**Adoption Leave and Pay Policy**

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| **Risk Owner** | People Strategy & Projects Team |
| **Supported By** | Director of People and Culture |
| **Date Approved** | 6 April 2024  |
| **Date for review** | 5 April 2027 |
| **Distribution** | Internal - non confidential |

1. Purpose

This policy and procedure aims to:

* acknowledge the demands adoption places on colleagues and aims to provide support and flexibility to assist the process of adoption.
* provide information and support to colleagues and their manager before, during and at the end of adoption leave;
* ensure that Barnardo’s complies with the requirements of current legislation.
1. Policy

## 2.1 Main rights in adoption

* Not to be dismissed or subjected to a detriment for a reasons related to taking or seeking to take adoption leave;
* Reasonable time off pre-adoption for interviews/appointment
* Adoption leave – up to 52 weeks (if eligible and subject to notification requirements)
* Adoption pay (if eligible)
* With the exception of pay, the right to the benefit of all terms and conditions of employment that would have applied but for absence on adoption leave;
* The right to return to work
* Colleagues who are identified as at risk of redundancy through consultation and who are on adoption, shared parental leave, have the right to be offered any suitable alternative work available. For details see Q11 in the [Redundancy FAQ](https://barnardosorguk.sharepoint.com/%3Aw%3A/s/Employeeandvolunteersupport/EQZm6FtUUJJKqkC-zTuuowUB22GZKRWOh4acUsX_UV0yXg?e=VG1ded) document.

### **2.2** Two partners adopting and working for Barnardo’s

Each partner is entitled to the pre-adoption leave as stated above. However, (subject to meeting the eligibility criteria, only one partner (adopter) is entitled to adoption leave and pay, the other partner is entitled to support leave (adoption) and pay. Subject to eligibility, colleagues can choose which partner takes adoption leave and pay and which partner takes support leave (adoption) and pay. See [Support Leave policy and procedure](https://inside.barnardos.org.uk/support-leave-policy) for further details.

## **2.3 Qualifying for statutory Adoption Leave**

Statutory adoption leave is available to colleagues who meet the following criteria:

* Are newly matched with a child for adoption by an approved UK adoption agency; and
* Have notified the agency that they agree that the child should be placed with them and agree with the date of placement

or

* **In England**, have been notified in writing that a child will be placed with them by such an agency for early permanence under s.22C (9B)(c) of the Children Act 1989. This is also known as ‘Fostering for Adoption’.

or

* **In Northern Ireland**, have been notified in writing that a child will be placed with them by such an agency for early permanence under s.22C (9B)(c) of the Children Act 1989. This is also known as ‘’Placed for Adoption’.

Adoption leave is not available in circumstances where a child is not newly matched for adoption, e.g. when a step-parent is adopting a partner's child/children, or by existing foster carers (adoption via a court order does not count). If colleagues do not meet the qualifying conditions for adoption leave and pay, but are fostering on a long term basis then they may qualify for [Barnardo’s Fostering Leave and Pay](https://inside.barnardos.org.uk/employee-and-volunteer-support/taking-time/fostering-leave-and-pay-policy).

There are additional requirements for those adopting from Overseas (see Section 2.7).

Intended parents in surrogacy who meet certain criteria will also be eligible for statutory adoption leave and pay – please refer to your People Team for further information.

### **2.4 Leave Duration**

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

Eligible colleagues are entitled to take up to 52 weeks adoption leave (comprising up to 26 weeks’ Ordinary Adoption Leave (OLA), followed by up to 26 weeks’ Additional Adoption Leave (AAL)).

### **2.5 Start of leave**

A colleague can choose to start their adoption leave:

* From the date the child is placed for adoption, or
* From the date of placement under a ‘Fostering For Adoption’ or ‘Placed for Adoption’ arrangement, or
* From a predetermined date that can be up to 14 days before the expected date of placement (but no later than the date of placement)

Leave can start on any day of the week.

**Please Note:** current adoption regulations require a child to be placed with the prospective adoptive parents for a minimum of 10 weeks before they can apply for an adoption order. This does not affect an individuals’ entitlement to take adoption leave, which is taken at the placement stage.

Under ‘Fostering for Adoption’ arrangements, colleagues may choose to start their adoption leave from the date of placement, or at the point the child is matched for adoption but only one period of adoption leave can be taken in relation to the same child.

