Adoption Policy

Policy statement
The Office of the Police and Crime Commissioner (OPCC) is committed to ensuring that adoption benefits are applied fairly and consistently. This policy outlines the framework for managing adoption and related absences and the steps managers and employees must take to ensure that an employee’s statutory and occupational benefits are applied appropriately. This policy applies regardless of the gender of the employee’s partner.

Scope
All employee of the OPCC

Policy outcome
The aims of this policy are to:
- ensure statutory leave and pay entitlements are met
- ensure occupational leave and pay entitlements are met
- define the process for managing adoption leave and pay

Check which policy to use
Details of parental leave where an employee is not eligible for adoption/paternity leave can be found in Other Family Friendly Policy.

If a woman elects to curtail her maternity leave so that the remaining leave may be shared, then details of the provisions available can be found in the Shared Parental Leave policy.

Annual leave arrangements must be managed under the Annual Leave and Time Off Policy.

Flexible working requests following return from adoption leave should be managed under the Managing Requests for Flexible Working Policy.

Fixed term contracts that are due to end during the adoption leave period must be managed under the Ending a Fixed Term or Temporary Contract Policy.
Equality and Dignity at work

The OPCC is committed to developing a work place in which all employees are treated with dignity. Discrimination based on age, disability, gender identity, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation is not acceptable. Equally, bullying and harassment related to any of these characteristics is not acceptable. The OPCC will take robust action against any unacceptable behaviour.

Adoption Leave and Pay

Adopting employees are entitled to the same employment rights under their contract of employment (e.g. building up annual leave and pay awards) as if they were still in work. The only exception is the employee will not get their normal contractual pay during adoption leave.

Legally, the employee must tell their employer they are adopting within 7 calendar days of being notified by their adoption agency that they have been matched with a child for adoption.

Employees will only be able to take one period of adoption leave and pay, irrespective of the number of children being adopted as part of the same placement. Employees may be eligible for further adoption leave and pay if they adopt more children at a later date.

Statutory adoption pay entitlements are defined by Her Majesty’s Revenue and Customs service (HMRC).

Occupational adoption pay entitlements are defined by the employee’s relevant terms and conditions of employment.

The Data Protection Act 1998 aims to protect the rights of living individuals regarding information about them held by other people. It requires an employer to comply with eight principles governing the use and processing of personal data.

Exceptions

None apply

Policy stages

There are five main stages to this policy:

1. notification of adoption
2. starting adoption leave
3. during adoption leave
4. intentions regarding returning to work
5. completion of return to work period

The actual steps in the policy may vary dependent on the employee and organisational needs.
Stage 1 – Notification of adoption

Legally, the employee must tell their employer they are adopting within 7 calendar days of being notified by their adoption agency that they have been matched with a child for adoption.

