

Adoption leave policy and procedure

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Key messages and contacts

We are delighted to be able to help new parents with welcoming their new child/ren to their family! Being committed to Equality, Diversity and Inclusion and wanting to make it possible for you to take time away from work and care for your family, we offer parents adoption leave and pay which can be further enhanced through the ICO scheme.

The main objective of this policy and procedure is to provide:

- Guidance to all employees wishing to adopt a child, foster a child permanently and become their legal parent (fostering to adopt), or have a child through surrogacy and become the legal parent.
- Information regarding statutory adoption rights, entitlements and additional enhancements offered by the ICO.

- To confirm the procedure for applying for adoption leave and pay, and to ensure the correct care and support is provided to staff on adoption leave by people managers, People Services, and any other relevant departments.

This document does not contain details of the rights for new parents to either Shared Parental Leave, Paternity Leave or Maternity Leave. Please refer to the Shared Parental Leave Policy, Secondary Carer Leave Policy, and the Maternity Leave Policy for further information.

For all People Services advice relating to this policy and procedure, please contact us via the People Services Help App in Workday.

Does this policy and procedure relate to me?

This policy relates to all employees of the Information Commissioner's Office.

We are committed to a fair and equal amount of treatment to all eligible employees of the Information Commissioner's Office to whom this policy and procedure applies.

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1. Eligibility and entitlements

1.1 We recognise that financial planning is an essential part of growing your family. The table below sets out your entitlement to adoption leave and pay according to your length of service with the ICO if you are a single adopter or if you are the person in your relationship who has elected to take adoption leave.

1.2 If you adopt jointly with a partner and your partner is to take adoption leave, you are **not** entitled to adoption leave or pay.

Instead, you may have the option to take secondary carer leave, or shared parental leave. You should refer to the Secondary Carer Leave policy and the Shared Parental Leave policy for further information.

1.3 If you are in a relationship, it is important that you decide early in the adoption process which person in your relationship will take adoption leave. You will be required to sign a declaration, as outlined in Section 3.1c of this policy, to confirm that you (and not your partner) are taking adoption leave if applicable.

1.4 These provisions apply only to employees who are newly-matched with a child/ren for adoption. They do not apply if you decide to formally adopt your partner's or family member's child/ren.

Length of continuous service	Entitlement to adoption leave	Entitlement to adoption pay
Fewer than 26 weeks continuous service by the week including the matching date.	52 weeks of adoption leave made up of 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave.	There is no entitlement to either Statutory Adoption Pay or ICO enhanced adoption leave pay. Please contact your local council as you may receive support if you are adopting a child.

Between 26 weeks and one year's service at the beginning of the week including the matching date. (‘The State Scheme’)	52 weeks of adoption leave made up of 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave.	Statutory Adoption Pay for 39 weeks (providing average weekly earnings in the qualifying period are above the lower earnings limit for National Insurance*). The remaining 13 weeks of adoption leave are unpaid.
		N.B This level of entitlement applies if you are eligible for the ICO scheme but do not intend to return to work after adoption leave.
1 or more years of service at the beginning of the week including the matching date. (‘The ICO Scheme’)	52 weeks of adoption leave made up of 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave.	39 weeks at full pay (including Statutory Adoption Pay - SAP) The remaining 13 weeks of adoption leave are unpaid.

*Please see www.gov.uk for the current minimum average earnings amount.

1.5 Under current legislation, employees are entitled to up to 52 weeks adoption leave. This is made up of:

- **Ordinary Adoption Leave (OAL)** – this is the first 26 weeks of adoption leave. Leave can commence from the date of the child's placement (whether this is earlier or later than expected), or from a fixed date which can be up to 14 days before the expected date of placement. For overseas adoptions, adoption leave can commence when the child arrives in the UK, or within 28 days of the child arriving in the UK. Where a surrogate has been used to have a child, adoption leave can commence the day the child is born, or the day after. Please note that you must



apply to become the legal parent within six months of the child's birth.

- **Additional Adoption Leave** (AAL) – this is an additional 26 weeks of adoption leave, which may be used immediately after your period of OAL.

1.6 **Full pay amount:** All payments made at the full pay amount are inclusive of your Statutory Adoption Pay entitlement. No combination of payments will exceed your normal full pay.

1.7 **Statutory Adoption Pay amount** (SAP): This rate of payment is set by the Government and is reviewed annually. Please contact the Pay & Reward team to confirm the current rate of SAP or follow the link to the government website detailed in the 'Further information' section, at the end of this document.