### **2.6 Breakdown of adoption**

If the child's placement ends during the adoption leave period, or in the case of a ‘Fostering to Adopt’ arrangement the placement does not become a permanent adoption, the colleague will be able to continue adoption leave for up to 8 weeks after the end of the week in which the placement breaks down, as follows:

* If the placement ends within 8 weeks of the end of OAL, the colleague may continue with AAL such that it provides for a total period of 8 weeks from the end of the week in which the placement ended.
* If the placement ends within eight weeks of the end of AAL, leave ends on the expiry of the 26 week period.
* In all other cases leave will end 8 weeks after the end of the week in which the placement breaks down.

### **2.7 Adopting from Overseas**

Subject to complying with notification requirements, a colleague qualifies for statutory adoption leave when they adopt a child from overseas if they:

* Have received ‘official notification’[[1]](#footnote-1) from the relevant UK authority of their eligibility to adopt a child from abroad;
* Have been continuously employed with Barnardo’s for at least 26 weeks’ by the time they have received official notification or by the time their adoption leave is due to begin, whichever is the later;
* Are the child’s adopter. This is the person who will adopt or has adopted the child, or in the case of a joint adoption, the person who has chosen to take statutory adoption leave in respect of the child.

Notification of the intention to take statutory adoption leave is required in three stages:

1. The colleague must confirm the date on which they received ‘official notification’ and the date the child is expected to enter the UK;

*Please note: where the colleague already has the necessary qualifying service when they received the ‘official notification’, they must provide this information within 28 days of receiving this. Where the colleague receives the ‘official notification’ before they have the necessary qualifying service, they must give notice within 28 days of achieving the qualifying length of service.*

1. Colleagues must give at least 28 days’ notice of the actual date they want their statutory adoption leave to start. (This can be given at the first notification stage if the date is known).

*Please note: leave cannot start before the child enters the UK. The colleague can change their mind about the date on which they want the leave to start, as long as they give 28 days’ notice of this, or as soon as is reasonably practicable.*

1. Colleagues must confirm the date the child entered the UK within 28 days of the child’s date of entry.

Colleagues are required to tell Barnardo’s straight away (or as soon as is reasonably practicable) if they find out that the child will not be entering the UK.

Colleagues must provide evidence to prove eligibility for SAP – see Section 2.9.

## **2.8 Adoption Pay**

Entitlement varies according to length of service with Barnardo’s leading into the week in which they are notified of matching or placement under a ‘Fostering For Adoption’ or ‘Placed for Adoption’ arrangement.

To qualify for SAP, additional conditions apply to adoptions from abroad – see Section 2.7.

All payments are instead of, not additions to, normal pay, and will cease when the colleague returns to work. They are treated as earnings which means they are subject to deductions for tax and national insurance.

### **2.9 Categories of Adoption Pay**

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| **Eligible Colleagues** | **Type of Pay** | **Amount of Pay** |
| Colleagues with at least 26 weeks’ **continuous service** with Barnardo’s leading into the week in which notified of matching /placement under ‘Fostering For Adoption’ or ‘Placed for Adoption’ | 39 weeks’ Statutory Adoption Pay (SAP) | 6 weeks @ 90% of average earnings, followed by 33 weeks of standard rate SAP (£184.03[[2]](#footnote-2) or 90% of weekly pay, whichever is the lesser). |
| Colleagues with at least 1 year’s **Barnardo’s service** leading into the week in which notified of matching/placement under ‘Fostering For Adoption’ or ‘Placed for Adoption’, employed by Barnardo’s when their adoption leave commences and continues to be employed by Barnardo’s. | Barnardo’s Adoption Pay (BAP) | SAP as above for 39 weeks, plus commencing from week 7 (total not to exceed normal weekly pay): * 55% of contractual weekly pay for 12 weeks; OR
* 50% of contractual weekly pay for 13.2 weeks; OR
* 33% of contractual weekly pay for 20 weeks; OR
* 30% of contractual weekly pay for 22 weeks.
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For the definition of ‘**Barnardo’s service**’ see [Colleague Handbook](https://inside.barnardos.org.uk/sites/default/files/2023-11/Barnardo%27s%20Colleague%20Handbook.pdf), Appendix B Glossary of Terms

### **2.10 SAP**

Average earnings are calculated over a set period leading up to the date of receiving the matching certificate/written confirmation of the early permanence in a ‘Fostering for Adoption’ or ‘Placed for Adoption’ arrangement. In order to qualify for SAP average earnings must not be less than the lower earnings limit for paying National Insurance Contributions.