On being told of the adoption, the employee’s line manager must refer to and follow the How To Guide.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual leave</td>
<td>The line manager and employee must ensure annual leave is planned around their adoption leave to ensure that minimal annual leave is carried forward into the next leave year.</td>
</tr>
<tr>
<td>Reasonable contact</td>
<td>Before the employee starts adoption leave the line manager and employee will agree appropriate and reasonable contact arrangements for the adoption leave period.</td>
</tr>
<tr>
<td></td>
<td>These arrangements should be used to keep each other up-to-date on vacancies, workplace developments, training opportunities, any changes which would affect the employee’s return to work, or other circumstances which are relevant to the adoption leave and help ensure correct payment of adoption benefits.</td>
</tr>
<tr>
<td>Pre-adoption meetings</td>
<td>The primary adopter has the right to take paid time off for up to 5 pre-adoption meetings or interviews with adoption agencies, solicitors etc., before starting adoption leave.</td>
</tr>
<tr>
<td></td>
<td>The employee must produce their appointment card or other evidence of the appointment where this is requested by the manager.</td>
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<tr>
<td></td>
<td>The secondary adopter also has a statutory entitlement to take unpaid time off work to accompany the primary adopter to up to 2 of their pre-adoption appointments. Where an employee wishes to attend these meetings, line managers can use their discretion to make use of annual leave, flexi leave or some other arrangement, subject to operational and business needs.</td>
</tr>
<tr>
<td>Ordinary adoption leave</td>
<td>To qualify for ordinary adoption leave the employee must be employed under a contract of employment, regardless of hours worked or terms and conditions of employment.</td>
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<tr>
<td></td>
<td>They will have an entitlement to up to 26 consecutive weeks leave.</td>
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<tr>
<td>Additional adoption leave (AAL)</td>
<td>If the employee meets the qualifying criteria for ordinary adoption leave, they also qualify for an entitlement to an additional 26 consecutive weeks, creating a total of 52 consecutive weeks adoption leave entitlement. AAL must be taken immediately following the end of the ordinary adoption leave entitlement.</td>
</tr>
</tbody>
</table>
| Start date of adoption leave - UK adoptions | The employee’s ordinary adoption leave can start on any day of the week but must start either:  
  - from the date of the child’s placement, or.  
  - a fixed date, up to 14 days before the expected date of placement (as specified on the matching certificate)  
If the employee is certified medically unfit to remain at work earlier than the 14th day before the expected date of placement they are only entitled to the relevant benefits for sickness absence. If the employee is certified medically unfit to remain at work between the 14th day before and the expected date of placement they can choose whether to take sick leave or start their adoption leave. If the employee continues to be medically unfit for work it is likely that the adoption will be postponed until they are fully recovered. |
| Start date of adoption leave - Overseas adoptions | The employee’s ordinary adoption leave can start on any day of the week but must start either:  
  - from the date of the child’s entry into Great Britain; or  
  - a fixed date, up to 28 days after the date of the child enters into Great Britain  
If the employee is certified medically unfit to remain at work earlier than the 28th day before the expected date of placement they are only entitled to the relevant benefits for sickness absence. If the employee is certified medically unfit to remain at work between the 28th day before and the expected date of placement they can choose whether to take sick leave or start their adoption leave. |
If the employee continues to be medically unfit for work it is likely that the adoption will be postponed until they are fully recovered.

The employee must complete a form to notify their line manager and the IBC, in writing, of the actual date of the child’s entry into Great Britain within 28 calendar days. Failure to do so may result in delays or non-entitlement to benefits. The employee must provide evidence of this date, e.g. tickets; or copies of UK entry clearance documents. Failure to do so may result in delays or non-entitlement to benefits.

The IBC must be notified of the adoption at the earliest opportunity and at least 21 calendar days before the employee intends to start their adoption leave period. If the employee wishes to change their adoption leave start date, they or their line manager must notify the IBC as soon as possible or again give at least 21 calendar days notice.

Once the IBC has been notified of the intended adoption leave start date it will confirm the employee’s adoption leave and pay entitlements within 21 calendar days.

If the employee resigns before adoption leave starts

Where an employee intends to resign, rather than take adoption leave, they are required to give their contractual notice.

If the employee cannot meet the requirements of their contractual notice period, they should give their line manager at least 21 calendar days’ written notice of their intention to resign.

The employee may be entitled to receive SAP, even after their last date of employment.

The employee would not be entitled to receive OAP.

The IBC will confirm the employee’s entitlements within 21 calendar days of being notified and will complete the leaver action on behalf of the line manager.

