

Adoption Leave policy and procedure

1. Scope

- 1.1 All employees of the Information Commissioner's Office.

2. Purpose

- 2.1 The purpose of this policy is to inform employees wishing to adopt a child of their statutory adoption rights and entitlements and additional enhancements offered by the ICO.

The policy incorporates the procedure to be followed for each occasion of adoption leave.

- 2.2 This policy should be read in conjunction with the ICO's policy on Paternity Leave, Parental Leave and **Shared Parental Leave**.

3. Eligibility and entitlements

- 3.1 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 paternity leave, additional paternity leave or shared parental leave. You should refer to the Paternity Leave policy and the Shared Parental Leave policy for further information. This applies whether you are male or female.

- 3.2 It is therefore 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 5.1c of this policy, to confirm that you (and not your partner) are taking adoption leave.

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

- 3.4 The following table sets out your entitlement to adoption leave and pay if you are a single adopter or if you are the person in your relationship who has elected to take adoption leave.

Length of Continuous Service	Entitlement to Adoption Leave	Entitlement to Adoption Pay
Fewer than 26 weeks service at the time of being notified of being matched with a child for adoption	There is no statutory entitlement to adoption leave.	Not Applicable
Between 26 weeks and 1 year's	Ordinary Adoption Leave	Statutory Adoption Leave Pay for 39 weeks.

<p>service at the time of being notified of being matched with a child for adoption</p> <p>(‘The State Scheme’)</p>	<p>and Additional Adoption Leave, the details of which are set out below.</p>	<p>Please note that the final 13 weeks of Additional Adoption Leave is unpaid.</p>	
<p>1 or more years service at the time of being notified of being matched with a child for adoption</p> <p>(‘The ICO Scheme’)</p>	<p>Ordinary Adoption Leave and Additional Adoption leave, the details of which are set out below.</p>	<p>Child aged 0-4 years at date of adoption</p> <ul style="list-style-type: none"> - 16 weeks full pay (including SAP) - 10 weeks half pay (plus SAP) - 13 weeks SAP only 	<p>Child aged 5 or above on date of adoption*</p> <ul style="list-style-type: none"> - 12 weeks full pay (including SAP) - 4 weeks half pay (plus SAP) - 23 weeks SAP only

* This provision may be extended at the discretion of the Human Resources Director up to a maximum of the provision for children aged 0-4. This may be considered in exceptional circumstances where the needs of the adopted child or family may merit an extension to occupational adoption pay.

N.B. No combination of payments will your exceed normal full pay.

3.5 **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.

3.6 **Additional Adoption Leave (AAL)** – some employees will qualify for an additional 26 weeks of unpaid adoption leave, which they may use immediately after their period of OAL, meaning that they could take up to a total of 52 weeks adoption leave.

3.7 **Full pay amount:** Please note that all payments made at the full pay amount are inclusive of your SAP entitlement.

3.8 **Statutory Adoption Pay amount (SAP)** – This is the rate of payment set by the government, and is reviewed annually. Please contact the Human Resources team to find out the current rate of SAP.

4. General principles

4.1 Adoption Leave can be taken by male and female employees.

4.2 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.

- 4.3 You will not be treated less favourably because you are absent on adoption leave or for any other reason connected with the adoption.
- 4.4 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.
- 4.5 You will not be excluded from communication and consultation because of absence due to adoption. Whilst you are on adoption leave line managers' are responsible for ensuring that you are kept informed of developments, training opportunities, vacancies etc. and consulted with, where appropriate, as if you were still at work.
- 4.6 You will not be dismissed for a reason connected with the appropriate use of adoption leave.
- 4.7 These provisions apply equally to full time and part time workers, regardless of hours worked.
- 4.8 The ICO will ensure that the adoption provisions available to staff through their publication on ICON.
- 4.9 The Human Resources team will, with your consent, inform trade union representatives when you have notified your intention of taking adoption leave. Members of some trade unions are eligible to pay reduced subscriptions whilst on adoption leave.

