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# Adoption – Schools Employee Guide

This document is set to guide school employees who are planning to adopt a child, on their statutory rights and responsibilities for adoption leave and pay and the steps to follow.

## This is in compliance with the government policy on adoption. Employees must read and understand their entitlements by visiting the <https://www.gov.uk/adoption-pay-leave/overview>.

When you take time off because your partner’s adopting a child or having a baby through a surrogacy arrangement you might be [eligible](https://www.gov.uk/paternity-pay-leave/eligibility) for paternity leave or shared parental leave, details on eligibility and how to claim can be obtained from <https://www.gov.uk/paternity-pay-leave/adoption>. If a couple jointly adopt a child, one may take adoption leave and the other parent may be able to take paternity leave or shared parental leave (see Family Care Policy and Shared Parental Leave Policy).

### Who is eligible

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 and there is no qualifying period.

Adoption leave may be taken when

* a child starts living with the employee or up to 14 days before the placement date (UK adoptions),
* an employee has been matched with a child by a UK adoption agency,
* the child arrives in the UK or within 28 days (overseas adoption).

## Parents who will become the legal parents of a child under a surrogacy arrangement are also entitled to take statutory adoption leave.

## Local authority foster parents who are also prospective adopters ("foster to adopt") are entitled to take ordinary adoption leave in relation to children matched for adoption.

### Adoption leave

## Statutory Adoption Leave is 52 weeks. It’s made up of:

* 26 weeks of Ordinary Adoption Leave
* 26 weeks of Additional Adoption Leave

 **Pay entitlements**

Statutory Adoption Pay (SAP) is paid for up to 39 weeks. The weekly amount for support staff is:

* 90% of your average weekly earnings for the first 6 weeks
* 90% of your average weekly earnings or the rate set by the Government for the relevant tax year (whichever is lower) for the next 33 weeks

The weekly amount for teaching staff is:

* Full pay for the first 4 weeks
* 90% of average weekly earnings for the next two weeks
* 90% of your average weekly earnings or the rate set by the Government for the relevant tax year (whichever is lower) for the next 33 weeks

 **Occupational Adoption Pay**

If you had been employed in local government for at least 1 year continuously at the time the child is placed, you will be entitled to receive a further 12 weeks salary at half pay. This is on the condition that **support** staff return for 3 months and **teaching** staff return for a period of at least 13 weeks. For **teachers** this is an equivalent of 13 weeks full-time hours if they return to work on part-time hours having previously worked full-time or if a part-time teacher returns to work on a different part-time basis they must return for a period which equates to 13 weeks part-time service relating to their previous contract. This can be paid as a lump sum on return to work, or in conjunction with Statutory Adoption Pay. But if paid in advance, it would have to be reclaimed if you don’t return to work for the 3 month period.

Although it is not a statutory requirement you must notify the school of your intention to return to work after additional adoption leave to qualify for this additional salary.

### Leave for antenatal appointments

The main adopter will be able to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments. The right to 2 unpaid antenatal appointments will also extend to those who will become parents through a surrogacy arrangement, if they expect to satisfy the conditions for, and intend to apply for, a Parental Order for 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 you. You should endeavour to give your line manager as much notice as possible and try to arrange them as near to the start or end of the working day as possible.

Your manager can ask 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. This is usually a matching certificate from the adoption agency. The adoption agency must be recognised in the UK.

### Timing of adoption leave

Statutory adoption leave can start either:

* from the date the child starts living with the employee
* up to 14 days before the date the child is expected to start living with the employee.

### Notification

You must notify your Manager about your 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 this is not possible then you must inform as soon as possible. A Notification of Intention to take Adoption leave Form is available at the end of this Guidance.

You are permitted to bring forward and postpone your adoption leave start date, provided that you notify your manager in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable.

Your manager can ask you to provide evidence of entitlement to adoption leave and pay. You may submit the "matching certificate" from the adoption agency as soon as possible.

Within 28 days of receiving your notice of intention to take adoption leave, your manager will write to you confirming the latest date on which you must return to work after adoption leave.

