



Adoption Leave

Introduction to adoption rights and benefits

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

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave from day one of their employment.

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 during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures as set out below.

Data Protection

When managing an employee's adoption leave and pay, the organisation processes personal data collected in accordance with its data protection policy. Data collected from the point at which an employee informs the organisation that they plan to take adoption leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their adoption leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure.

Who qualifies for statutory adoption pay and how much will the employee receive?

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. The right at its absolute discretion to decline requests for voluntary redundancy.

Timing of adoption leave

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier.

To make administration as easy as possible, the employee should discuss the timing of their adoption leave with their immediate manager as early as possible.

Notice requirements

To be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the organisation 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. Notice, which must be in writing if the organisation requests it, 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 is permitted to bring forward their adoption leave start date, provided that they advise the organisation 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. The employee must also, if the organisation requests it, provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

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.

Time off to attend adoption appointments

An employee under notice of redundancy will be entitled to a reasonable amount of paid time off to look for alternative work, attend interviews, etc. Employees wishing to take advantage of this right should make the appropriate arrangements with their line manager.

Termination of Employment

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 (under s.57ZJ of the Employment Rights Act 1996). 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 (under s.57ZJ of the Employment Rights Act 1996). The other can elect to take unpaid time off to attend up to two adoption appointments (under s.57ZL of the Employment Rights Act 1996).

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.

The Charity may ask the individual for proof of the date and time of the appointment and 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).

In addition, if the employee is adopting jointly, the organisation will ask the individual to sign a declaration, to be submitted alongside the documentary evidence, confirming that they have elected to exercise their right under either s.57ZJ or s.57ZL of the Employment Rights Act 1996 to take time off to attend an adoption appointment. The Charity will ask for the declaration on the first occasion on which the individual asks for time off to attend an adoption appointment.

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/wage] will be replaced by statutory adoption pay if the employee is eligible for it.

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.

Contact during adoption leave

Childhood First 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 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 Charity 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, is entirely a matter for agreement between employees and the organisation.

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 organisation 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 to the organisation as soon as possible and in accordance with the terms of their contract of employment.

Transfer of adoption leave

Please see Shared Parental Leave Policy.

Key Legislation

- Employment Rights Act 1996
- Data Protection Act 2018
- Paternity and Adoption Leave Regulations 2002 (SI 2002/2788)
- Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (SI 2002/2822)
- Shared Parental Leave Regulations 2014 (SI 2014/3050)
- Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014 (SI 2014/3052)
- General Data Protection Regulation (2016/679 EU)

Last updated April 2020