SAP starts on the first day of adoption leave. Monthly payment will fluctuate i.e. payment will be made for either 4 weeks or 5 weeks, depending on the month.

Provided the colleague does not work during the 39 weeks other than KiT days, SAP is payable regardless of whether the colleague intends to return to work or actually returns to work after adoption leave.

To qualify for SAP when a child is being adopted from abroad, colleagues must also provide the following evidence: an original ‘official notification’ (see footnote 1 above); evidence of the child’s date of entry into the UK; and a declaration that they are not claiming Statutory Paternity Pay (SPP).

### **2.11 BAP**

Once payment of BAP begins the payment option chosen (see table above) cannot be changed.

BAP is calculated on salary immediately prior to adoption leave and is dependent upon the colleague returning to work for a minimum of 3 months following the end of adoption leave. If the colleague fails to do so, Barnardo’s will reclaim all BAP paid. A colleague who is uncertain whether they will be returning to work may defer receiving payment of BAP until they return.

A colleague who has received BAP during adoption leave and does not return to work for the minimum 3 month period due adoption and starting another period of adoption leave will not be asked to repay BAP at that time provided they intend to return to work following the subsequent adoption leave. No further BAP will be paid and if the colleague does not return to work for a minimum of 3 months following the end of the subsequent adoption leave, Barnardo’s will reclaim the BAP (see above).

If a colleague on adoption leave is unable to return to work for three months’ due to redundancy, they will not be required to repay any BAP they have received.

Some local authorities award a maintenance payment to adoptive parents. All local authorities assess the child to establish whether the prospective adoptive parents are entitled to an adoption allowance, e.g. if the child presents high support needs. This may be means tested and is reviewed annually. It is payable until the child reaches the age of personal responsibility. Neither allowance affects the adoption pay outlined above.

## **2.12 Pre-Adoption Leave**

All colleagues are entitled to reasonable paid time off for interviews/appointments with social workers, adoption agencies and solicitors’ etc.

The colleague must show their appointment card (or other written confirmation of the appointment) to their manager.

The colleague must give their line manager as much notice as possible of pre-adoption appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

Eligible parents partners are also entitled to time off to accompany the main adopter to two antenatal appointments – see Barnardo’s [Support Leave policy](https://inside.barnardos.org.uk/support-leave-policy) for further details if the parent /partner is a Barnardo’s colleague.

## **2.13 Other entitlements and conditions of service**

While salary payments will cease, all other benefits will continue during adoption leave, and continuity of service is maintained.

### **2.14 Annual leave and bank holidays**

Colleagues will continue to accrue annual leave during paid and unpaid adoption leave (except for teaching colleagues[[3]](#footnote-3)). Such leave must be requested and approved in the usual way. Leave can be taken before and/or after adoption leave, with line manager approval.

Colleagues will continue to accrue bank holidays during paid and unpaid adoption leave. The amount of bank holidays owing should be calculated before adoption leave commences and the colleague should decide, with their line manager, when it is appropriate for this leave to be taken. Bank holiday entitlement should be calculated separately from annual leave entitlement.

See [Annual Leave and Bank Holiday Policy](https://inside.barnardos.org.uk/annual-leave-and-bank-holiday-entitlements) for further information.

**2.15 Term Time Only (TTO) colleagues**

Irrespective of the fact that they are deemed to be taking their holidays during non-working periods, TTO colleagues are entitled to opt to take their leave at a time other than during adoption leave. TTO colleagues and their managers should discuss the options with their People Team.

### **2.16 Childcare vouchers salary exchange**

Colleagues receiving childcare vouchers when commencing adoption leave have the right to continue to receive them throughout the leave period. BAP payments will be reduced by the voucher cost. During any period of SAP only or no pay period, the cost of the vouchers must be borne by the service/department.

### **2.17 Cyle to work salary exchange**

Colleagues cannot opt out of this scheme. Colleagues participating in this scheme when commencing adoption leave are entitled to retain their bike throughout the leave period. If a colleague is receiving SAP only or is in a no-pay period, the cost of bike payments must be borne by the service/department. If the hire period has not expired, the salary exchange arrangements will continue when the colleague returns to work.

### **2.18 Annual Pay Award**

### A colleague's eligibility for any agreed annual pay award will not be affected by the taking of adoption leave.

### **2.19 Pension scheme - Barnardo’s Retirement Savings Plan (BRSP)**

Barnardo’s will continue to pay employer contributions during OAL and any period of paid AAL. The amount of these contributions will be based on earnings immediately prior to adoption leave.