The school processes any personal data collected during this process in accordance with its data protection policy. Further details can be found in the Privacy Notice on the school’s website. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the adoption procedure.

**Adoptions from Overseas**

In addition to the above, if you are adopting a child from overseas, you must give notice of both the dates, when the official notification was received and the date the child is expected to enter Great Britain.

Within 28 days of the child's entry into Great Britain you must inform your 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.

Also, at least 28 days prior to the date your adoption leave period begins, you must give notice of the chosen start date, and a declaration that you have chosen to receive statutory adoption pay and not statutory paternity pay (adoption). You must also produce a copy of the official notification. 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.

Rights during adoption leave

During ordinary adoption leave and additional adoption leave, all terms and conditions of your employment contract except normal pay will continue. Salary will be replaced by statutory adoption pay if you are 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.

 **Accrued Annual Leave**

There are no changes to the current arrangements regarding notification e.g. approval and 5 days carry over to the next leave year. However, because both paid and unpaid adoption leave can take up the whole leave year, employees may with approval, take some of their leave prior to adoption leave and/or some after as long as it is in the same leave year.

You may also use some of your unpaid adoption leave as annual leave, for example, 39 weeks paid adoption leave + 8 weeks unpaid additional adoption leave + 5 weeks annual week.

You must ensure that your manager is clear about the date you intend to end adoption leave and the date you intend to begin annual leave to make certain you are paid correctly.

You may also think of taking parental leave at the end of adoption leave provided this can be agreed with your manager.

You must take any outstanding holiday due to you before the commencement of adoption leave.

Bank holidays will not be accrued during unpaid adoption leave.

**Contact during adoption leave**

You manager reserves the right to maintain reasonable contact with you during adoption leave. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or to update you on developments at work during your absence.

 **Keeping-in-touch days**

You can agree to work for up to 10 days during your adoption leave without that work bringing your 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.

Your manager has no right to require you to carry out any work and you have no right to undertake any work during your 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 you and your manager.

 **Returning to work after adoption leave**

You may take your full period of adoption leave entitlement and return to work at the end of this period.

Managers should talk to their employees to plan their return to work and think about the practicalities.

Employees do not have to give notice if they intend to return to work at the end of ordinary/additional adoption leave**.**Where employees wish to return to work before the end of their ordinary adoption leave, they must give their Manager 7 days’ notice of the date they intend to return or 21 days’ notice if the employee is teaching staff.If the employee fails to notify their Manager, the employer can postpone the return by 7 days or 21 days for teaching staff. Where employees wish to return to work before the end of their additional adoption leave, they must give their Manager 21 days’ notice of the date they intend to return. A manager can postpone his/ her return until the required 21 days’ notice has taken place.

If an employee changes their mind about their original return date from additional adoption leave they must give the manager 21 days’ notice of the change. If they wish to return later than their original return date at least 21 days’ notice must be given ending with the original return date. If they do not give the required notice and the manager needs more notice the manager can postpone their return until the required 21 days’ notice has taken place. A manager cannot postpone it past the end of the 52-week period.

If you return to work after a period of additional adoption leave, you’ll be 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 you had been sick and produce a current medical certificate before the end of the adoption leave period.

If you decide during adoption leave that you do not wish to return to work, you should give written notice of resignation to the organisation as soon as possible and in accordance with the terms of your contract of employment.

The School will be sympathetic to requests for a return to work under a more flexible arrangement such as part-time or job sharing. Applications can be made via the Flexible Working Policy. However, any part-time or job-share arrangement will have to be agreed by an employee’s manager and the operational needs of the school must be taken into account. If an employee works full time and returns from adoption leave on a part-time, reduced hours or job share basis, they will not have an automatic right to resume full time working at a later date, unless specifically agreed in writing with the employee at the point of return.

### Childcare Voucher Scheme

You can choose to opt out of the scheme 13 weeks before EWC so that your earnings that are subject to NICs pay is not reduced by salary-sacrifice and your SMP will not be affected. Any Contractual/Enhanced Adoption Pay can be sacrificed in exchange for Childcare vouchers.

