

Adoption Leave

1. Introduction

This procedure explains:

- eligibility and notification requirements for taking adoption leave;
- eligibility and arrangements for both contractual and statutory adoption pay;
- considerations and arrangements before the start of your adoption leave;
- arrangements for keeping in touch and the effect on your terms and conditions of employment; and
- arrangements for returning to work following adoption leave.

2. Eligibility for Adoption Leave

The eligibility criteria for adoption leave depends on if you are adopting within the UK or from overseas.

2.1 Eligibility for Adoption Leave – within the UK

You are eligible for adoption leave if you have:

- been newly matched with a child for adoption by an approved adoption agency;
- 26 weeks continuous employment with the FC or wider Civil Service, calculated as at the week in which notification of matching is given by the adoption agency; and
- complied with the notification requirements detailed in [Section 3.1](#).

2.2 Eligibility for Adoption Leave – from Overseas

You are eligible for adoption leave if you have:

- been newly matched with a child for adoption and have received 'official notification' in respect of that child;
- 26 weeks continuous service, completed either before 'official notification' is received or before the leave is due to begin; and
- complied with the notification requirements detailed in [Section 3.2](#).

2.2.1 Official notification

Official notification is written confirmation that a certificate has been issued, or is going to be issued, to the overseas authority responsible for the child's adoption. The

certificate confirms that you are eligible to adopt and have been approved as being a suitable adoptive parent. The certificate is issued by the Department for Education in England or the Welsh or Scottish Ministers.

3. Notification of Adoption Leave

You should discuss your intention to take adoption leave with your line manager as early as possible. There are two separate processes for providing notification of adoption leave - one for adoption within the UK and the other for adoption from overseas.

3.1 Notification of Adoption Leave – within the UK

You must provide notification of your intention to take adoption leave no later than 7 days after you are notified by the adoption agency that you are matched with a child. You should notify both your line manager and the [Payroll Team, HR Services](#) in writing of:

- the date the child is expected to be placed with you for adoption; and
- the date you intend to start your adoption leave.

You should provide this notification using the [Adoption Leave Form \(Adopting within the UK\)](#). The Matching Certificate, authorised by the adoption agency, will also need to be provided.

Within 28 days of receiving your Adoption Leave Form (Adopting within the UK), HR will write to you confirming the date you are expected to return to work if you take your full 52 week adoption leave entitlement.

If you want to change the start date of your adoption leave you need to provide written notification 28 days before either the original or new start date, whichever is the sooner. If that is not possible, you should provide written notification as soon as practical.

3.2 Notification of Adoption Leave – from overseas

Within 28 days of receiving 'official notification', or after completing 26 weeks service with the FC or wider Civil Service, whichever is later, you must provide notification to your line manager and the [Payroll Team, HR Services](#) of:

- the date you received 'official notification'; and
- the date the child is expected to enter Great Britain.

At the appropriate time, you must then provide 28 days notice of your chosen start date to both your line manager and the [Payroll Team, HR Services](#). You should provide this

notification using the [Adoption Leave Form \(Adopting from Overseas\)](#). You will also need to provide a copy of the 'official notification'.

Within 28 days of the child's entry into Great Britain, you must provide your line manager and the [Payroll Team, HR Services](#) with evidence of the date of entry, i.e. plane tickets or copies of entry clearance documents.

Within 28 days of receiving your Adoption Leave Form (Adopting from Overseas), HR will write to you confirming the date you are expected to return to work if you take your full 52 week adoption leave entitlement.

If you want to change the start date of your adoption leave you need to provide written notification 28 days before either the original or new start date, whichever is the sooner. If that is not possible, you should provide written notification as soon as practical.

4. Adoption Pay

4.1 Contractual Adoption Pay

The FC offers contractual adoption pay, subject to certain qualifying conditions, which both fulfils and betters the statutory provisions. Contractual adoption pay is based on your normal contractual hours and is pro-rata for part-time employees.

If you are eligible for contractual adoption pay, you are allowed:

- 26 weeks' adoption leave at your normal rate of pay; followed by
- 13 weeks' adoption leave at either the Statutory Adoption Pay (SAP) rate or 90% of your average weekly earnings, if this is lower than the SAP rate; followed by
- a further 13 weeks' unpaid adoption leave, giving 52 weeks in total.

You decide how much adoption leave to take. If you are eligible for both the contractual and statutory schemes, you are entitled to choose the most beneficial.

4.1.1 Eligibility for contractual adoption pay

You are eligible for the contractual adoption pay provided you:

- comply with the notification requirements in [Section 3](#);
- are in paid service when you start adoption leave and have completed at least one years' paid service with the FC or wider Civil Service;
- state that you intend to return to work in the FC after adoption leave and sign an undertaking to repay any contractual adoption pay if you do not return; and
- are not fee paid.