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2. General Principles

2.1 To be entitled to adoption leave and pay, you must have a child through an adoption agency, have a child through a surrogacy arrangement or be a foster parent who is a prospective adopter and meets the 'foster to adopt' eligibility criteria.

For surrogacy arrangements, you must have been continuously employed with us for at least 26 weeks by the 15th week before the baby is due.

You must also:

- Intend to apply for a [parental order](#).
- Expect the order to be granted (for example because you do not have any convictions involving children, and the birth mother or father agree to the arrangement).

If you're genetically related to the child, you are entitled to paternity/secondary carer leave and pay.

2.2 Only one period of leave will be available per placement irrespective of whether more than one child is placed for adoption as part of the same arrangement.



- 2.3 While on adoption leave your employment rights are protected and you are entitled to the benefit of your normal terms and conditions of employment except for terms relating to salary. You will not be treated less favourably because you are absent on adoption leave or for any other reason connected with the adoption.
- 2.4 You are entitled to return to the same job following adoption leave. If this is not reasonably practicable, for example your role no longer exists due to restructuring you will be offered a similar role on the same terms and conditions. In such cases you will be consulted with in advance of your return in accordance with the ICO Restructuring and Redeployment policy.
- 2.5 You will not be discriminated against on grounds of adoption in the areas of training, selection, promotion, job security or in any other terms and conditions of employment. You are protected from suffering unfair treatment or dismissal for taking, or seeking to take, adoption leave.
- 2.6 You will not be excluded from communication, including the advertising of new job opportunities and career progression exercises, and consultation because of absence due to adoption. Whilst you are on adoption leave people managers and People Services will keep you informed of developments, training opportunities, vacancies etc. and consult with you, where appropriate.
- 2.7 These provisions apply equally to full time or part time staff.
- 2.8 We will ensure the Pay Progression Route will not be affected as a result of taking adoption leave.
- 2.9 If you take adoption leave, and are a member of a trade union, you may be eligible to pay reduced subscriptions or have them waived whilst on adoption leave. You should contact your trade union membership department to confirm that you are on adoption leave and inform your union's branch secretary if you wish to receive union communications during your adoption leave.

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3. Procedure

3.1 Employee notifies manager: You must tell your people manager of your intention to adopt a child as soon as possible and/or when you begin your adoption. An adoption arrangement can be a lengthy process and having an early and informal conversation can be a good opportunity to discuss when you'd prefer to take leave and can assist your manager to plan for your leave and make staffing arrangements. Your manager will also inform People Services. When adopting from overseas, you must have been continuously employed for at least 26 weeks when you start getting adoption pay and must also sign the Adopting a child from abroad form (SC6).

Meeting with People Services team: A member of the People Services team will contact you and meet with you to discuss your individual eligibility and to fully explain the contents of this policy.

Written confirmation: You must give the ICO notice that you intend to take adoption leave. This should be no more than 7 days after the date on which you have been notified of:

- having been matched with a child for the purposes of adoption;
- your adoption placement being confirmed, if you're fostering a child permanently and becoming their legal parent (fostering to adopt); or
- in cases of having a child through surrogacy, no later than the 15th week before your baby is due, inform your people manager the expected week of childbirth and when you want your leave to start.

N.B. please note that the notification period for Adoption Leave is not the same as for Adoption Pay.

Adoption Leave can start on any day of the week. You can start your adoption leave when you have been matched with a child, or up to 14 days before the expected placement for UK adoptions or when the child arrives in the UK, or within 28 days of the child arriving in the UK for overseas adoptions.

You must contact People Services and provide written confirmation of the following:



- details of when the child is expected to be placed with you;
- details of when you want to start your adoption leave;
- documentary evidence that the adoption will take place. This may be in the form of a letter from the adoption agency giving your name and address and the date on which a child is to be placed for adoption; and
- confirmation that your partner is not taking adoption leave or that you are a single adopter.

Evidence of adoption or placement: You must give the ICO documentary evidence from the adoption agency as evidence of your entitlement to statutory adoption pay. You should ask the adoption agency for this.

For UK adoptions the evidence must show your name and address, the name and address of the agency, the date you were matched with the child and the expected date of placement.

For overseas adoptions, the evidence must show the relevant UK authority's 'official notification' confirming the parent is allowed to adopt, date the child arrived in the UK, for example a plane ticket.

When having a child through surrogacy, the evidence must show the written statement ('statutory declaration') to confirm you've applied or will apply for a [parental order](#) in the 6 months after the child's birth and must sign this in the presence of a legal professional.

