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# Guidance on Adoption Leave & Pay

TORFAEN  
COUNTY  
BOROUGH



BWRDEISTREF  
SIROL  
TORFAEN

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Please note that all of our policies are fully inclusive of all staff regardless of age, marriage (including equal/same sex marriage) and civil partnership, disability, sex, sexual orientation, pregnancy and maternity, race, religion or belief, gender identity and gender expression.

Nodwch os gwelwch yn dda bod y trefniadau yn y ddogfen hon yn cynnwys holl staff yn llawn, beth bynnag eu hoedran, statws priodasol (gan gynnwys priodas gyfartal/yr un rhyw) a phartneriaeth sifil, anabledd, rhyw, cyfeiriadedd rhywiol, beichiogrwydd a mamolaeth, hil, crefydd neu gred, hunaniaeth rywiol a mynegiant rhyw.

# Guidance on Adoption Leave & Pay

This guidance document sets out an employee's rights in relation to statutory adoption leave and pay. The guidance is designed to be read in conjunction with the Paternity, Parental Leave and Shared Parental Leave Guidance documents and Procedures.

Adoption provisions can be complex. This guidance complies with statutory requirements and outlines the benefits to which an employee may be entitled, dependant upon their length of service. When an employee is matched with a child they should follow the relevant procedures set out within this guidance and ensure that the required information is provided before adoption leave commences.

There are template letters attached at the end of this guidance document to assist with the difference stages of the adoption process.

If you have any questions or concerns please contact the HR team.

**Head of Strategic HR, Pensions and Asset Management**

**March 2021**

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## 1. Introduction

This guidance document sets out the rights of employees to Statutory Adoption Leave and Pay.

Qualifying employees who have been matched with a child may take up to 52 weeks' Adoption Leave from day one of their employment. They may also be entitled to 39 weeks of Statutory Adoption Pay. 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.

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.

The rules are different for adoption leave and pay where a child is placed for adoption from overseas. For further information, please contact Human Resources. 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. Leave can start:

- on the date the child starts living with the employee or up to 14 days before the expected placement date; or
- when an employee has been matched with a child to be placed with them by an adoption agency.

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 providing the required notice in writing to return to work. Details of these notice requirements are set out in Section 8.

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## 2. Eligibility

Eligible employees who take adoption leave will also qualify for Statutory Adoption Pay provided that they have at least 26 weeks continuous local government service or 26 weeks continuous service as a teacher in one or more LEA's by the week they were matched with a child and earn at least £120 a week (before tax) and provide the correct notice and C:\adoption-leave-pay-employees\notice-periodprovide proof of the adoption.

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

## 3. Notice Requirements

Entitlement to take adoption leave and receive Statutory Adoption Pay (where eligible) is dependent on the employee giving 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 must be in writing and 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 must also provide evidence of entitlement to Adoption Leave and Pay by producing a “matching certificate” from the adoption agency. (Appendix 1 – Request for Adoption Leave and Pay – Matching Certificate).

The employee is permitted to bring forward their adoption leave start date, provided that they notify their line manager/head teacher 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 their line manager/head teacher in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. (Appendix 2 – Notice to Vary Period of Adoption Leave).

Within 28 days of receiving the employee's notice of intention to take adoption leave, the Payroll Section will write to the employee confirming their Adoption Pay entitlement and also the latest date on which the employee must return to work after Adoption Leave.

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## 4. 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. 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. The other can elect to take unpaid time off to attend up to two adoption appointments.

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.

In addition, if the employee is adopting jointly, the employee will be required to sign a declaration, to be submitted alongside the documentary evidence, confirming that they have elected to exercise their right to take time off to attend an adoption appointment. The employee's line manager/head teacher will ask for the declaration on the first occasion on which the individual asks for time off to attend an adoption appointment (Appendix 3 – Declaration Form – Time Off to attend Adoption appointments).

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## 5. 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 will be replaced by Statutory Adoption Pay if the employee is 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.

Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that annual leave must be taken in the year that it is earned.

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## 6. Contact during Adoption Leave

The employee's line manager/head teacher may maintain reasonable contact with employees during Adoption Leave. This may be to discuss employee's 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.

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## 7. Keeping-in-Touch Days

At the employer's request, and subject to mutual agreement, Employees can agree to work 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. A record of KIT/SPLIT days must be kept and forwarded to Payroll (Appendix 4 - Record of Keeping in Touch Days).

For further information on KIT/SPLIT days please refer to the separate Guidance Note available.

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## 8. 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 provide the required notice. An employee who takes their full period of adoption leave entitlement can return to work at the end of this period without providing notice.

If the employee wishes to return before the full period of adoption leave has elapsed, they must notify their line manager/head teacher in writing of the date on which they intend to return and provide at least eight weeks' notice in writing (Appendix 5 – Notification to Return Early from Adoption Leave).

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.

If the employee decides during adoption leave that they do not wish to return to work, they are required to put this resignation in writing, giving their contractual notice period.

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## 9. Transfer of Adoption Leave - Shared Parental Leave

Shared Parental Leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date. Shared Parental Leave must be taken in blocks of at least one week. The employee can request to take Shared Parental Leave in one continuous block or as a number of separate blocks of leave (in which case the employee needs the Council's agreement).

To be able to take Shared Parental Leave, an employee and their partner must meet a number of eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the adopter curtailing his or her adoption leave. Adoption leave must end before the other partner can take Shared Parental Leave. Employees can refer to the Shared Parental Leave guidance document, where they will find full details of the eligibility requirements, as well as instructions as to how the adopter's adoption leave can be curtailed (Appendix 6 – Notice of Curtailment of Adoption Leave and Pay).