Stage 2 - Starting adoption leave

Statutory adoption pay – UK adoptions

To qualify for SAP, the employee must;
- be notified of a match with a child to be placed with them by an approved UK adoption agency; and
- have notified the adoption agency that they agree that the
child should be placed with them on the date of placement; and

- be newly matched with a child for adoption by an approved UK adoption agency (It is possible for a foster carer who adopts a child to be eligible for adoption leave and pay, but only if they are matched with a child by an adoption agency and placed with them for adoption – known as concurrent planning. In such cases the foster carer must be a pre-approved adopter and the child must be placed with the foster carer with the intention that they will adopt the child. Adoption leave and pay is not available where the employee is a step-parent adopting their partner’s child/children or, where the adoption is immediately preceded by a period of foster care); and

- be in paid employment and have 26 weeks continuous service with their employer by the end of the week in which they were notified of being matched with a child to be placed with them (as specified on the matching certificate); and

- have earnings of more than the lower earnings limit for National Insurance contributions; and

- be the primary adopter for the child being placed with them and be classed as their adopter; and

- declare that they are taking statutory adoption pay and not statutory paternity pay

**Statutory adoption pay (SAP) – Overseas adoptions**

To qualify for SAP, the employee must;

- be notified of a match with a child to be placed with them by an overseas adoption agency; and

- have notified the adoption agency that they agree that the child should be placed with them on the date of placement; and

- be newly matched with a child for adoption by an overseas adoption agency (adoption leave and pay is not available if the employee is step-parent adopting their partner’s child/children or if the adoption is immediately preceded by a period of foster care); and

- be in paid employment and have 26 weeks continuous service with their employer by the end of the week in which they were notified of being matched with a child to be placed with them (as specified on the matching certificate); and

- have earnings of more than the lower earnings limit for National Insurance contributions; and

- be the primary adopter for the child being placed with them
and be classed as their adopter; and

- declare that they are taking statutory adoption pay and not statutory paternity pay

Payment of SAP starts when the employee starts their adoption leave period.

SAP payments stop if the employee returns to work before the end of the SAP period (except for Keeping In Touch Days).

SAP will not be paid if the employee is taken into legal custody.

To qualify for occupational adoption pay, employees must;

- regardless of the number of hours worked, have at least one year’s continuous local government service at the beginning of the week they are notified of being matched with a child for placement (as specified on the matching certificate)

Payment of OAP starts when the employee starts their adoption leave period.

The OAP period can start on any day of the week.

OAP payments stop if the employee returns to work before the end of the OAP period (except for Keeping In Touch Days).

OAP is paid on the condition that the employee will be available to work, or able to return to work for a required return to work period.

The 12 weeks of half pay OAP is repayable in the event that the employee does not complete the required return to work period.

Please refer to the Appendix 1 for full details of SAP and OAP.

The employee must inform their line manager and the IBC caseworker in writing of the date on which the child was placed with them. This should be done as soon as reasonably practicable after the actual placement to ensure that their entitlement to benefits is not affected.

If the employee is a member of the Local Government Pension Scheme they will have pension deductions made from their occupational and statutory adoption pay.
Local Government Pension Scheme

If the employee is a member of the Local Government Pension Scheme, their pension contributions are automatically made on paid periods of leave. Contributions will continue at the usual percentage rate. This period will count in full for pension purposes. This applies whether they receive full or part pay.

For the period of unpaid adoption leave, the employee will be given the option to make pension contributions at the rate paid during their half pay period. If they do so, the unpaid period will then count in full for pension purposes.

If the employee wants to pay contributions they must confirm this in writing to the IBC within 30 days of returning to work, or leaving the OPCC’s employment if sooner.

If the employee does not pay contributions, this period of unpaid leave will not count towards their pension.

Deductions from salary

All payments under the Statutory and Occupational Adoption Pay schemes are treated as earnings and are therefore subject to income tax and national insurance deductions.

Union contributions, charity contributions and staff loan repayments will continue to be deducted whilst the employee receives statutory or occupational adoption pay.

If the employee usually has these items deducted from pay they will have to make their own arrangements to pay these during their unpaid adoption leave period.

Calculating adoption payments

The IBC will not provide estimates of SAP and OAP payments however a gross pay calculator is available online for employees and managers to use.