5. Procedure

- 5.1
 - a. Employee notifies line manager:** You must tell your line manager of your intention to adopt a child as far in advance as possible. This is not a statutory requirement, but it will assist your manager to plan staffing arrangements if you take adoption leave. Your manager will also contact the Human Resources team to inform them of your intentions.
 - b. Meeting with Human Resources team:** A member of the Human Resources team will contact you and will meet with you to discuss your individual eligibility and to fully explain the contents of this policy to you.

c. 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 (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 must write to Human Resources and provide 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.

d. Matching certificate: You must give the ICO documentary evidence from the adoption agency as evidence of your entitlement to SAP and adoption leave. You should ask the adoption agency for this documentary evidence, which may be provided in the form of a matching certificate, which includes basic information on matching and expected placement dates

5.2 **Planning your leave:** Human Resources will write to you within 28 days of receiving your written notification to you confirm the dates on which your Ordinary Adoption Leave and Additional Adoption Leave will end, and also the dates on which any enhancements to Statutory Adoption Leave will end.

5.3 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. Please ensure that you provide Human Resources with your holiday card prior to commencing your leave.

5.4 You can change the date on which you want the leave to start. At least 28 days notice must be given to the ICO (via Human Resources) in writing unless this is not practicable.

5.5 **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 disruption took place. This

provision also applies if the child passes away during the period of adoption leave.

You have, therefore, a duty to inform the ICO that a disruption has taken place as soon as is practicable. This should be done via Human Resources.

Any period taken as Adoption Leave following a disruption will be paid at the rate of Statutory Adoption Pay, though this may be enhanced at the discretion of the Human Resources Director.

6. During your adoption leave

6.1 **a. Continuity of Employment:** During your period of adoption leave you will continue to accrue continuous service.

b. 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 of time 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.

Contributions are not payable during a period of unpaid adoption absence i.e. after the expiry of SAP. Unpaid adoption leave does not count as pensionable service.

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

c. Annual leave: As described earlier annual leave will accrue at the normal rate during your adoption leave.

d. 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. You must, however, use it in accordance with the appropriate policies.

6.2 **Job opportunities:** The ICO does not wish you to miss out on opportunities for promotion or progression. All internal job advertisements can be sent to a home email account or posted to you. You can discuss this during your meeting with a member of the Human Resources team

6.3 **Staying in touch:** During your period of leave, the ICO wishes to respect

your time with your child, so we will not contact you if we can avoid it. However, if there are any significant changes in the business area in which you work or if training opportunities arise your line manager will contact you to make sure that you are kept up to date with our current business position. There is, however, provision for 'Keeping in touch' days which is described below.

- 6.4 **'Keeping in touch' days:** Regulations provide for you and the ICO to have reasonable contact from time to time during your adoption leave period without bringing the statutory adoption period to an end. In addition, you can work for 10 days by mutual agreement without losing SAP. Important points to note include the following.
- a. You can go in for one hour, such as for a team meeting, or a whole day. This will still count as a Keeping in touch (KIT) day.
 - b. The decision to have a KIT day must be made by agreement between you and the ICO. There is no obligation on the ICO to offer, or on you to accept, such work.
 - c. The KIT day will not bring your adoption leave period to an end.
 - d. If you do attend a KIT day, you will 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 will accrue one hour of TOIL, if you are in for a full day you will accrue 7 hours 24 minutes of TOIL.
 - e. Time in work for KIT days must be notified to Human Resources by your line manager. The HR team will then make the appropriate adjustment to your TOIL card.

7. Returning from your adoption leave

- 7.1 **Notification of your intention to return:** If you intend to return to work before the end of the 52 week Ordinary and Additional Adoption Leave period, you must give 8 weeks notice in writing.

This must be sent to Human Resources who will notify your line manager. The ICO may postpone your return to work if you do not give 8 weeks notice in writing.

