

ADOPTION

FACT:

When adopting, you and your partner need to decide who will be the 'primary adopter' and who will be the 'partner'.

The primary adopter will be entitled to adoption leave and pay.

The partner will be entitled to paternity leave and pay, and to shared parental leave and pay (see our factsheets on these issues).

ADOPTION LEAVE

1. How much leave am I allowed to take?

Adoption leave lasts for up to 52 weeks. It is split into two blocks: 26 weeks of Ordinary Adoption Leave and 26 weeks of Additional Adoption Leave.

2. How do I qualify for adoption leave?

You must:

- ➔ Be an employee (not just a worker)
- ➔ Give your employer the correct notice (see below)
- ➔ Provide proof of the adoption if you're asked for it
- ➔ Have been matched through an adoption agency

TIPS:

There is no need to have been employed for a particular period to be eligible for adoption leave.

3. What do I tell my employer and when?

Within 7 days of being matched with a child, you must tell your employer:

- how much leave you want
- your leave start date (you should give at least 28 days' notice of the start date)
- the 'date of placement' (this is the expected or actual date the child is placed with you)

TIP:

You don't have to tell employer these things in writing, and for adoption leave, you do not need to show proof of the adoption, BUT it is a very good idea to inform the employer in writing and to provide proof of adoption upfront to keep a paper trail in case of disagreements later.

If you change your mind about the date you want your adoption leave to start, or there is a change in the actual date of placement, you must give your employer at least 28 days' notice – or if that is not possible you should give notice as soon as reasonably practicable. Again we recommend you do this in writing.

4. Can the employer refuse adoption leave?

No they can't. The employer must reply to you within 28 days confirming the dates the adoption leave will start and finish.

5. When can I start adoption leave?

Adoption leave can start on the day the child is placed with you for adoption, or up to 14 days before the placement.

TIP:

Your employer is not allowed to change the dates your adoption leave runs from and to: you are entitled to decide when it starts.

If you later decide you want to change the date the adoption leave will finish, you can do so by giving your employer 8 weeks' notice.

We recommend you do this in writing.

6. We've been matched with a child and I need time off to meet with the child before the placement starts – what are my rights?

If eligible for adoption leave, you have the right to paid time off work for 5 adoption appointments after being matched with a child. If your employer requests it, you must show an appointment card or other proof of the appointments.

TIP:

Even if not requested, we recommend you show proof of appointments to avoid any misunderstanding with your employer.

7. Am I obliged to have contact with work while on adoption leave?

No. The law provides for up to 10 keeping in touch (KIT) days during your adoption leave, but your employer has no right to require you to do any KIT days during your leave.

TIP:

If you think you might want to do some KIT days, it is worth telling your line manager before you go on leave. If you change your mind later, the employer has no right to then force you to do the KIT days.

TIP:

Unless they hear from you to the contrary, your employer will expect you back on the return date confirmed with them. It is a good idea to contact your employer before you come back to work, if they don't contact you first, so you have some certainty about what will be happening when you return. You may wish to contact them to discuss making a flexible working request in any event [see our flexible working factsheet].

8. When will I be expected back from adoption leave?

There is no legal requirement to inform your employer of your planned return to work date. You may wish to notify the employer so they can plan, but you don't have to.

If not told of a return date, the employer will assume a return date after 52 weeks of leave.

TIP:
You may wish to tell your employer that you will return after the full 52 weeks. If you then want to make the return date earlier than planned, you just need to give 8 weeks' notice of your wish to return earlier.

ADOPTION PAY

1. How do I qualify for statutory adoption pay?

You are entitled to statutory adoption pay (SAP) if you are an employee and:

- ➔ At the week you are matched with a child (the qualifying week), you have been continuously employed by your employer for at least 26 weeks;
- ➔ You earned on average a minimum amount (this is a figure set by the government each year: <https://www.gov.uk/adoption-pay-leave/eligibility>) each week before the qualifying week.
- ➔ You gave the correct notice
- ➔ You provide proof of the adoption.

TIPS:

Your employer may well have a more generous policy than SAP. Check your employer's policy, if there is one.

2. How long does SAP last?

SAP is paid for 39 weeks:

- ➔ The first 6 weeks are paid at 90% of weekly earnings
- ➔ The remaining 33 weeks are paid at the lower of: the current SAP rate or 90% of average weekly earnings.
- ➔ The last 13 weeks are unpaid.

TIP:

If you can't afford to be unpaid for the last 13 weeks of leave, you might wish to consider ending your adoption leave period and using up some of your annual leave (for which you will be paid in full).

3. Can my employer refuse SAP?

Yes – they can refuse SAP if you don't qualify for it.

4. My employer says they can't guarantee they can keep my job open for me after adoption leave – what can I do?

You have the right to return to the same job after Ordinary Adoption Leave (so up to the end of the 26th week after the start of adoption leave). After taking Additional Adoption Leave you are entitled to return to the same job, but if it isn't reasonably practical to do this, the employer is permitted to assign you to a suitable alternative role.

TIP:

The alternative job must be on similar terms and conditions that are not less favourable to your old terms and conditions. If you feel the alternative role being offered is less favourable, you should raise this with your employer and if informal discussions do not resolve this, you may choose to raise a grievance (see our grievance factsheet).

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