



# Adoption Leave

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## Version control

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**The purpose of this policy is to inform employees wishing to adopt a child of their statutory adoption rights and entitlements and additional enhancements offered by Transport for the North (TfN).**

## **1. Introduction**

TfN implements the adoption leave rights set out in legislation. This section sets out TfN's policy on adoption for employees adopting a child.

In order to qualify for the right to take adoption leave, an employee must be adopting a child through an approved adoption agency and must have worked for the TfN for a continuous period of 26 weeks calculated as at the week in which they are notified by the adoption agency of having been matched with the child for adoption.

If they are jointly adopting a child with their spouse or partner or civil partner, only one of them will be entitled to take adoption leave. They can choose which adopter will take adoption leave. The other adoptive parent will normally be entitled to take paternity leave, provided they meet the relevant eligibility criteria.

Adoption leave can be taken by male and female employees. No one will be treated less favourably because they are absent on adoption leave or for any other reason connected with the adoption.

Employees will not be discriminated against on the grounds of adoption in areas of training, selection, promotion, job security or in any other Terms and Conditions of Employment.

These provisions apply equally to full and part-time workers regardless of hours worked.

The right to adoption leave is not available to foster parents who adopt a child they are fostering, nor to step-parents who adopt their partner's child.

## **2. Notification of Adoption Leave**

If an employee wishes to take adoption leave, they must inform their Line Manager and the HR & Skills Representative in writing of their request using Adoption Leave Form to be received no later than seven days after the date on which notification of the match with the child is provided by the adoption agency. They must provide written details of the date on which they were notified of having been matched with the child, the date the child is expected to be placed with them for adoption and when they want their adoption leave to start. An Adoption Leave Form can be obtained from the TfN Intranet or from the HR & Skills Representative. As evidence of the entitlement to adoption leave, employees will also be required to provide a copy of the relevant matching certificate and adoption papers from the adoption agency.

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

before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

TfN will formally respond in writing to the notification of leave plans within 28 days, confirming the date on which adoption leave will end if you take your full 52-week entitlement to adoption leave.

Adoption leave can start on the day the child is placed with you for adoption or on a date that is up to 14 days before the expected date of placement.

### **3. Adoption Leave**

Assuming the employee is eligible, they are able to take up to a maximum of 52 weeks adoption leave. This comprises 26 weeks Ordinary Adoption Leave (OAL) and up to 26 weeks Additional Adoption Leave (AAL). This is regardless of the number of hours you work. AAL begins on the day after OAL ends.

### **4. Ordinary Adoption Leave**

Employees are entitled to 26 weeks OAL regardless of how many hours they work or how long they have worked for TfN.

During the period of OAL, contract of employment continues in force and employees are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind will continue, annual leave entitlement will continue to accrue and pension contributions will continue to be made. Pension contributions will be based on their actual pay whilst the TfN's contributions will be based on the salary they would have received had they not gone on adoption leave.

A proportionate amount of salary will be replaced by adoption pay if they are eligible to receive it. On resuming work after adoption leave, they will be entitled to benefit from any general pay increases that may have been awarded in their absence.

Employees should endeavour to take any outstanding annual leave that may be due before the commencement of the ordinary adoption leave. Employees are reminded that holiday should be taken in the year that it is earned, and therefore if the holiday year is due to end during adoption leave, they should take the full year's entitlement before starting their adoption leave as stated in the Holiday section.

### **5. Additional Adoption Leave**

AAL of up to 26 weeks will start immediately after your OAL has ended. The first 13 weeks of AAL will be paid while the last 13 weeks will be without pay.

During the period of AAL, contract of employment continues in force and, as is the case during the period of ordinary adoption leave, employees are entitled to receive all contractual benefits, except for salary. Any benefits in kind will continue and annual leave entitlement will continue to accrue.

A proportionate amount of salary will be replaced by adoption pay for the first 13 weeks of AAL if eligible to receive it. The remaining 13 weeks of AAL will be unpaid.

Pension contributions will continue to be made during the period when they are receiving SAP, but not during any period of unpaid AAL.

## **6. Adoption Pay**

Adoption pay is paid for up to 39 weeks

- The first 6 weeks will be paid at 90% of employee's average earnings, inclusive of Statutory Adoption Pay (SAP)
- The remaining 33 weeks will be paid at 50% of their earnings plus SAP.

Adoption pay is paid into bank account in the same way as salary is normally paid.

Adoption pay is treated as earnings and is therefore subject to income tax and National Insurance deductions. Adoption pay is payable whether or not employees intend to return to work after their adoption leave.

It is important for adoption pay purposes that employees notify their Line Manager if, during the adoption pay period, they are taken into legal custody or start to work for another employer.

## **7. Contact During Adoption Leave**

Shortly before adoption leave starts, TfN will discuss the arrangements for employees to keep in touch during their leave, should they wish to do so. TfN reserves the right in any event to maintain reasonable contact with employees from time to time during adoption leave. This may be to discuss their 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 simply to update them on developments at work during their absence.

## **8. Keeping In Touch (KIT) Days**

Employees may agree to work for TfN for up to a maximum of ten days during either their ordinary or additional adoption leave without that work bringing the period of their adoption leave to an end and without loss of a week's SAP. These are known as 'Keeping In Touch' days. Any work carried out on a day shall constitute a day's work for these purposes.