- 7.2 **Role:** You will usually return to your current role unless this is not reasonably practicable, in which case you will return to a suitable and appropriate alternative position on no less favourable terms and conditions. If this is not possible, then the existing redundancy procedure will be implemented.

- 7.3 **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 Human Resources of this in writing.

- 7.4 You should be aware that if you do not return to work, or if you leave the ICO of your own volition within 13 weeks of returning from leave, the ICO reserves the right to reclaim from you all amounts paid to you in excess of Statutory Pay.
- 7.5 This 13-week period will be extended if you reduce your hours when you return from leave. In these circumstances you will be required to work the equivalent number of days you would have worked in 13 weeks prior to your reduction in hours e.g. if you were full time before starting adoption leave and reduce to 3 days per week upon your return, you will be required to work 65 days, or around 22 weeks of your new working pattern.
- 7.6 Repayment of ICO enhanced adoption pay can be expensive as you will have to pay back any money you have received above SAP. If you think this situation may apply to you, please speak with a member of the Human Resources team who can provide you with an estimate of the cost. The example below breaks down how the cost will be calculated.

Worked example:

A full time employee leaves within 13 weeks of returning to work following adoption leave taken for adopting a two year old child. She took her full entitlement of 16 weeks at full pay (including SAP), 10 weeks at half pay plus SAP and 13 weeks at the rate of SMP only.

SAP is 90% of salary for 6 weeks, then the lower rate of SMP for the following 33 weeks. The ICO could therefore reclaim:

- i) 10% of her salary amount for the first 6 weeks;
- ii) the difference between her full pay amount and the current SAP rate for the next 10 weeks; and
- iii) the rate of half pay that she received for the subsequent 10 weeks.

- 7.7 If know that you do not intend to return to work after adoption leave, you should take adoption leave under the State scheme.
- 7.8 **Part-time working:** Any request to return to work in a part-time capacity will be fully considered by your line manager and Human Resources in relation to organisational requirements and in line with the flexible working policy.
- 7.9 **Sickness:** If, at the end of your period of leave, you wish to return to work but are unable to do so due to ill health you should notify either your line manager or the Human Resources team as soon as reasonably practicable. Any such period of sick leave will be dealt with in accordance

with the ICO's sickness management policy.

8. Frequently asked questions

8.1	<p>Am I allowed any time off prior to adopting for the purposes of matching me with a child?</p> <p>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 proof of such appointments to your line manager.</p>
8.2	<p>Does the age of the child I am adopting impact on the amount of adoption leave I am entitled to?</p> <p>No, but it could impact on the level of pay you receive during your adoption leave. The levels of pay applicable to the different ages of the child adopted are described earlier in this policy.</p>
8.3	<p>I already live with my partner's children. Can I take adoption leave if I adopt those children?</p> <p>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.</p>
8.4	<p>I hope to adopt a child from overseas. Do the adoption provisions apply to me?</p> <p>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.</p>
8.5	<p>Is there any provision of leave for fostering?</p> <p>No there is no statutory provision for fostering children and there is no paid leave available in the ICO specifically for fostering a child.</p>
8.6	<p>Is adoption leave available if I chose to adopt a child I have been fostering?</p> <p>A foster parent can take statutory adoption leave, but only if:</p> <ul style="list-style-type: none">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); andb) The child is then placed with you for adoption. <p>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.</p>

9. Further information

- A government website which answers specific adoption related queries including the current rate of Statutory Adoption Pay:
http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Adoptionrightsintheworkplace/DG_10029406

10. Glossary

- Continuous Service – This is the length of service you have with the ICO and is the basis for calculating your entitlements.
- AML – Ordinary Adoption leave
- AAL – Additional Adoption leave
- SAP – Statutory Adoption Pay, this amount changes annually and you find out the current SAP amount by either contacting the Human Resources team, or at www.tiger.gov.uk
- Matching Certificate – form which evidences your adoption plans as provided by the adoption agency.

