

COLWICH PARISH COUNCIL



PD114 ADOPTION LEAVE

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ADOPTION LEAVE

Adoption Leave – PD114

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1 INTRODUCTION

- 1.1 This policy reflects adoption rights set out in the Paternity and Adoption Leave Regulations 2002, the Statutory Adoption Pay (General) Regulations 2002 and the Work and Families Act 2006 and applies to parents of children placed for adoption on or after 6 April 2003.
- 1.2 Adoption rights do not extend to step family adoptions or adoptions by foster parents.
- 1.3 Only one partner in a joint adoption will be able to take adoption leave, the other partner may be eligible to take "paternity leave".
- 1.4 The entitlement extends to one period of adoption leave only, regardless of the number of children placed at one time.

2 ADOPTION RIGHTS

- 2.1 Adoption rights fall into three main categories:
 - Adoption Leave
 - Statutory Adoption Pay (SAP)
 - Protection against unfair treatment or dismissal

3 ADOPTION LEAVE

How much adoption leave can an employee take?

- 3.1 One adoptive parent can request *26 weeks Ordinary Adoption Leave (OAL)* and a further period of *26 weeks Additional Adoption Leave (AAL)* if they meet the following criteria:
 - 3.1.1 The child is 'newly' matched or placed for adoption on or after 6 April 2003.
 - 3.1.2 The child is under the age of 18
 - 3.1.3 The employee has been continuously employed for at least 26 weeks ending with the week in which the adoption agency notified him/her of being matched with the child.
 - 3.1.4 The employee has completed an Adoption Leave Request form

When can adoption leave start?

- 3.2 The employee can choose to start their adoption leave on:
 - 3.2.1 The date the child is placed; or

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3.2.2 A predetermined date, no more than 14 days before the date the child is expected to be placed with the employee and no later than that date.

Notification Time

3.3 No more than 7 days after the date on which the employee is notified of being matched with the child the employee should complete an Adoption Leave Request form confirming the following information:

3.3.1 The date on which the child is expected to be placed for adoption.

3.3.2 The date on which he/she wishes the period of leave to begin (this date can be changed if notice of the change is given at least 28 days prior to the start date of the leave).

3.4 The employer can also ask the employee to provide one or more documents from the adoption agency which shows:

3.4.1 Name and address of the agency

3.4.2 Name and date of birth of the child

3.4.3 Date the employee was notified of being matched with the child;

3.4.4 Expected date of placement.

3.5 Within 28 days of receiving an employee's notification the employee should be notified of the end date of their adoption leave.

3.6 Where the employee varies his/her notice the employer must give its notice within 28 days of the start of the adoption leave.

4 ORDINARY ADOPTION LEAVE

4.1 An employee is entitled to 26 weeks Ordinary Adoption Leave, which starts on the day the employee has specified in his/her application unless the employee has requested to start the leave on the date the child is placed and he/she was at work on that day. In this situation the leave starts on the following day.

4.2 During Ordinary Adoption Leave the employee is entitled to the benefit of all terms and conditions which would have applied if he/she had not been absent, except remuneration, which is defined as wages or salary.

4.3 An employee will be bound by any obligations in his/her terms and conditions, unless they are inconsistent with the right to take adoption leave.

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5 ADDITIONAL ADOPTION LEAVE

- 5.1 An employee who takes Ordinary Adoption Leave is also entitled to take Additional Adoption Leave, unless the Ordinary Adoption Leave ended prematurely. Additional Adoption Leave is a further period of 26 weeks, providing 1 year's leave in total.

6 ADOPTION PAY

- 6.1 Employees will be entitled to Statutory Adoption Pay (SAP), currently £172.48 per week (or 90% of average weekly earnings if this is lower) if they meet the following conditions (Statutory Adoption Pay is reviewed in April each year):

6.1.1 Have been *employed continuously* for a minimum of 26 weeks ending with the week in which the adoption agency notified a match with the child.