TfN has no right to require employees to carry out any work, and they 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 TfN and the employee. Any KIT worked do not extend the period of the adoption leave. Once the KIT days have been used up, employee will lose a week's adoption pay for any week in which they agree to work for TfN.

## **9. Returning to Work**

Employees will have been formally advised in writing by TfN of the date on which their adoption leave will end, and the date on which they are expected to return to work if they take the full 52-week entitlement to adoption leave. They are expected to return on their due return date unless they notify TfN otherwise. If they are unable to attend work at the end of their adoption leave due to sickness or injury, the TfN's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

Whilst they are under no obligation to do so, it would assist TfN if employees could confirm as soon as convenient during their adoption leave that they will be returning to work as expected.

If they wish to return to work earlier than their expected return date, they must give TfN, preferably in writing, at least eight weeks' notice of their proposed date of early return. If they fail to do so, we may postpone their return to such a date as will give TfN eight weeks' notice, provided that this is not later than their expected return date.

If they decide not to return to work at all after adoption leave, they must give notice of resignation in accordance with the terms of contract of employment. If the notice period would expire after the adoption leave has ended, TfN may require the employee to return to work for the remainder of their notice period.

## **10. Employees rights on return to work**

On resuming work after Ordinary Adoption Leave, employees are entitled to return to the same job as they occupied before commencing adoption leave, on the same terms and conditions as if they had not been absent. On resuming work after Additional Adoption Leave, again they are entitled to return to the same job as they occupied before commencing adoption leave, on the same terms and conditions as if they had not been absent. If, however, there is some reason why it is not reasonably practicable for TfN to take them back in their original job, they will be offered suitable alternative work of equivalent status and responsibility, and on terms and conditions that are no less favourable than would have applied if they had not been absent.

## **11. Adoption From Overseas**

The conditions are the same except for both leave and pay employees must have worked continuously for at least 26 weeks by the time they get the 'official notification' and complete form SC6 if they're adopting a child with their partner.

The official notification is permission from a UK authority that they can adopt from abroad. Form SC6 confirms they're not taking paternity leave or pay.

## **12. Surrogacy Arrangements**

To qualify for Statutory Adoption Leave and Pay employees must have worked continuously for TfN for at least 26 weeks by the 15th week before the baby's due,

intend to apply for a parental order and expect the order to be granted (for example because you don't have any convictions involving children, and the birth mother or father agree to the arrangement).

All the other conditions for qualifying for pay and leave are the same as for adoptive parents.

If an employee is genetically related to the child (i.e. the egg or sperm donor), they can choose to get paternity leave and pay instead. They can't get both.

### **13. Protection from Redundancy**

The Protection from Redundancy (Pregnancy and Family Leave) Act 2023 enhances protection for those on maternity, adoption or shared parental leave. Those on maternity, adoption or shared parental leave have the right to be offered a suitable alternative vacancy (where one is available) before they are made redundant, essentially giving them priority over any other employees at risk of redundancy.

Employees who are pregnant and those who have recently returned from maternity, adoption or shared parental leave are protected as follows:

- Pregnant employees from the point that they notify TfN of their pregnancy
- Employees returning from maternity, adoption or shared parental leave:
  - Returning from maternity leave: for 18 months from the child's date of birth (or from the expected week of childbirth if TfN is not notified of the date of birth before the end of maternity leave)
  - Returning from adoption leave for 18 months from date of placement (or date of entry into Great Britain in the case of overseas adoption)
  - Returning from shared parental leave: as above if they have also taken maternity or adoption leave. If not:
    - At the end of the shared parental leave (if less than six weeks is taken); or
    - 18 months from the child's date of birth (if more than six continuous weeks is taken).

Employees have the right to claim automatic unfair dismissal where TfN fails to comply with its obligations regarding offering suitable alternative vacancies and the employee is dismissed as a result.

Employees who have suffered a miscarriage before 24 weeks will also be protected. Their length of protection will be from when they notify TfN of their pregnancy until two weeks after the end of the pregnancy.

### **14. Additional Information**

#### **Continuity of employment**

During the period of adoption leave employees will continue to accrue continuous service.

### **Job Opportunities**

TfN does not wish employees to miss out on opportunities for promotion or progression. All internal job advertisements can be sent to employee's home email account or posted to their home address.

### **Staying in Touch**

During the period of leave, TfN wishes to respect employee's special time with their child, so we will not contact them if we can avoid it. However, if there are any significant changes in the business area in which they work or if training opportunities arise their Line Manager will contact them to make sure that they are kept up to date with our current business position.

### **Pensions/health care contributions**

This absence will be treated as pensionable service and therefore we will continue to make contributions, if applicable, on employee's behalf into the Local Government Pension Scheme throughout the paid adoption leave period. Personal contributions (if any) will be deducted from the adoption pay, unless otherwise informed. TfN will continue to make regular contributions to employee's pension scheme at your current rate of pay. Employee's own contributions will be based on the amount of adoption pay they receive. Personal and TfN contributions will continue until the SAP ceases.

### **Neo-natal care**

Parents who have babies in neo-natal care within their first 28 days of their life (for seven continuous days or more) are allowed to take neo-natal leave and pay for up to 12 weeks.

## **15. Time off prior to adopting for the purpose of matching with the child**

Subject to operational requirements, TfN will give employees reasonable time off for meetings with the adoption agency or to attend Court when the adoption order is made up to a maximum 5 days. Employees will be required to provide documentary proof of such appointments to their Line Manager.



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