Calculating paid service

For adoption within the UK, the years' paid service is calculated as at the week in which notification of matching is given by the adoption agency.

For adoption from overseas, the years' paid service is calculated as at the week in which 'official notification' is received or the week in which the leave is due to begin.

Sick pay at pension rate does not count as paid service.

4.1.2 Fixed term appointments

Employees on a fixed term appointment can receive contractual adoption pay up to the end of their contract of employment, provided they meet the qualifying criteria. After the end of the contract any statutory entitlements will take effect.

4.1.3 Part year permanent appointments

Employees on a part year permanent appointment who meet the qualifying criteria can receive contractual adoption pay for the period they would have undertaken work for the FC. For more information, please contact the [Payroll Team, HR Services](#).

4.2 Statutory Adoption Pay

If you are not eligible for contractual adoption pay, you may be eligible for Statutory Adoption Pay (SAP) which will be paid to you by the FC.

SAP is payable whether or not you intend to return to work after your adoption leave. It is up to 39 weeks at the SAP rate, or 90% of your average weekly earnings over the calculation period if this is lower. Visit www.direct.gov.uk to find out details of current rates or contact HR Services.

If you don't qualify for SAP, the FC will give you two weeks' special paid leave, pro rata for part-time employees.

4.2.1 Average weekly earnings

We review the amount you earn each week (including all allowances and overtime that make up gross pay) over a set period of time to calculate your average weekly earnings.

Gross pay is the amount you earn before your income tax and other deductions are subtracted from your pay.

HMRC specify the set period of time that must be used and it is the 8 weeks up to and including the week in which you are notified of having been matched with a child. Where you are employed but are not undertaking work for the FC during this period, for

example if you have a part year contract, you may not be eligible for SAP. For further information, please contact the [Payroll Team, HR Services](#).

4.2.2 Eligibility for Statutory Adoption Pay

To qualify for SAP, you must have:

- complied with the notification requirements in [Section 3](#);
- 26 weeks' continuous employment with the FC or wider Civil Service; and
- average weekly earnings no less than the lower earnings limit for national insurance contributions.

Calculating continuous employment

For adoption within the UK, the 26 weeks continuous employment is calculated as at the week in which notification of matching is given by the adoption agency.

For adoption from overseas, the 26 weeks continuous employment is calculated as at the week in which 'official notification' is received or the week in which the leave is due to begin.

5. Before your Adoption Leave

5.1 Performance Reporting

Depending on the dates of your adoption leave, you will find it useful to have an extra interim performance meeting with your reporting officer before your leave begins. This can also provide the opportunity to discuss hand-over arrangements for your work.

5.2 Annual Leave and Flexi Leave

You are encouraged to take any outstanding annual leave before you start adoption leave. Normal carry over rules will apply unless you have not had an opportunity to take the leave. You will continue to accrue annual leave whilst on adoption leave – for more information see [Section 7.3](#).

If you work flexi-time, you should also ensure that you clear any credit or deficit before you start adoption leave.

6. Contact and Keep in Touch Days

Your line manager will maintain a reasonable level of contact with you during your adoption leave in order to keep you up-to-date with any changes or developments and to discuss your plans for returning to work. Before your adoption leave starts you

should discuss arrangements for keeping in touch with your line manager. You should agree how you want to be kept up-to-date, for example if you want to be sent details of training and development opportunities, staff meetings, vacancies, social events, etc.

Before you go on adoption leave you should ensure that your line manager and HR have your current address and telephone number. If possible, you should give your line manager your home email address as this will make it easier for them to forward you information. You must let your line manager know immediately if your contact details change.

As well as keeping in touch with the FC you should try to keep up-to-date with developments in your particular area of expertise, for example continuing with any professional membership, reading relevant publications, etc. This will help you to keep abreast of developments during your adoption leave and ensure your return to work is as smooth as possible.

6.1 Keep in Touch Days

You can choose to work for up to 10 days during your adoption leave. Keep in touch days can be used for normal work, work-related training or attending conferences or seminars. Keep in touch days are working days and will be paid at your normal rate of pay, however they will not extend or bring to an end the adoption leave period.

If more than 10 keep in touch days are worked then your adoption leave will come to an end.

If you work a keep in touch day while you are in receipt of SAP or are on unpaid adoption leave, your line manager will notify the [Payroll Team, HR Services](#) so that you are paid for that day.

7. Effect of Terms and Conditions of Employment

During your adoption leave, your contract of employment continues and you are entitled to all the benefits which would have accrued had you not been absent, except pay.

7.1 Pay Progression

If pay progression or a pay award falls between the start of the SAP calculation period and the end of your period of adoption leave, any remaining contractual adoption pay you receive will be adjusted accordingly, as will your salary when you return to work. Statutory adoption pay will only be adjusted if pay progression or a pay award falls

within the calculation period and you are in receipt of 90% of your average weekly earnings as these is lower than the SMP rate.