6.1.2 The *average earnings* in the 8 weeks up to the notification of a match are equal to or above the lower earnings limit for National Insurance contributions (currently £123 per week from April 2023 for SAP purposes)

- 6.2 If an employee does not qualify for SAP because they have less than 26 weeks service at the qualifying date or because their earnings are below the lower earning limit for national insurance, they may be entitled to receive State Adoption Allowance and should contact their local Job Centre for advice.

7 ADOPTION PAY AND PENSION CONTRIBUTIONS

- 7.1 The Local Government Superannuation Scheme regulations cover contributions when an employee goes on adoption leave.

7.2 Employees must normally pay contributions on any monies they receive

7.3 Contributions can only be stopped if an employee opts out of the Local Government Superannuation Scheme as soon as they go on Adoption Leave. It is recommended that further guidance is obtained from the Payroll Manager before considering exercising this option.

7.4 Employees can choose to pay pension contributions on the period of unpaid adoption leave (part of Additional Adoption Leave).

8 PROTECTION AGAINST UNFAIR TREATMENT OR DISMISSAL

- 8.1 During ordinary adoption leave an employee retains the right to return to the same job on the same terms and conditions, unless a redundancy situation has arisen, in which case they will be offered a suitable alternative vacancy.

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8.2 If an employee takes additional adoption leave they will normally be able to return to the same job. In rare circumstances where this is not reasonably practicable, i.e. because re-organisations have taken place, they will be offered an alternative job that is suitable and appropriate.

8.3 Employees who believe they have been treated unfairly as a consequence of taking adoption leave can complain to an employment tribunal if they so desire.

9 EMPLOYEES RETURNING TO WORK

9.1 Employees have the right to request a variation to their working pattern/hours on return from adoption leave via the Request to Flexible Working process. This may only be refused if there is an objective business reason.

10 ADOPTION LEAVE AND CONTINUOUS SERVICE

10.1 Ordinary and Additional Adoption Leave will count as continuous service for accrual of holiday entitlement, sick pay entitlement etc.

11 HOLIDAY ENTITLEMENT

11.1 Employees will accrue annual leave as if they had been at work all the time.

11.2 If adoption leave spans the end of the leave year and they have not taken all their entitlement, they will lose any leave accrued before March 31, except for 3 days carry over.

11.3 During OAL (ordinary adoption leave) employees continue to be entitled to Bank Holidays. Where a Bank Holiday falls within this period, the employee should be credited with the time. As with annual leave, only three days leave can be carried over into the next holiday year.

11.4 If any employee resigns whilst on adoption leave their annual leave entitlement will be calculated up the date of their letter of resignation.

11.5 If an employee does not return to work and has taken more leave than they are entitled to at the date of resignation, they will be required to repay money in respect of any excess leave taken.

12 ADDITIONAL INFORMATION

What if a placement is disrupted?

12.1 Where a placement is disrupted after adoption leave has commenced (i.e. notification received that the child will not be placed or the child is returned to the adoption

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agency) the employee will not be entitled to the full adoption leave period. Adoption leave will end 8 weeks after the end of the week in which the disruption occurred.

- 12.2 The Clerk should contact an employee to discuss the employee's needs in these circumstances. It may be appropriate to recommend external support agencies.
- 12.3 There is no extension to additional adoption leave if disruption occurs within the final 8 weeks.
- 12.4 Employees should still give 28 days notice of early return, where this is practicable.

What if an employee decides not to return to work at the end of adoption leave?

- 12.5 An employee should give the normal notice applicable under their Contract of Employment if they do not intend to return to work at the end of their adoption leave.

13 REVIEW OF POLICY

- 13.1 This policy will be reviewed on a regular basis to reflect any changes in employment legislation.

14 RECORDS

- 14.1 All written documentation will be kept confidential, and retained in accordance with the General Data Protection Regulations 2018.

SIGNED	
COUNCILLOR WENDY PLANT, PARISH COUNCIL CHAIRMAN	