Time off for appointments after you have been matched with a child: If you're eligible for adoption leave, you have the right to paid time off work for 5 adoption appointments after you have been matched with a child. Please notify your people manager and People Services as soon as any appointments are confirmed.

If you are not the main adopter, you can take unpaid time off to attend up to two adoption placement meetings.

3.2 Planning your leave: People Services will write to you within 28 days of receiving your written notification to confirm the dates on which your Ordinary Adoption Leave and Additional Adoption Leave



will end, and the dates on which any enhancements to Statutory Adoption Leave will end.

3.3 You will continue to accrue annual leave whilst you are on adoption leave. You are encouraged to use annual leave accrued prior to your adoption leave whenever possible. Any unused leave at the end of your leave year may be carried forward into your new leave year (subject to normal restrictions) or banked or sold. You should confirm with your manager and People Services what you wish to do with any remaining leave balance.

3.4 You can change the date on which you want your adoption leave to start. If you want to change the date you must inform People Services giving at least 28 days' notice if possible.

3.5 **Breakdown of the placement:** If the child's placement ends during the adoption leave period, you will be able to continue adoption leave for up to eight weeks after the end of the placement.

If you begin a period of adoption leave before the placement of the child and are then told that the placement will not be made, or if the child returns to the adoption agency, then your leave will normally finish eight weeks after the end of the week in which the event took place. This provision also applies if the child passes away during the period of adoption leave.

In such circumstances you must inform People Services as soon as is practicable.

Any period taken as Adoption Leave following such events will be paid at the rate of Statutory Adoption Pay, though this may be enhanced at the discretion of the Head of Pay and Reward. The provisions for special leave in the event of the death of a child will also apply as appropriate.

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4. During your adoption leave

4.1 **Continuity of employment:** During your period of adoption leave you will continue to accrue continuous service.

Pension: During the period that you receive ICO enhanced Adoption Pay and/or SAP you will continue to pay pension



contributions at your normal contractual rate and this period will count toward your pensionable service. Your pension contributions are calculated as a percentage of what you are actually paid during the month including SAP.

Even if you are not entitled to SAP the 26 weeks of Ordinary Adoption Leave will still count as pensionable service.

Adoption leave taken during the final 13 weeks of unpaid adoption leave entitlement does not count as pensionable service and pension contributions are not payable.

If you are making additional pension contributions such as additional voluntary contributions (AVCs), purchasing 'added pension' or 'added years' you should speak with a member of the People Services team about the impact of being on adoption leave on these contributions.

Annual leave: You will continue to accrue annual leave at the standard rate throughout your adoption leave.

Public & Privilege days: You will be granted additional days in lieu of any Public & Privilege holiday days that fall during your adoption leave period. These will be allocated to you on your return to work.

Mobile phones/laptops: If you have either a mobile phone, laptop, or other electronic device you are entitled to keep this for the period of your adoption leave. However, access may be restricted in accordance with the appropriate ICO security and IT policies.

Childcare vouchers: If you received childcare vouchers via the salary sacrifice scheme before starting adoption leave and continue to order vouchers during the period of receiving ICO enhanced Adoption Pay, you will still continue to receive vouchers even when you receive SAP only or zero pay, and you are not in receipt of a salary to sacrifice.

The value of the vouchers may be up to what you ordered in the period before your adoption leave started.

Job opportunities and office announcements: People Services will keep you informed of any key office announcements, including



career progression windows and job advertisements. This can be done by email to your personal email account or posted to you. Please confirm to People Services your preferred method before you start your leave.

Staying in touch: We wish to respect your time of adoption leave with your child, so we will not contact you if we can avoid it. However, if there are any significant changes in your business area or if training opportunities arise, your people manager will contact you to make sure you are kept up to date.

- 4.2 **'Keeping in touch' days:** Driven by our commitment to care, we believe in the importance of helping primary carers to stay connected with their workplace. You may opt in for reasonable contact from time to time with your people manager during your adoption leave period without bringing your adoption leave to an end. You can also work up to 10 days by mutual agreement without losing SAP during your adoption leave. Important points to note include the following:
- You can attend work, such as for a team meeting, or for a whole day. This will count as a Keeping in touch (KIT) Day.
 - The decision to have a KIT Day must be made by mutual agreement between you and your people manager, you are under no obligation to accept a KIT Day if offered.
 - The KIT Day will not bring your adoption leave period to an end.
 - If you do attend a KIT Day, you can either choose to be paid for the time you are in work (if you are no longer in receipt of full pay), or you can accrue time off in lieu (TOIL) for the time that is agreed for you to be in work. For example, if you come in for a one-hour team meeting, you can either be paid for one hour's work, or you can accrue one hour of TOIL, if you come in for a full day, you can be paid for one day's work or you can accrue 7 hours 24 minutes of TOIL.
 - Your people manager will notify People Services of your KIT Day. People Services will then make the appropriate payment or adjustment to your TOIL record on the People system where your leave is recorded.