7.2 Pension

Paid periods of adoption leave, including SAP and keep in touch days, count as reckonable service for pension purposes. During paid periods of adoption leave your employer's pension contributions will continue to be based on your full pay. Your employee pension contributions, as deducted from your salary, will be calculated by reference to the level of pay you actually receive.

Unpaid periods of adoption leave count as qualifying, but not reckonable, service for pension purposes. During unpaid periods of adoption leave neither you nor the FC are required to pay contributions towards your pension.

7.3 Annual Leave and Public / Privilege Holidays

Your entitlement to annual leave is not affected by adoption leave and you will continue to accrue your contractual annual leave entitlement for the duration of your adoption leave. You are not permitted to take annual leave within the adoption leave period. When you return to work, normal carry over rules will apply unless you have not had an opportunity to take the leave. There is no entitlement to accrue public / privilege holidays that fall during periods of adoption leave.

7.4 Non-pay Benefits

Whilst on adoption leave, you will continue to receive all of your non-pay benefits. Where there is an associated employee contribution, for example a salary advance, financial contract or salary sacrifice arrangement, your contribution **may** be adjusted to take account of your actual pay during the period of adoption leave. You should refer to the terms and conditions or contact the [Payroll Team, HR Services](#) for more information.

7.5 Promotion and Career Development

You can apply for vacancies while you are on adoption leave and if you are successful, you would take up the new post when you return to work.

If you want to be notified of vacancies while you are on adoption leave you need to discuss this with your line manager (see [Section 5](#)). You may be able to claim travel and subsistence costs when attending interviews, including childcare costs if appropriate. These costs will be covered by the cost centre you are attached to before going on adoption leave.

7.6 Sickness during or following Adoption Leave

If you are sick during adoption leave, you are not eligible sick leave or pay. However, if you cannot return to work because you are sick when your adoption leave comes to an end, you are eligible for sick leave and pay and normal absence reporting procedures will apply.

7.7 Resignation

Where you have been in receipt of contractual adoption pay and you choose not to return to work following your adoption leave, you will be required to repay the contractual element of the adoption pay you have received. This requirement to return to work is for a minimum period of one calendar month and you can choose to cover this period with accrued untaken annual leave. If you decide not to return to work following adoption leave, you must provide the required period of notice for resignation as detailed in your contract of employment.

Where you resign because you do not intend to return to work but later wish to return because of a change in circumstances, you have no absolute right to return to work. However re-appointment will be considered if at all possible.

7.8 Redundancy

You have a right not to be selected for redundancy, in preference to other employees, solely or mainly because are, or have been, on adoption leave. In circumstances where you are declared surplus you are entitled to priority in relation to suitable alternative employment.

8. Returning to Work

Your expected return date is 52 weeks from the start of your adoption leave. If you wish to return to work before this date you must give your line manager, and the [Payroll Team, HR Services](#), 8 weeks' written notice of the date you would like to return. If you are unable to provide the required notice your line manager may postpone your return to work in order to provide the FC with 8 weeks' notice, providing this is not later than your 52 week expected return date.

Please note there is no automatic right to return to work at the FC where your fixed term appointment has come to an end during your adoption leave.

8.1 Right to Return to the same Job

If you return to work within 26 weeks you are entitled to return to the same job you held before starting adoption leave, on the same terms and conditions of employment as

if you had not been absent. Where this is not possible, for example through restructure or redundancy, this will be managed in line with the Redundancy [Policy](#) and [Procedure](#).

If you return to work after 26 weeks you are entitled to return to the same job you held before starting adoption leave, on the same terms and conditions of employment as if you had not been absent, **unless this is not reasonably practical**. If it is not reasonably practical, you will be offered suitable alternative work, on terms and conditions that are no less favourable.

8.2 Requests for Flexible Working

Requests for flexible working will be considered in line with [Staff Handbook Chapter 11 – Hours, Overtime and Travelling Time](#). You should allow adequate time for your application to be considered, which may require you to apply before the end of your adoption leave. You should note that there is no automatic right to work part-time or make any other changes to your working pattern and approval of a flexible working request will only be given following consideration of operational needs.

8.3 Request for Unpaid Parental Leave

If you wish to extend your period of leave, you may request up to 4 weeks' unpaid parental leave. For more information, please refer to [Staff Handbook Chapter 10 – Leave](#).

9. Cancelling Adoption Leave

If you no longer want to take adoption leave, or you are no longer eligible, you should provide at least 8 weeks written notice.

If you do not provide 8 weeks notice and it is not practical for your line manager to accommodate the cancellation, you may be required to take a period of special unpaid leave. The special unpaid leave would start on the date your adoption leave was due to start and end no later than 8 weeks after you gave notice or the date the leave was due to end, whichever is earlier.

10. Flowchart: Arranging Adoption Leave