Monitoring adoption payments

During the adoption leave period, managers must ensure they review the monthly staffing budget reports and monitor payments being made to the absent employee are consistent with the above principles.

Queries should be referred to the IBC in the first instance.

Employees must ensure they review their monthly payslips to monitor payments are being made consistently with the above principles.

Payslips will be accessible via Employee Self Service.
Queries relating to pay should be referred to the line manager in the first instance.

**Stage 3 – During adoption leave**

**Reasonable contact**

The contact arrangements agreed prior to the start of adoption leave must be followed by both the employer and employee to keep each other up-to-date.

**Keeping In Touch days**

Keeping In Touch Days (KIT) are designed to support the employee return to work and to make it easier for them to keep in touch with their line manager and work colleagues during adoption leave.

KIT days are different to the reasonable contact that employers and employees may make with one another. During KIT days the employee will actually carry out work. Social contact and reasonable contact is not considered as “keeping in touch” as no work is undertaken.

Employees can work for up to a maximum of 10 days during adoption leave without ending their adoption leave.

Whether the employee works for one hour or a whole day, it will still be counted as one full day for “KIT” purposes and a whole day will be deducted from the 10 days entitlement.

Line managers cannot insist that the employee carry out any work, including KIT days. Employees cannot insist on being given any work, including KIT days. The work to be carried out needs to be agreed between line manager and employee before the KIT day is worked.

Adoption leave will not be extended because the employee has worked a KIT day(s).

Where applicable SAP & OAP will continue to be paid for the week in which the employee works a KIT day.

If the employee works for more than 10 KIT days they will lose their entitlement to SAP and OAP for the whole week in which they work - even if they only work for one day, or part of a day.

Although there is no legal requirement to pay for KIT days, the
OPCC has elected to make payments to staff. Please refer to Appendix 2 for further details.

<table>
<thead>
<tr>
<th>Sickness absence during adoption leave</th>
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<tbody>
<tr>
<td>If the employee is ill whilst on Ordinary or Additional Adoption Leave they are not entitled to receive sick pay.</td>
</tr>
<tr>
<td>In order to receive sick pay the employee would have to return from adoption leave. Once they have returned from adoption leave they can not restart it at a later date after they have recovered from their illness.</td>
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<table>
<thead>
<tr>
<th>Employee resignation during adoption leave</th>
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<tbody>
<tr>
<td>If the employee is absent on either ordinary or additional Adoption Leave and they intend to resign, they must give their line manager written notice of their resignation giving their contractual notice (or a shorter period if that is agreed with their line manager).</td>
</tr>
<tr>
<td>The IBC will confirm the employee’s entitlements within 21 days of being notified and will complete the leaver action on behalf of the line manager.</td>
</tr>
<tr>
<td>An element of occupational adoption pay may be repayable.</td>
</tr>
<tr>
<td>Where a resignation means an employee has been overpaid, this will be recovered in accordance with the overpayment policy.</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Entitlement in the event of the child not being placed or ceasing to live with the adopter</th>
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<tbody>
<tr>
<td>If the placement does not go ahead at all, the employee is not entitled to receive any statutory or occupational entitlements.</td>
</tr>
<tr>
<td>If the placement does not go ahead, but the employee has already started their adoption leave, they will be entitled to statutory adoption leave and pay for up to 8 weeks after the end of the week they were notified that the child would not be placed with them.</td>
</tr>
<tr>
<td>If the child ceases to live with the adopter during the statutory adoption pay period, the employee will continue to be entitled to statutory adoption leave and pay for up to 8 weeks after the end of the week the placement ended, if it was not due to end earlier. Entitlement to occupational adoption pay ends with immediate effect of the placement being cancelled.</td>
</tr>
<tr>
<td>The IBC will confirm entitlements within 21 days of being notified.</td>
</tr>
</tbody>
</table>
Stage 4 – Intentions regarding returning to work

Where the employee has decided to return to work
Where the employee takes their maximum entitlement of 52 calendar weeks adoption leave the line manager can assume that the employee will return to work on the next available working day following the end of the AAL period. This will usually be discussed between employee and line manager during the agreed contact.