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5. Returning from adoption leave

- 5.1 Notification of your intention to return:** If you intend to return to work before the end of the 52 weeks Ordinary and Additional Adoption Leave period, you must give eight weeks' notice in writing. You are encouraged to do so earlier where practical.

This must be sent to People Services who will notify your people manager. We can postpone your return to work if you do not give eight weeks' notice in writing.

- 5.2 Role:** You will usually return to your current role unless this is not reasonably practicable, for example your role no longer exists due to restructuring, in which case you will return to a suitable and appropriate alternative position on no less favourable terms and condition. In such cases you will be consulted with in advance of your return from adoption leave in accordance with the ICO Restructuring and Redeployment policy. We will endeavour to do our best to find a suitable alternative role and if this is not possible, then the existing redundancy procedure will be implemented.

- 5.3** A "buddy" or mentor will be assigned to you upon your return to support your transition back to the work environment and make sure you have everything you need and are well-prepared to resume work.

- 5.4 If you do not wish to return to work:** If you do not wish to return to work after either Ordinary or Additional Adoption Leave you must give notice of termination as required by your contract of employment. Please inform your people manager of this in writing, and send a copy of this to the People Services team.

- 5.5** You should be aware that if you do not return to work, or if you decide to leave the ICO of your own will within 13 weeks of returning from adoption leave, we reserve the right to reclaim any amount above SAP paid to you throughout your leave. Repayment of ICO enhanced Adoption Pay can be expensive as you will have to pay back any money you have received above SMP. If you think this situation may apply to you, please speak with a member of the People Services team who can provide you with an estimate of the cost. If you do not intend to return to work after adoption leave, you must take adoption leave under the State scheme.

5.6 This 13-week period will be extended if you reduce your hours when you return from adoption leave. (Pro-rated for part time employees) In these circumstances you will be required to work the equivalent number of days you would have worked in 13 weeks (or pro-rated amount) prior to your reduction in hours e.g., if you were full time before starting shared parental leave and reduce to three days per week upon your return, you will be required to work 65 days, or around 22 weeks of your new working pattern.

5.7 **Part-time working:** Any request to return to work in a part-time capacity will be fully considered by your people manager and the People Services Team in relation to organisational requirements and in line with the Flexible Working Requests policy and procedure.

5.8 **Flexible working:** We recognise that returning primary caregivers may need or wish for increased flexibility so as to better navigate life with their new family member(s). Flexible working schedules will be considered upon request. Examples of such arrangements include, but are not limited to:

- Reduced or compressed working hours.
- Part-time employment options.
- Enhanced hybrid home / office-based work arrangements.
- Job-Sharing.

5.9 **Sickness:** If, at the end of your period of adoption leave, you wish to return to work but are unable to do so due to ill health, you should notify either your people manager or the People Services team as soon as possible. Any period of sick leave will be dealt with in accordance with the ICO's Managing Sickness Absence policy.

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6. Frequently asked questions

6.1 **Do I need to plan to take my adoption leave on a particular day?**

No, adoption leave can start on any day of the week to suit your needs.



6.2 Am I allowed any time off prior to adopting for the purposes of matching me with a child?

Subject to operational requirements, the ICO will give you reasonable time for meetings with the adoption agency or to attend court when the adoption order is made up to a maximum of five days. You will be required to provide documentary evidence of such appointments to your people manager.

6.3 I already live with my partner's children. Can I take adoption leave if I adopt those children?

No. Under the Paternity and Adoption Leave Regulations 2002, the only form of leave available in these circumstances (and subject to certain qualifications) would be unpaid parental leave. The reason why the situation seems to be excluded is that the Regulations talk about being newly-matched with a child and this does not cover circumstances where a step-parent is adopting a partner's children.

6.4 I hope to adopt a child from overseas. Do the adoption provisions apply to me?

Yes. Specific provision is made where a child is entering the UK for the purpose of adoption. 'Official Notification' is required from the relevant domestic authority, which is usually the Department of Children, Schools and Families, and a copy of this must be provided to the ICO.

6.5 Is there any provision of leave for fostering?

No there is no statutory provision for fostering children and there is no paid leave available in the ICO specifically for fostering a child.

