



Adoption Leave Policy and Procedure

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1 POLICY STATEMENT

Annington's policy is to comply with both the letter and spirit of the law with regard to adoption rights. The aim of this policy and procedure is to inform employees of their entitlement to statutory adoption rights, of their right not to be discriminated against because of their decision to adopt a child or children, and to ensure that they understand these rights.

The employee's service will be counted as continuous during adoption leave for both statutory and contractual rights.

This policy and procedure is subject to change in accordance with legislation and conforms to the following guidelines published by the UK Government:

- Employment Rights Act 1996
- Employment Act 2002
- Paternity and Adoption Leave Regulations 2002
- Paternity and Adoption Leave (Amendments) Regulation 2006 and 2008
- Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002
- Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002
- Work and Families Act 2006
- Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002
- Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2008
- Additional Paternity Leave Regulations 2010
- Additional Statutory Paternity Pay (General) Regulations 2010
- Additional Statutory Paternity Pay (Weekly Rates) Regulations 2010
- Equality Act 2010

The Paternity Leave policy and procedure should be read in conjunction with this document.

This document covers the leave and pay rights where a child is matched and placed for adoption within the UK. The new measures will also be available where a child is adopted from overseas, although the detailed operation of the scheme will differ slightly for practical reasons.

All eligible employees are entitled to statutory time off and pay for adoption leave providing they have been continuously employed for a minimum of 26 weeks into the week in which he/she has been notified of being matched with a child (the 'matching week').

A child is "matched" for adoption when a UK adoption agency decides that a person is suitable to adopt that child. A child is "placed" for adoption when he or she starts living with the person permanently with a view to being formally adopted in the future.

Employees should note that if a foster or step child is being adopted, they will *not* be eligible for adoption leave as there has been no "matching" by an adoption agency

2 PROCEDURE

2.1 Eligibility

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

- Employees who have worked continuously for the Company for 26 weeks (the Qualifying Week) leading into the week in which they are notified of being matched with a child for adoption.
- Employees who have been “newly matched” with a child for adoption by an approved adoption agency
- Employees who have notified the agency that they agree that the child should be placed with them, and agreed the date of placement.
- One member of a couple where a couple adopt jointly (including civil partners (as defined by the Civil Partnership Act 2004)). In this situation only one of them can elect to take adoption leave, the other may be entitled to paternity leave. It does not matter that the couple have different employers (the couple may choose which partner takes adoption leave)

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.

The leave and pay periods will automatically cease if the employee dies or is taken into legal custody.

2.2 Length of Adoption Leave

Eligible employees will be entitled to up to 26 weeks’ ordinary adoption leave followed immediately by up to 26 weeks’ additional adoption leave – a total of up to 52 weeks’ leave.

Employees 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 will be 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 will be able to continue adoption leave for up to eight weeks after the end of the placement.

2.3 Statutory Adoption Pay

An employee will qualify for SAP when they are adopting a child from within the UK provided they have:

- At least 26 weeks' continuous employment with the Company extending into the week in which they are notified of having been matched with the child.
- Notified the Company that they want to receive SAP at least 28 days, or as soon as is reasonably practicable, before they want the payment to begin. The employee may wish to inform the Company of their intention to claim SAP at the same time of notifying their intention to take SAL.
- Average weekly earnings (AWE) at or above the lower earnings limit (LEL) for National Insurance contributions which applies at the end of the matching week.

Employees will be asked to provide documentary evidence – a “matching certificate” – from their adoption agency as evidence of their entitlement to Statutory Adoption pay (SAP). The Company can also ask for this certificate as proof of entitlement to adoption leave. Employees should, therefore, ask their adoption agency for a matching certificate that will include basic information on matching and expected placement dates.

SAP will be paid for up to 39 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. SAP will cease in respect of any child placed for adoption who reaches 18 years of age.

If the employee has been employed by the company for less than 26 weeks ending with the week in which they are notified of having been matched with their child, they will not be entitled to SAP, but will need to claim an adoption allowance direct from the Department of Work and Pensions (DWP)

2.4 Obligations on the employee

2.4.1 *Notice of intention to take adoption leave*

Employees will be required to inform the Company of their intention to take adoption leave within seven 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 will need to advise the Company of the following:

- Their intention to take adoption leave
- When the child is expected to be placed with them and
- When they want their adoption leave to start

Employees will be able to change the date on which they want their leave to start but are asked to advise the Company at least 28 days in advance (unless this is not reasonably practicable). Employees must also advise the Company of the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

The Company will have 28 days in which to respond to the employee's notification of their leave plans and will 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.