The employee is only required to tell their manager of their return to work date if they are going to return earlier than their AAL end date. The employee must give their line manager at least 21 calendar days’ written notice.

If the employee’s notice does not meet the 21 day notice period, the return to work date can be postponed so that the manager receives 28 days notice or to the end of the AAL period, whichever is sooner.

Flexible working requests
Employees have a right to request a flexible return to work arrangement which the employer has a duty to consider. There is no automatic right for the request to be approved.

Pensions
Employees should be aware that changes to salary following a return to work may trigger their auto-enrolment into the relevant pension scheme.

Stage 5 – Completion of return to work period

Annual leave
The line manager must ensure that any unused/carried forward annual leave is used up at the earliest available opportunity. This should be agreed with the employee as part of returning to work or taken prior to returning to work, where operationally viable to do so.

Return to work period
The line manager must advise the IBC of any changes to the employee’s contracted working hours during the return to work period.

Employees on OPCC terms and conditions of employment are required to return to work for 3 calendar months in order to retain their 12 weeks half pay under the occupational adoption pay scheme.

If the employee
If the employee returns to work after their adoption leave and then
resigns after adoption leave

resigns they will be bound by the normal terms and conditions outlined in their contract of employment.

The line manager must complete the leaver e-form to notify the IBC of the employee’s leaving date.

Where a resignation means an employee has been overpaid, this will be recovered in accordance with the overpayment policy.

Key definitions

**Leave**

Ordinary adoption leave (OAL) – A period of up to 26 consecutive weeks leave, starting no later than the actual date of placement.

Additional adoption leave (AAL) – An additional period of up to 26 consecutive weeks adoption leave immediately following the period of ordinary adoption leave.

**Pay**

Average weekly earnings – Calculated using the period of 8 weeks immediately preceding the matching week.

Contractual pay – The salary that is payable to employees under their contract of employment as determined by their terms and conditions of employment.

Earnings related rate – A weekly rate equivalent to 90 per cent of the employee’s average weekly earnings

Occupational adoption pay (OAP) – These schemes are determined by the terms and conditions of service, length of service and are based on contractual pay.

Standard rate SAP – A fixed rate payment of statutory adoption pay determined by HMRC

Statutory adoption pay (SAP) – This scheme is funded by the government and is based on length of service and average weekly earnings. The employee may receive payments under either the standard rate or earnings related rate.

**Employment**

Contract of employment – A contract of service whether
expressed or implied, and (if it is expressed) whether oral or in writing. Casual workers are not employed under a contract of employment.

**Employee** – An individual who has entered into or works under (or, where the employment has stopped, worked under) a **contract of employment**.

**Casual workers** – Individuals who are not employed under a contract of employment, but engaged on an irregular, “as and when”, basis. There is no mutuality of obligation. They are not employees and usually will not qualify for adoption entitlements.

**Employer** – The person who employs the employee e.g. the OPCC.

**Other**

**Adoption agency** – A UK adoption agency that decides whether a person would be a suitable adoptive parent for a child, either individually or jointly with another person.

**Overseas adoption agency** – A non-UK based adoption agency that decides whether a person would be a suitable adoptive parent for a non-UK national child, either individually or jointly with another person.

**Expected date of placement** – The date that the child is expected to start living with the adoptive parent(s).

**Individual Self Service (ISS) payslips** – a secure online facility to view payslips during adoption leave.

**Keeping In Touch (KIT) days** – The employee may come into work for up to 10 days during their adoption leave period without bringing their adoption leave or pay to an end.

**Matching certificate** – One or more documents issued by the adoption agency or overseas adoption agency that matched the employee with the child.