Employees may wish to refer to the guidance document on Shared Parental Leave which sets out the notice periods with which employees must comply and what evidence they must provide to the Council. The guidance also contains more details on employees' entitlement to Statutory Shared Parental Pay.

The adopter and the partner should ensure that they are each liaising with their own employer when making requests for Shared Parental Leave.

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## 10. Statutory Adoption Pay

An employee will qualify for adoption pay provided that they have 26 weeks' continuous 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). Statutory Adoption Pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory Adoption Pay (SAP) for employee's is:

- 90% of their gross average weekly earnings for the first 6 weeks;
- £151.20 (2021/22) a week or 90% of their gross average weekly earnings (whichever is lower) for the next 33 weeks.

An employee must provide proof of adoption to qualify for Statutory Adoption Pay which must show the:

- name and address of the agency and the employee;
- date the child was matched, ie., the matching certificate;
- the expected or actual date of placement, ie., a letter from the agency.

The employee will be notified by HR Services within 28 days of their request, or the date they were matched with the child (whichever is earlier), if they are not eligible for Statutory Adoption Pay. They will be issued with Form SAP1 setting out the reasons why they do not qualify.

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**Request for Adoption Leave and Pay –  
Matching Certificate**

**Name of Employee:**

**Service Area:**

**Payroll No:**

I hereby give notice of my intention to take Statutory Adoption Leave in respect of a child who has been matched with me for adoption

I intend my adoption leave to begin:

on the date on which the child is placed with me for adoption OR

on a date no more than 14 days before the child is expected to be placed for adoption, and no later than the expected placement date

I declare that:

I believe that I am entitled to receive statutory adoption pay in relation to the adoption, starting on the above date, and have elected to receive statutory adoption pay and not statutory paternity pay

Signed:

Dated:

**Note:**

Please return to the Payroll Section at least 28 days prior to the date on which you now wish to start your ordinary paternity leave.

*\*Delete/tick as applicable*

**Notice to Vary Period of  
Adoption Leave**

**Name of Employee:**

**Service Area:**

**Payroll No:**

I previously gave notice of my intention to take adoption leave/and pay in respect of a child who has been matched with me for adoption starting:

on the date on which the child is placed with me for adoption OR

on:

I wish to notify you that I now want to vary the start date of my adoption leave/and pay\*. I now wish to start my adoption leave/and pay\*:

on the date on which the child is placed with me for adoption OR

on:

I expect the child to be placed with me for adoption on:

Signed:

Dated:

**Note:**

Please return to the Payroll Section at least 28 days prior to the date on which you now wish to start your adoption leave/pay. The latest date can be up to 14 days before the expected date of placement, but no later than the expected placement date.

*\*Delete / tick as applicable*



**DECLARATION FORM**

**TIME OFF TO ATTEND ADOPTION APPOINTMENTS**

Name of Employee:

Service Area:

Payroll No:

Please choose one option below, depending on whether you have elected to take paid time off to attend up to five adoption appointments or unpaid time off to attend up to two adoption appointments. If you are adopting alone, you should choose option one. If you are adopting jointly with another person, you should decide together who will take paid time off and who will take unpaid time off. If your partner has already chosen option 1 with their employer, you must choose option 2.

**Declaration (please tick one option only)**

Option 1: I have elected to take paid time off to attend an adoption ☐  
appointment

Option 2: I have elected to take unpaid time off to attend an adoption ☐  
appointment

Signed:

Dated:



**RECORD OF KEEPING IN TOUCH DAYS**

Name of Employee:

Payroll Number:

Post:

<u>Date</u>	<u>Time In</u>	<u>Time Out</u>	<u>Total Hours</u>

Authorised by:

Name:

Signature:

Date:

**For Payroll use only:**

Calculation:	Input by :
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**NOTIFICATION OF INTENTION TO RETURN TO  
WORK EARLY FROM ADOPTION LEAVE**

Name of Employee:

Service Area:

Payroll No:

Start date of ordinary adoption leave:

End date of additional adoption leave:

I wish to return to work before the end of my additional adoption leave on:

Signed:

Dated:

**Note:**

You must provide at least eight weeks' notice of your return date. If you have previously notified us of an early return date, but changed your mind, where your new return date is later, you must let us know the new date eight weeks before the original early return date notified. Where the new return date is earlier, you must give us eight weeks' notice of it.



## **Notice of Curtailment of Adoption Leave and Pay**

**Name of Employee:**

**Service Area:**

**Payroll No:**

I wish to bring my adoption leave and adoption pay to an end to be able to take shared parental leave. I have also completed a form providing a notice of entitlement and intention to take shared parental leave/declaration, and that my partner has provided a notice of entitlement and intention to take shared parental leave to their employer and that I consent to the amount of leave that they intend to take

### **Section A: Curtailing adoption leave**

I wish to end my statutory adoption leave on:

I wish my adoption pay period (if applicable) to end on:

### **Section B: Signature**

**Signed:**

**Dated:**

#### **Notes:**

You should complete and submit this form alongside the Form for an Adopter to provide a notice of entitlement and intention to take shared parental leave, or the Form for an adopter to provide a declaration of consent and entitlement for their partner to take shared parental leave.

Please think very carefully before you submit this form. Once the form is submitted, you can withdraw your adoption leave curtailment notice only in limited circumstances.

The date on which you end your adoption leave must be at least:

- two weeks after the first day of your ordinary adoption leave period;
- eight weeks after the date on which you gave the adoption leave curtailment notice; and
- one week before what would be the end of the additional adoption leave period