

**ADOPTION LEAVE POLICY (OVERSEAS)****1. Adoption Rights and Entitlements**

This policy sets out the rights of employees who adopt a child from overseas to statutory adoption leave and pay.

An employee who adopts a child is entitled to up to 52 weeks' adoption leave from day one of their employment.

An official notification is defined as written notification, issued by or on behalf of the "relevant domestic authority", that it is prepared to issue, or has already issued and sent, a certificate to the overseas authority concerned with the child's adoption, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The relevant domestic authority is defined as the Secretary of State, except in the case of an adopter to whom the Intercountry Adoption (Hague Convention) Regulations 2003 apply and who is habitually resident in Wales, in which case it is the National Assembly for Wales, or one to whom the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003 apply and who is habitually resident in Scotland, in which case it is the Scottish Ministers.

The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave. The employee's maximum entitlement is therefore to take up to 52 weeks' adoption leave.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures as set out below.

**2. Data Protection**

When managing an employee's adoption leave and pay, the Circuit processes personal data collected in accordance with its data protection policy ([Managing Trustees' Privacy Notice - Trustees for Methodist Church Purposes \(tmcp.org.uk\)](https://www.tmcp.org.uk)). Data collected from the point at which an employee informs the organisation that they plan to take adoption leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their adoption leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure.

**3. Statutory Adoption Pay**

Employees who take adoption leave will also qualify for statutory adoption pay, provided that they have 26 weeks' service ending with the week official notification of the adoption was sent and have average weekly earnings not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks. Statutory adoption pay is payable at 90% of normal earnings for the first six weeks, following which it is payable at the rate set by the Government for the relevant tax year (or 90% of normal earnings, if that is lower than the Government's rate).

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

#### **4. Timing of Adoption Leave**

Adoption leave can start on the day on which the child enters Great Britain or on a chosen date no later than 28 days after the child enters Great Britain.

To make administration as easy as possible, the employee should discuss the timing of their adoption leave with their immediate manager as early as possible.

#### **5. Notice Requirements**

To be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the organisation written notification of their intention to take adoption leave. No later than 28 days after the date they receive the official notification, or the date on which they complete 26 weeks' continuous service with the organisation (whichever is later), they must give notice of both the date the official notification was received and the date the child is expected to enter Great Britain.

At least 28 days prior to the date that they have chosen as the beginning of their adoption leave period, they must give notice of the chosen start date, and a declaration that they have chosen to receive statutory adoption pay and not statutory paternity pay (adoption). They must also produce a copy of the official notification.

Within 28 days of the child's entry into Great Britain the employee must inform the organisation of the date of entry and provide evidence of this date in the form of a plane ticket or copies of entry clearance documents.

The employee is permitted to bring forward their adoption leave start date, provided that they advise the organisation in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their adoption leave start date, provided that they advise the organisation in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Within 28 days of receiving the employee's notice of the date on which they intend to begin their adoption leave, the organisation will write to the employee confirming the latest date on which the employee must return to work after adoption leave. Where the employee has provided notice of a revised start date, within 28 days of the date on which the employee's adoption leave period began, the organisation will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

#### **6. Time Off to attend Adoption Appointments**

Employees who are adopting a child are entitled to take time off to attend adoption appointments.

An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments (under s.57J of the Employment Rights Act 1996). Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments (under s.57J of the Employment Rights Act 1996). The other can elect to take unpaid time off to attend up to two adoption appointments (under s.57L of the Employment Rights Act 1996).

The purpose of the appointment is to enable the employee [and their partner] to have contact with the child (for example, to bond with them before the placement) and for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).

## **7. Rights during adoption Leave**

During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. [Salary/wages] will be replaced by statutory adoption pay if the employee is eligible to receive it.

This means that, while sums payable by way of wages or salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid. [The employee will remain in the life assurance and private medical insurance schemes.]

Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

## **8. Contact during Adoption Leave**

The organisation 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.

## **9. Keeping-In-Touch Days**

Employees can agree to work for the organisation (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 organisation 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, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the organisation.

## **10. Returning to Work after Adoption Leave**

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give the appropriate notification. Alternatively, the employee 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 at least eight weeks' notice in writing to the organisation of the date on which they intend to return.

The employee has the right to resume working in the same job if returning to work from ordinary adoption leave. If the employee returns to work after a period of additional adoption leave, they are entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

## **11. Non-Return to Work**

If an employee is unable to return to work at the end of their adoption leave because they are medically unfit, they should report their sickness absence and submit medical certification in the usual way. They will transfer from adoption leave to sick leave. Subsequently the normal sickness procedures will be followed.

If an employee does not return to work following a period of adoption leave, their job remains open and they do not automatically lose their right to return. However, their absence will be treated as unauthorised absence under the disciplinary policies.

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

## **12. Transfer of Adoption Leave**

### *Shared parental leave*

Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the organisation is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs the organisation's agreement).

To be able to take shared parental leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the adopter curtailing their adoption leave.

Employees can refer to the organisation's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the adopter's adoption leave can be curtailed. The organisation's policy on shared parental leave sets out the notice periods with which employees must comply and what evidence they must provide to the organisation. The policy also contains more details on [employees' entitlement to statutory shared parental pay/the organisation's shared parental pay scheme].

The adopter and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.