**Matching week** – the week when the adoption agency told the primary adopter they had been matched with a child

**Primary adopter** – The person who has been matched with a
child for adoption, or in the case where two people have been jointly matched, whichever of them has been elected to be the child’s adopter for statutory leave and pay purposes.

**Reasonable contact** – Before starting adoption leave, the employee and line manager must agree the contact arrangements that will be in place during adoption leave.

**SAP1 form** – A form issued by the employer to the employee if the employee does not qualify to receive statutory adoption pay.

**Related documents**

To help with the application of this policy it may be useful to read the following:

- Managers’ How to Guide – Adoption
- Annual Leave Time Off policy
- Managing Requests for Flexible Working policy
- Childcare Voucher queries must be managed under the Salary policy
- Overpayments must be managed under the Salary policy
- Pensions Auto-Enrolment policy
- Adoption Cover arrangements - Recruitment Policy
- Pre-adoption appointments – Annual Leave and Time Off policy

**Support**

**Employees:**

Queries should be directed to your line manager.

A confidential Employee Support service is available on freephone 0800 030 5182 (or 0161 836 9498 if calling from a mobile) at any time. Further information is available at http://www3.hants.gov.uk/occupational-health/employee-support.htm

**Managers:**

Further information is available in the How To Guide - Adoption Leave & Pay.

Advice on remaining queries can be directed to the IBC.
## Appendix 1

<table>
<thead>
<tr>
<th>Rates of statutory adoption pay</th>
<th>If the employee qualifies for SAP they will receive:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weeks 1 – 39</td>
<td>• whichever is the lower of the employee’s earnings related rate or the standard rate SAP as prescribed by the government.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rates of occupational adoption pay</th>
<th>If the employee qualifies for OAP they will receive:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weeks 1 – 6</td>
<td>• 90% of contractual pay, or 90% of average weekly earnings, whichever is higher</td>
</tr>
<tr>
<td>Weeks 7 – 18</td>
<td>• 50% of contractual pay or average weekly earnings, whichever is the lower</td>
</tr>
<tr>
<td>Weeks 19 – 52</td>
<td>• No pay</td>
</tr>
</tbody>
</table>

### Combining SAP and OAP

If entitled to a combination of the two payments, these entitlements will be calculated as follows:

| Weeks 1 – 6                       | • payments made under the OAP scheme will be reduced so that the total of SAP and OAP is not more than 90% of contractual pay |
| Weeks 7 – 18                      | • full entitlement to SAP plus full entitlement to OAP are payable, provided that the total is not more than normal full pay. Where it is more than full pay, OAP will be reduced so that full pay is not exceeded. |
| Weeks 19 – 39                     | • SAP entitlements only |
| Weeks 40 – 52                     | • no pay |
Appendix 2 – calculating KIT day payments

**KIT payments**

Although there is no legal requirement to pay for KIT days, the OPCC has elected to make payments to department based staff, irrespective of pay and conditions of employment, on the following basis:

Calculating a daily rate of pay - FTE Salary will be divided by 365.

Calculating a part day payment – the daily rate will be divided by 7.4, and multiplied by the actual number of hours worked.

Payment for working a KIT day will be inclusive of the daily rates of SAP and OAP due to be paid, on the basis that the employee does not earn in that week more than they would have done had they not been on adoption leave.

The line manager must tell IBC of any KIT days that are worked during the adoption leave period and what payments (if any) are to be paid to the employee for working a KIT day.

IBC will update the employee’s adoption leave absence and make any payments requested in the next available pay run.

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**Policy Governance**

<table>
<thead>
<tr>
<th>Hantsfile reference:</th>
<th>14665728</th>
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</table>
| Date of publication: | V1 – November 2014  
V2 – May 2015  
V2.1 – August 2017 |
| Owner:               | HR Operations |

Employees of non Office of the Police and Crime Commissioner bodies are excluded from this policy and should refer to their own employer’s policies and procedures.