2.4.2 Disrupted placement during adoption leave

There is an eight-week period which allows adoptive parents to come to terms with the ending of a placement. This applies in the following sets of circumstances:

- If the employee begins their ordinary adoption leave before the placement but the adoption agency subsequently notifies the employee that the child will not be placed with them. The ordinary adoption leave period will therefore end eight weeks after the end of the week in which the employee is notified that the placement will not take place.
- If the child is returned to the adoption agency, the leave will end eight weeks after the end of the week in which the placement ends.
- In the event of the death of the child during the adoption leave, the leave will end eight weeks after the end of the week in which the child dies.

Where an employee's ordinary adoption leave ends during the eight-week period, they are entitled to additional adoption leave until the end of the eight-week period. However, if the employee's additional adoption leave ends during the eight-week period, this period of leave cannot be extended and the employee will be due to return to work at the end of the 26 week additional adoption leave period. An employee may take annual leave, by agreement with the employer, if they wish to have more time off.

If a placement comes to an end, the employee should give the employer eight weeks' notice that they are to return to work earlier than expected, as the adoption leave will end eight weeks after the disrupted placement. This means that the employee should notify the employer on the day that the placement ends that they will be returning to work in eight weeks' time.

In many cases, the employee will have advance warning that the placement is likely to come to an end. However, where there is no warning the employee should give notice that they are likely to return to work early on the day the placement ends or as soon as possible afterwards. If the employee does not, they may face a delayed return to work.

If the employee returns to work without giving eight weeks' notice, the employer is entitled to postpone the employee's return until eight weeks' notice has elapsed, although this cannot extend beyond the end of the additional adoption leave period. If the employee returns to work anyway, they are not entitled to be paid. This does not apply if the employer did not notify the employee of the end date of the additional adoption leave period. In that case, the employee does not have to give notice of early return and the employer has no right to delay the employee's return or to refuse pay

2.4.3 Contractual benefits

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary throughout the entire adoption leave period. However, most employees will be entitled to SAP for the first 39 weeks of this period.

2.4.4 Adoption leave and annual leave

Employees should take any outstanding annual leave before they go on Adoption leave. This is particularly appropriate if there is any doubt in the employee's mind about whether or not he/she intends to return to work after adoption leave, or if the Adoption leave begins in the last few months of the leave year.

Employees should also take a proportion of all the annual leave accrued during the adoption leave period, immediately before returning to work. To avoid any confusion about the requirement to notify the Company of the intended date of return to work, any arrangement made with an employee to take annual leave prior to his/her date of return should be confirmed in writing and a copy placed on the personal file.

Where the period of adoption leave starts in one leave year and ends in the next, any annual leave outstanding from the first leave year should be taken within three months of returning to work.

The employee will continue to accrue their normal annual leave entitlement during both ordinary and additional adoption leave.

Where an employee returns to work at any point during either the OAL or AAL period and subsequently resigns, payment in lieu of any outstanding annual leave that has accrued during both the OAL and AAL periods will be calculated and paid in accordance with contractual entitlements.

Where an employee does not return to work following adoption leave, payment in lieu of any outstanding annual leave is to be made in line with their contractual entitlement.

2.4.5 Contact during adoption leave

The Company reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' 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.

2.4.6 Keeping in touch days

Employees can agree to work for the Company (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.

The Company has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the Company.

2.4.7 Return to work after adoption leave

Employees may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give the appropriate notification. Alternatively, employees may take their full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, they must give the Company, in writing, at least eight weeks' notice of the date on which they intend to return.

Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.

Where an employee decides during adoption leave that they do not wish to return to work, they must give written notice of resignation to the Company as soon as possible and in accordance with the terms of their contract of employment.

2.4.8 Protection from detriment and dismissal

Employees will not suffer unfair treatment or dismissal for taking adoption leave.

2.5 Sharing Adoption Leave and Pay

Shared parental leave allows for a greater opportunity for parents to share in the initial care of their child. A mother can agree to bring her period of maternity leave and pay to an end, and share the remaining untaken balance with their partner, or return to work early and agree to take the remaining balance of leave and pay at a later date.

Please see our separate policy on shared parental leave for further details.