

CHR005 Adoption Leave Policy

Adoption Leave Policy

Introduction

This policy sets out the rights of employees to statutory adoption leave and pay.

Adoption leave

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave.

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 therefore to take up to 52 weeks' adoption leave.

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

Statutory Adoption Pay (SAP)

Employees who take adoption leave will also qualify for statutory adoption pay, provided that they have 26 weeks' service calculated as at the week in which notification of matching was given by the adoption agency and have average weekly earnings not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks. Statutory adoption pay is payable at 90% of normal earnings for the first six weeks, following which it is payable at the rate set by the Government for the relevant tax year (or 90% of normal earnings, if that is lower than the Government's rate).

Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take statutory adoption leave. Local authority foster parents who are also prospective adopters ("foster to adopt") are entitled to take adoption leave. Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Timing of adoption leave

Adoption leave can start:

- on the day the child is placed for adoption, or up to 14 days earlier (UK adoptions)
- when the child arrives in the UK or within 28 days (overseas adoption)

Notice requirements (adoption within the UK)

To be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the IMS Manager written notification of their 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. The notice must specify:

- the date the child is expected to be placed with the employee for adoption, and
- the date the employee intends their adoption leave to start.

The employee must also provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency. The adoption agency must be recognised in the UK.

The employee is permitted to bring forward their adoption leave start date, provided that they advise the IMS Manager in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their adoption leave start date, provided that they advise the IMS Manager in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

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

Notice requirements (overseas adoption)

To be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give written notification to the IMS Manager of their intention to take adoption leave.

No later than 28 days after the date they receive the official notification¹, or the date on which they complete 26 weeks' continuous service with the organisation (whichever is later), they must give notice of both the date the official notification was received and the date the child is expected to enter Great Britain.

At least 28 days prior to the date that they have chosen as the beginning of their adoption leave period, the employee must give notice of the chosen start date, and a declaration that they have chosen to receive statutory adoption pay and not statutory paternity pay (adoption). They must also produce a copy of the official notification.

Within 28 days of the child's entry into Great Britain the employee must inform the IMS Manager of the date of entry and provide evidence of this date in the form of a plane ticket or copies of entry clearance documents.

The employee is permitted to bring forward their adoption leave start date, provided that they advise the IMS Manager in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their adoption leave start date, provided that they advise the organisation in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Within 28 days of receiving the employee's notice of the date on which they intend to begin their adoption leave, the organisation will write to the employee confirming the latest date on which the employee must return to work after adoption leave. Where the employee has provided notice of a revised start date, within 28 days of the date on which the employee's

¹ An official notification is defined as written notification, issued by or on behalf of the "relevant domestic authority", that it is prepared to issue, or has already issued and sent, a certificate to the overseas authority concerned with the child's adoption, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The relevant domestic authority is defined as the Secretary of State, the National Assembly for Wales, or the Scottish Ministers.

adoption leave period began, the organisation will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

Time off to attend adoption appointments

Employees who are adopting a child are entitled to take time off to attend adoption appointments.

An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments.

Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments. The other can elect to take unpaid time off to attend up to two adoption appointments.

The purpose of the appointment is to enable the employee (and their partner) to have contact with the child (for example, to bond with them before the placement) and for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).

The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.

Employees who would like to make a request for time off to attend an adoption appointment should apply in writing by completing a leave of absence request form, and submitting this to the IMS Manager, together with proof of the date and time of the appointment and confirmation that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

Rights during adoption leave

During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory adoption pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid during any period when the employee is receiving SAP but not during any period of unpaid adoption leave. Please contact your pension provider for further details.

Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

Annual leave

Annual leave entitlement will continue to accrue during the adoption leave period. Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

Where a period of adoption leave overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's leave year.

Contact during adoption leave

The organisation reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

Keeping-in-touch (KIT) days

Employees can agree to work for the organisation (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 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 organisation has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, will be agreed between the employee and the organisation prior to being undertaken.

Returning to work after adoption leave

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give the appropriate notification. Alternatively, the employee may take their full period of adoption leave entitlement and return to work at the end of this period.

If the employee wishes to return before the full period of adoption leave has elapsed they must give at least eight weeks' notice in writing to the IMS Manager of the date on which they intend to return.

The employee has the right to resume working in the same job if returning to work from ordinary adoption leave. If the employee returns to work after a period of additional adoption leave, they are entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.

If the employee decides during adoption leave that they do not wish to return to work, they should give written notice of resignation as soon as possible and in accordance with the terms of their contract of employment.

Transfer of adoption leave

Shared parental leave

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.

The employee can request to take shared parental leave in one continuous block (in which case the organisation is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of at least one week (in which case the employee needs the organisation's agreement).

To be able to take shared parental leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the adopter curtailing his or her adoption leave.

Employees can refer to the organisation's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the adopter's adoption leave can be curtailed. The organisation's policy on shared parental leave sets out the notice periods with which employees must comply and what evidence they must provide to the organisation. The policy also contains more details on employees' entitlement to statutory shared parental pay.

The adopter and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

Review

This procedure will be periodically reviewed and made available to all staff (on the Works Canteen Noticeboard and via the QR code link displayed in the Canteen). Any amendment to it will be notified to employees by memo / noticeboards.