Members on adoption leave will continue to pay their colleague contributions while they are receiving contractual pay which exceeds any statutory pay.

BRSP members paying contributions via salary exchange benefit from Barnardo’s paying both the colleague and employer contributions to their pension account during OAL and any period of paid AAL. Barnardo’s will make up the balance of the colleague’s salary exchange contribution due so that each contribution matches the contribution immediately prior to adoption leave contributions.

Colleagues who elect to opt out as a result of adoption may opt back into the scheme following the adoption of their child, when they return to work, or on 1st April each year. Pension salary exchange opt-out and opt-in forms are available from the People Team.

## **2.20 Keeping in Touch Days (KiT Days)**

Colleagues may work for up to 10 days during their adoption leave without ending or extending their adoption leave or affecting their adoption pay. Payment for these days will be at the colleague’s normal rate of pay. These days do not have to be worked concurrently.

‘Work’ means any work done under the contract of employment and may include training or attending meetings.

Any day on which work is carried out (regardless of the number of hours worked) counts as one of the 10 KiT days. Colleagues will be paid their normal rate of pay[[4]](#footnote-4) for the actual hours worked on the day.

The colleague and their manager must mutually agree that these days are to be worked. There is no obligation for managers to offer them or for colleagues to work them.

## **2.21 Shared Parental Leave**

A colleague may choose to end their adoption leave early and request any remaining leave (and pay where appropriate) be shared with the other parent/ their partner (as long as they meet the eligibility criteria). For further details on eligibility and notification requirements please refer to the [Shared Parental Leave policy.](https://inside.barnardos.org.uk/employee-and-volunteer-support/taking-time/shared-parental-leave)

1. **Scope**

The policy applies to all colleagues directly employed by the charity. Eligibility to entitlements will vary according to each colleague’s length of continuous service with Barnardo’s.

1. **Roles and Responsibilities**

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| Roles | Responsibilities  |
| Risk Owner | Ultimately accountable for ensuring the risk is managed appropriately and responsibilities include keeping this policy remains fit for purpose, ensuring training is delivered, risk reporting is undertaken and the risk register is kept current. |
| Colleagues | Are responsible for complying with the notification, certification and documentary evidence requirements within the deadlines set out in this policy.  |
| Line Managers  | Are responsible for discussing and agreeing any period of adoption leave with their colleague; ensuring any agreed periods of adoption leave are notified to their People Team. |
| People Team | Are responsible for advising and guiding colleagues and line managers on this policy; confirming in writing any agreed periods of maternity leave and pay to the individual; and ensuring that the leave and pay details are correctly recorded and actioned. |
| People Strategy & Projects Team | Are responsible for reviewing this policy at 3 yearly intervals, however, any legal or organisational developments may prompt more frequent reviews.  Any statutory changes will be incorporated automatically. |

1. **Procedures**

## **5.1** Notification requirements for adoption leave & pay

See also Section 2.7 on Adopting from overseas

To qualify for statutory adoption leave and pay, an eligible colleague must inform their manager of their intention to take adoption leave within 7 days of being notified by the adoption agency that they have been matched with a child for adoption or fostering for adoption in England, or ‘Placed for Adoption’ in Northern Ireland. If it is not reasonably practicable to meet this deadline, as much notice as possible must be provided.

* The colleague must complete the Adoption Leave Planner & Application Form[[5]](#footnote-5) and pass it to their manager in order to confirm the date when the child is expected to be placed with them and when they want their adoption leave to start; to confirm the adoption they must submit the matching certificate/written confirmation of early permanence for ‘Fostering For Adoption’ or ‘Placed for Adoption’ arrangements. Failure to do this could jeopardise the rights to start adoption leave on the intended day and to receive SAP/BAP (if entitled).
* The People Team must write back to the colleague within 28 days to confirm the latest date the colleague may be expected to return to work. This is 52 weeks from the date the leave period commences (although colleagues may wish to return sooner).
* A colleague may change the date on which they want adoption leave and pay to start, providing they tell their manager at least 28 days in advance.

## **5.2 Reasonable Contact**

Prior to a colleague starting adoption leave, the manager and colleague should agree the appropriate level and methods of contact to be maintained between them during adoption leave. Contact can be used to discuss a colleague’s plans for returning to work or to provide the colleague with an update on developments at work during their absence.

Colleagues should be kept informed of any potential changes in the workplace that could affect them and be given the opportunity to be involved in any consultation that takes place whilst they are on adoption leave.

