

Millennium Farm Trust

HR12 Adoption Leave Policy V03

Next review due March 2026



Version Control

Version number	Date of changes	Who	Review summary
02	Nov 2020	H Wilson	Scheduled review. No changes
03	Mar 2022	H Wilson	Updated to align with government legislation
03	April 24	T Freathy	Scheduled review. No changes

Introduction

The rights to adoption and paternity leave and pay entitle eligible employees to take paid leave when a child is newly placed for adoption. **Adoption leave and pay** are available to:

- individuals who adopt
- one member of a couple where a couple adopt jointly (the couple must choose which partner takes adoption leave)

The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to **paternity leave and pay**.

Adoption leave and pay

Eligibility

To qualify for adoption leave, an employee must:

- be *newly matched with a child for adoption by an adoption agency
- have worked continuously for their employer for 26 weeks ending with the week in which they are notified of being matched with a child for adoption

*Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children.

Length of adoption leave

Adopters are entitled to up to 26 weeks' **ordinary adoption leave** followed immediately by up to 26 weeks' **additional adoption leave** subject to length of time employed by DCF.

Ordinary adoption leave is normally paid leave.

Additional adoption leave is usually unpaid although an adopter may have contractual rights to pay during his period of additional adoption leave.

They can choose to start their leave:

- 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.

Leave can start on any day of the week.

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

If the child's placement ends during the adoption leave period, the adopter can continue adoption leave for up to eight weeks after the end of the placement.

Statutory Adoption Pay

During their adoption leave, most adopters are entitled to Statutory Adoption Pay (SAP) from their employers.

Statutory Adoption Pay (SAP) will be paid in accordance with government legislation.

Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions do not qualify for SAP. They should contact their adoption agency as they may be able to receive financial support in relation to their adoption payment. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from your local Jobcentre Plus office or Social Security office.

Notice of intention to take adoption leave

Adopters are required to inform their employers of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. They need to tell their employers:

- when the child is expected to be placed with them and
- when they want their adoption leave to start.

Adopters can change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable). They must tell their employer the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

Employers have 28 days in which to respond to their employees' notification of their leave plans. An employer must write to the employee, setting out the date on which they expect the employee to return to work if the full entitlement to adoption leave is taken.

Matching certificate

Employees must give their employer documentary evidence – from their adoption agency as evidence of their entitlement to SAP. Employers can also ask for this as evidence of entitlement for adoption leave. Employees should ask their 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.

Contractual benefits

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary (unless their contract of employment provides otherwise), throughout their 26-week **ordinary adoption leave** period. However, most adopters are entitled to SAP during this period. If the employee has a contractual right to adoption leave as well as the statutory right, he may take advantage of whichever is the more favourable. Any adoption pay to which he has a contractual right reduces the amount of SAP to which he is entitled.

During **additional adoption leave**, the employment contract continues and some contractual benefits and obligations remain in force, for example compensation in the event of redundancy and notice periods.

Return to work after adoption leave

Adopters who intend to return to work at the end of their full adoption leave entitlement do not have to give any further notification to their employers.

Adopters who want to return to work **before** the end of their adoption leave period, must give their employers 28 days' notice of the date they intend to return.

Protection from detriment and dismissal

Employees are protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Employees who believe they have been treated unfairly can complain to an employment tribunal.

Employers' recovery of payments

Employers can recover the amount of Statutory Adoption Pay (SAP) they pay out in the same way as they can claim back Statutory Maternity Pay. Employers can claim back 92% of the payments they make, with those eligible for small employers' relief able to claim back 100% plus an additional amount in compensation for the employer's portion of National Insurance contributions paid on SAP.

In addition, employers who need to can get funding in advance for payments of SAP from the Inland Revenue.

Paternity leave and pay (adoption)

Following the placement of a child for adoption, the rights to paternity leave and pay give eligible employees the right to take paid leave to care for their new child or support the adopter.

Eligibility

Employees must satisfy the following conditions in order to qualify for paternity leave. They must:

- have or expect to have responsibility for the child's upbringing
- be the adopter's spouse or partner
- have worked continuously for their employer for 26 weeks ending with the week in which the adopter is notified of being matched with a child.

Employers can ask their employees to provide a self-certificate as evidence that they meet these eligibility conditions.

Length of paternity leave

Eligible employees are entitled to choose to take either one week or two consecutive weeks' paid paternity leave (not odd days).

They can choose to start their leave:

- from the date of the child's placement (whether this is earlier or later than expected), or
- from a chosen number of days or week after the date of the child's placement (whether this is earlier or later than expected), or
- from a chosen date which is later than the date on which the child is expected to be placed with the adopter.

Leave can start on any day of the week on or following the child's placement but must be completed within 56 days of the child's placement.

Only one period of leave is available to employees irrespective of whether more than one child is placed together.

Statutory Paternity Pay

During their paternity leave, most employees are entitled to Statutory Paternity Pay (SPP) from their employers.

Statutory Paternity Pay is paid by employers for either one or two consecutive weeks as the employee has chosen. The rate of Statutory Paternity Pay is the same as the standard rate of Statutory Maternity Pay.

Employees who have average weekly earnings below the Lower Earnings Limit for National Insurance purposes do not qualify for SPP. Employees who do not qualify for SPP, or who are normally low paid, may be able to get Income Support while on paternity leave. Additional financial support may be

available through Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant. Further information is available from your local Jobcentre Plus office or Social Security office.

Notice of intention to take paternity leave

Employees must inform their employers of their intention to take paternity leave within seven days of the adopter being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable. They must tell their employers:

- the date on which the adopter was notified of having been matched with the child
- when the child is expected to be placed
- whether they wish to take one or two weeks leave
- when they want their leave to start.

Employees can change their mind about the date on which they want their leave to start providing they tell their employer 28 days in advance (unless this is not reasonably practicable). Employees can tell their employers the date they expect any payments of SPP to start at least 28 days in advance, unless this is not reasonably practicable.

Self certificate

Employees must give their employers a completed self certificate as evidence of their entitlement to SPP. Employers can also request a completed self certificate as evidence of entitlement to paternity leave. The self certificate must include a declaration that the employee meets certain eligibility conditions and provide the information specified above as part of the notice requirements.

By providing a completed self certificate, employees can satisfy both the notice and evidence conditions for paternity leave and pay. Employers are not expected to carry out any further checks.

Contractual benefits

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary (unless their contract of employment provides otherwise), throughout their paternity leave. However, most employees are entitled to SPP for this period. If the employee has a contractual right to paternity leave as well as the statutory right, he may take advantage of whichever is the more favourable. Any paternity pay to which he has a contractual right reduces the amount of SPP to which he is entitled.

Return to work after paternity leave

Employees are entitled to return to the same job following paternity leave.

Protection from detriment and dismissal

Employees are protected from suffering unfair treatment or dismissal for taking, or seeking to take, paternity leave. Employees who believe they have been treated unfairly can complain to an employment tribunal.