If you are in receipt of the child care vouchers before you go off on adoption leave, you are entitled to continue receiving them for the duration of your adoption leave (up to 52 weeks). When you are on statutory adoption pay or have no salary to sacrifice, you do not contribute towards Childcare vouchers.

**Pension**

If you contribute to the LGPS and have a period of relevant child related leave the amount of pension you build up will be based on your Assumed Pensionable Pay. Relevant child related leave covers all periods of Ordinary Maternity Leave, Ordinary Adoption Leave and Ordinary Paternity Leave and any paid Additional Maternity Leave, Additional Adoption Leave and Additional Paternity Leave.

That means that if you have a period of reduced contractual pay or no pay during relevant child related leave your pension is worked out using your Assumed Pensionable Pay (before the reduction in pay took place). You will only pay your contributions on any pay that you receive.

You can elect to cover the period of pension ‘lost’ by taking out a Shared Cost Additional Pension Contribution (SCAPC) contract. Where a SCAPC contract is taken out to cover the pension ‘lost’ during a period of unpaid additional Maternity, Adoption or Paternity leave or periods of unpaid authorised leave of absence, the cost is shared 1/3rd to the employee and 2/3rds to the employer, provided that you make an election to buy the ‘lost’ pension within 30 days of returning to work. For further details please see the relevant information on the Berkshire Pension Fund website:

[Buying back Lost periods of pension | Berkshire Pension Fund (berkshirepensions.org.uk)](https://berkshirepensions.org.uk/bpf/employers/breaks-service/buying-back-lost-periods-pension)

For teachers in the Teachers Pensions Scheme during any period of paid maternity leave your pensionable service will continue to increase and your contributions will be based on the pay you get while absent. Any unpaid leave of any kind cannot be treated as pensionable.

**Notification of Intention to take Adoption leave**

Please complete in Capital letters.

**PERSONAL DETAILS**

|  |  |
| --- | --- |
| Name: | Manager’s name: |
| Job Title: | Contract type : Full time/Part time |
| Start date with WBC : | No. of working hours/week: |
| Home address : | Tel number :Email address:(for emergency purposes only) |

**LEAVE REQUEST**

My adoption is due on ……………………………………..

I would like to start my adoption leave on …………………………………….

(this can be any day of the week)

If taking annual leave prior to adoption

leave, my last working day will be ……………………………………..

A letter from my adoption agency:

 Is attached YES [ ] / NO[ ]

Will be forwarded on …………………………………….

**ADOPTION PAY**

I wish to claim adoption leave and pay in accordance with statutory SAP [ ]

adoption regulations and my terms and conditions of employment OAP [ ]

I intend to exercise my right to return to work after my adoption leave YES[ ] /NO[ ]

I do not intend to return to work after adoption leave and claim YES[ ] /NO[ ]

adoption benefits in accordance with social security provisions.

**Occupational Adoption Pay (OAP)**

Employees with one year of continuous service at the beginning of the 11th week prior to EWC (i.e. minimum of 63 weeks continuous service by beginning of adoption leave period) will receive a payment equalling 12 weeks of half pay. If you choose not to return to work for a period of at least 3 months, you will have to repay this sum back. Please tick as applicable:

* While preserving my right to return to work after adoption leave, I

wish to receive my OAP in conjunction with SMP in weeks 7 – 18

* While preserving my right to return to work after adoption leave, I

 wish to receive my OAP on my return to work

**PENSION CONTRIBUTIONS**

Please note that pension contributions will automatically be deducted during the period of paid adoption leave.

Please tick as appropriate:

* I would not like to pay pension contributions for the unpaid YES [ ] / NO[ ]

period of my adoption leave

* I will exercise my right to pay pension contributions on my return YES [ ]  / NO[ ]

from adoption leave

Employee’s Signature …………………………………… Date ………………………

Manager’s Signature ……………………………………. Date ………………………

**Once this is completed, please give this form to the School Business Manager**

Attached: Adoption agency letter

 [SC6 form](https://public-online.hmrc.gov.uk/lc/content/xfaforms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTax_iForms/1.0/SC6_20156&template=SC6.xdp)