstanding annual leave or take unpaid leave to cover the remainder of the adoption leave period. Once notice has been given, the employee cannot change their mind without agreement from the Company. This does not affect the employee's right to receive SAP.

17. Is there anything else people need to consider?

In adoption cases Paternity Leave is not available to an employee who decides to take Adoption Leave, however, where you are the partner of a couple adopting a child, you may qualify for Paternity Leave. Ordinary Paternity Leave (OPL) is available if you provide the correct notification and satisfy all the following conditions:

- you have been continuously employed by your employer for at least 26 weeks ending with, in adoption cases, the week in which the child's adopter is notified of having been matched with a child;
- you are: the biological father of the child; or the spouse, civil partner or cohabiting partner (of either sex) of the biological mother; or the spouse, civil partner or cohabiting partner (of either sex) of someone who has been matched with a child by an adoption agency;
- you are taking leave for the purpose of caring for the child, or supporting the child's mother or adopter in caring for the child; and
- you have, or expect to have, main responsibility (with the mother or adopter) for the child's upbringing; or you are the child's biological father and have, or expect to have, some responsibility for the child's upbringing.

Paternity leave must be taken as a period of either one or two weeks' consecutive leave when a child is (born or) placed for adoption. The leave can start on the date of placement, or later, provided it is taken within 8 weeks (56 days) of the placement. Statutory Paternity Pay (SPP) is payable during OPL provided the employee has at least 26 weeks' continuous employment ending with the Qualifying Week (the week in which the adoption agency notified you of a match) and your average earnings during the Relevant Period are not less than the lower earnings limit set by the government each tax year.

Employees may also be eligible for Shared Parental Leave (SPL) which gives the primary adopter and their partner more flexibility in how to share the care of their child in the first year (after birth) or placement for adoption. Assuming both parents are eligible, they will be able to choose how to split the available leave between them and can decide to be off work at the same time or at different times.