## **5.3 Returning to work**

Barnardo’s will assume the colleague will take their full 52 week period of adoption leave and return to work at the end of this period.

If the colleague wishes to return to work early they must give at least eight weeks’ notice in writing of the date they intends to return. Failure to provide this notice will enable Barnardo's to postpone the return date to allow for 8 weeks’ notice. Any further change requires the same notice.

Eligible colleagues may also choose to end their adoption leave early in order to switch into Shared Parental Leave (see section 2.21).

The colleague may also wish to take parental leave, if eligible, to extend their period of leave. A maximum of 4 weeks unpaid leave can be taken in any one year, with approval of the line manager – see [Parental Leave Policy & Procedure](https://inside.barnardos.org.uk/employee-and-volunteer-support/taking-time/unpaid-parental-leave-policy) for further information.

Colleagues who are sick following the completion of adoption leave must submit a medical certificate and comply with Barnardo's absence from work procedure.

Where practicable, support will be provided to colleagues returning to work after adoption leave in order to assist their smooth transition back to work.

**5.4 Not returning from adoption leave / resignation**

If a colleague decides not to return to work from adoption leave they must write to their manager giving the period of notice set out in their contract of employment. Notice can be given at any time before or during adoption leave.

1. **Associated Legislation, Guidance, References and Documents**
* Shared Parental Leave Policy and Procedure
* Barnardo’s Support Leave Policy and Procedure
* Health & Safety Policy New and Expectant Mothers
* Guidance - managing the health and safety of new and expectant mothers
* Maternity Leave Planner & Application Form
* Leave Curtailment Notice
* Additional Leave Paid and Unpaid
* Family Friendly Policies Sources of Support
* Employment Rights Act 1996
* Employment Relations Act 1999
* Employment Act 2002
* Work and Families Act 2006
* Paternity and Adoption Leave (Amendment) Regulations 2014
1. **Compliance and Oversight**

In addition to the compliance and oversight arrangements set out under Roles and Responsibilities, the following applies:

* The Risk Owner will ensure that management information demonstrating adherence to and compliance with this Policy is produced and provided to relevant parties as required and on request complete a business self-assessment;
* The Audit and Assurance Team will periodically and independently review adherence to and compliance with this Policy and associated procedures and processes across the Charity in line with their approved audit and inspection plans;
* People Teams monitoring of general adherence to policy;
* Feedback from UNISON and Barnardo’s Equality, Diversity & Inclusion (EDI) Networks
1. **Version History**

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| --- | --- | --- | --- | --- |
| Document History | Date | Author | Comments | Approval |
| 2.0 | 01.12.14 | Policy & Advice Team | Put into new format and simplified.Changes to BAP |  |
| 2.1 | 05.04.15 | Policy & Advice Team | Update to SAP rate |  |
| 2.2 | 01.04.16 | Policy & Advice Team | Update to reflect pay and reward changes and addition of Fostering For Adoption arrangements |  |
| 2.3 | 02.12.16 | Policy & Advice Team | Addition of Placement for Adoption arrangements |  |
| 2.4 | 02.04.17 | Policy & Advice Team | Update to SAP rate |  |
| 2.5 | 06.04.19 | Policy & Advice Team | Update to SAP rate |  |
| 2.6 | 05.04.20 | People Strategy & Projects Team | Update to SAP rate |  |
| 2.7 | 02.08.22 | People Strategy & Projects Team | Updated to reflect agreed review date |  |
| 2.8 | 01.04.23 | People Strategy & Projects Team | Policy transferred into new template and updated to reflect 10% uplift to BAP options |  |
| 2.9 | 07.04.24 | People Strategy & Projects Team | Update to include, new brand, SAP rate and reference to new redundancy protection legislation. |  |

1. ‘Official notification’ is written notification issued by or on behalf of the relevant domestic authority stating that the authority either is prepared to issue a certificate to the overseas authority dealing with the adoption of the child, or has issued a certificate and sent it to that authority. [↑](#footnote-ref-1)
2. The rate from 7 April 2024. [↑](#footnote-ref-2)
3. People Teams will clarify this if required. [↑](#footnote-ref-3)
4. For colleagues receiving SBP / BAP this will involve their pay being ‘topped up’ to their normal pay rate. [↑](#footnote-ref-4)
5. This is designed for UK adoptions – colleagues adopting from overseas can use this as a guide but must adhere to the notification requirements set out in this policy – see Adopting from overseas. [↑](#footnote-ref-5)