6.6 Is adoption leave available if I chose to adopt a child I have been fostering?

A foster parent can take statutory adoption leave, but only if:

- a) The child that you have fostered is then matched with you for adoption by a UK Adoption Agency (adoption via a court order does not count); and
- b) The child is then placed with you for adoption.

The usual notification and service criteria still apply. The adoption leave only relates to the actual placement for adoption – any period of foster caring does not count.



6.7 I am adopting more than one child at the same time is there extra entitlement to SAP?

No, the entitlements are the same.

6.8 My manager would like me to come into work for a 'Keeping in touch' day. Do I have to come into work?

No. Keeping in touch (KIT) days must be mutually agreed and you will not suffer any detriment because you do not wish to come in for a KIT Day.

Equally if you would like to work for a few days during your adoption leave, but your people manager cannot accommodate your request, you will not be entitled to work.

6.9 Am I entitled to accrue the 3 privilege days that occur between Christmas and New Year and take them at another time if I am on shared parental leave at Christmas?

Yes, you will be granted additional days leave in lieu of any public and privilege holidays that fall during your shared parental leave.

6.10 What happens if my child doesn't live?

Losing a child can be traumatic and is a deeply personal experience that affects people differently. At the ICO, we support all employees who may experience this loss and we are conscious that whether you are the main adopter, or a partner, you may need time to recover emotionally.

If your child dies during adoption leave, your adoption leave will end eight weeks after the placement ends.

If you feel you are not coping, no matter how long after the death, please do ask for help. We will do all we can to support you, but if you feel that you would prefer to speak to someone outside of the ICO, support can be provided through our Employee Assistance Programme which offers a confidential and free service 24 hours a day, seven days a week, every day of the year. Face to face counselling is also available. For further details go to the People Services Help App in Workday.

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7. Further information

- <https://www.gov.uk/adoption-pay-leave/leave>
- <https://www.acas.org.uk/your-adoption-leave-pay-and-other-rights>

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8. Related Forms

Notification of Adoption Leave Entitlement - Form HR- AL1 (Appendix 1)

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Version history

Version	Changes made	Date	Made by
1.0	Published		Human Resources
1.1	Review		Human Resources
2.0	Full review		Human Resources
3.0	<p>Increase to full pay in the 'ICO scheme' to 39 weeks.</p> <p>Updated KIT days to allow employees to choose to be paid for this time or accrue TOIL.</p> <p>Introduction of a "buddy" to be assigned on return to work.</p> <p>Minor language changes</p>	July 2023	People Services in consultation with TU's Networks and people manager consultation group.
4.0	Updated following consultation	September 2023	People Services



4.1	Minor updates to replace references of email HR or People Services team with contact People Services via the Workday Help App	July 2024	People Services

Appendix 1 - Notification of Adoption Leave Period

Information Commissioner's Office Form HR- AL1

Section A	
Name:	
Home address:	
Home e-mail address:	
Job title and department	
Start date at ICO:	
Section B	
1. The expected date of childbirth/matching date is:	



2. I confirm I am the main adopter, and (choose one)

Adoption - I will have years/weeks service by the week of the child's match date.

Overseas Adoption - I will have years/weeks service by the week of the date when I receive adoption pay.

Surrogacy Arrangement - I will have years/weeks service by the 15th week before the baby's due date.

3. Do you wish to take adoption leave under the:

State scheme? ☐ ICO scheme? ☐

(Please see the adoption leave policy and procedure for details of the rules regarding length of service that determine the adoption scheme for which you are eligible.)

4. I expect to start my adoption leave on:
(date)

5. Please tick the appropriate box:

I intend to return to work in my job or a comparable job. ☐

I want to reserve the right to return to work. I wish / do not wish* to receive enhanced ICO adoption pay which will be repayable if I do not return to work.
(*delete as appropriate) ☐

I do not want to return to work. ☐

6. It will be helpful if you can give the date on which you currently think you will return to work, but you are not obliged to do so.

I currently intend to return to work on: (date)

(You are required to give at least 8 weeks notice of your return date if you intend to return to work before you have had 52 weeks adoption leave. Your return to work may be delayed if you fail to provide 8 weeks' notice.)

7. Employee Declaration:

I confirm that I meet the eligibility conditions and so am entitled to take Adoption Leave. The information I have given is accurate. If I cease to be eligible for adoption leave, I will inform the ICO immediately.

Signature: **Date:**

This form must be sent to the People Services team. They will write to you within 28 days to confirm the details of your adoption leave and to confirm which scheme of adoption pay you are eligible.

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