

Sustain's adoption policy

Sustain wants to help staff members who choose to adopt a child or children. We will be flexible and supportive; we invite you to discuss your circumstances with Sustain to help us work out how best to do so. We will treat people adopting a child in the same way as we do biological parents; and we will not discriminate on the basis of gender, sexual orientation nor other personal characteristics, in line with our diversity and inclusion policies.

This policy sets out your rights and our mutual responsibilities on adoption leave, adoption pay, and other issues relating to adoption. The policy is designed to be as comprehensive as possible, however people's individual circumstances do vary, and if you have any queries that are not answered, or if you have any other questions about the policy, please contact Sustain's HR Manager (usually Sustain's Head of Finance or a member of the Senior Management Team). Please note that this policy does not cover people who work with Sustain on freelance contracts.

Sustain implements, and in some aspects exceeds, the adoption leave rights set out in legislation. Adoption leave is in addition to parental leave (see Sustain's *Parental Leave Policy*). Shared parental leave and pay can be considered as an alternative to adoption leave and pay (see Sustain's *Shared Parental Leave Policy*). It is also additional to paid annual leave entitlement.

A useful website for information is: <https://www.gov.uk/employers-adoption-pay-leave>

1. Adoption rights

You have the following key adoption rights:

- Adoption leave
- Adoption pay

2. Notification of adoption

You should inform Sustain's HR Manager (usually Sustain's Head of Finance or a member of the Senior Management Team) in writing of your request to take adoption leave no later than 7 days after the date on which notification of the match with the child is provided to you by the adoption agency. You must provide written details of the date on which you were notified of having been matched with the child, the date the child is expected to be placed with you for adoption and when you want your adoption leave to start. As evidence of your entitlement to adoption leave, you will also be required to provide a copy of the relevant matching certificate and adoption papers from the adoption agency.

You can bring forward your adoption leave start date, provided you advise Sustain in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. You can also postpone your adoption leave start date, provided you advise Sustain in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Sustain will formally respond in writing to your notification of your leave plans within 28 days, confirming the date on which your 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

For the right to take adoption leave, you must be adopting a child through an approved adoption agency. Adoption leave is a "day one" right, so there is no qualifying period.

If you are jointly adopting a child with your spouse or partner or civil partner, only one of you will be entitled to take adoption leave. You can choose which adopter will take adoption leave. The other adoptive parent will normally be entitled to take "paternity leave". Note: "Paternity leave" allows the other expectant parent in the relationship to take time off from work after the adoption of your child. This leave may be available to the employee, regardless of their gender or of the gender they identify with, provided they meet the relevant eligibility criteria (see Sustain's *Paternity Leave Policy*). Eligible adoptive parents may also consider curtailing their adoption leave and taking Shared Parental Leave instead (see Sustain's *Shared Parental Leave Policy*).

If you are adopting a child you are fostering, you must be matched for adoption by a recognised agency to be eligible for Statutory Adoption Leave or Pay.

The right to adoption leave is not available to step-parents who adopt their partner's child, special guardians, employees who adopt via a private adoption or employees who have a child through surrogacy.

You are entitled to up to 26 weeks' ordinary adoption leave (OAL) followed immediately by up to 26 weeks' additional adoption leave (AAL) (presuming you qualify for the leave). This gives you a maximum of 52 weeks' leave in total. Only one period of leave is available even if you are adopting more than one child.

If the child's placement ends during adoption leave, you will be able to take up to eight weeks' adoption leave after the end of the placement.

Ordinary adoption leave

During the period of ordinary adoption leave, your contract of employment continues and you are entitled to receive all your contractual benefits, except for salary. In particular, annual leave entitlement will continue to accrue and pension contributions if appropriate will continue to be made. Salary will be replaced by statutory adoption pay (SAP) if you

are eligible to receive it. On resuming work after adoption leave, you will be entitled to benefit from any general pay increases that may have been awarded in your absence.

You should endeavour to take any outstanding annual leave that may be due to you before the commencement of your ordinary adoption leave. Holiday should be taken in the year that it is earned (with Sustain allowing employees to carry over up to 5 days (pro rata) to the next year), and therefore if the holiday year is due to end during adoption leave, you should take the full year's entitlement before starting your adoption leave. Details of your personal situation and preferences can be discussed in relation to any carry-over days.

Additional adoption leave

During the period of additional adoption leave, your contract of employment continues and, as in the case during the ordinary adoption leave, you are entitled to receive all your contractual benefits, except for salary. Annual leave entitlement will continue to accrue.

4. Statutory adoption pay (SAP)

Employees will be entitled to Statutory Adoption Pay if you have been employed by Sustain for at least 26 weeks, and if you earn at least £120 a week, before tax, for at least 8 weeks before the week you are matched with a child.

Under statutory regulations, for the first six weeks an employee is entitled to 90% of their average weekly earnings, and for the following 33 weeks they are entitled to be paid at the statutory adoption pay rate. Under Sustain's Adoption Policy, employees who meet the eligibility criteria are entitled to be paid 90% of normal pay for weeks 1-6, 50% of normal pay for weeks 7-11, and for the following 28 weeks they are entitled to be paid at the statutory adoption pay rate.

If you become eligible for a pay rise between the start of the original calculation period and the end of your adoption leave (whether ordinary or additional adoption leave), the higher or standard rate of SAP will be re-calculated to take account of your pay rise, regardless of whether SAP has already been paid. This means your SAP will be re-calculated and increased retrospectively, or that you may qualify for SAP if you did not previously. You will be paid a lump sum to make up any difference between SAP already paid and the amount payable as a result of the pay rise.

SAP is paid into your bank account in the same way as salary is normally paid. SAP is treated as earnings and is therefore subject to income tax and National Insurance deductions. SAP is payable whether or not you intend to return to work after your adoption leave.

It is important for adoption pay purposes that you notify Sustain's HR Manager (usually Sustain's Head of Finance or a member of the Senior Management Team) if, during the adoption pay period, you are taken into legal custody or start to work for another employer.

5. Contractual benefits

You will continue to receive your contractual benefits for the full period of your adoption leave period with the exception of pay where SAP or Adoption Allowance applies.

You are entitled to continue with your pension contributions during Adoption Leave. Whilst your own contributions are lower due to your Adoption Pay being lower than your regular wages, Sustain will continue to contribute based on your level of pay before adoption leave i.e. what we are currently contributing on a monthly basis. Please confirm with the HR Manager whether you would like to do this or not.

6. Holidays

While you are absent on Adoption Leave, you will continue to accrue holiday entitlement in the usual way on a *pro rata* basis but on a higher holiday entitlement, than your normal 'basic' annual leave. This is to take into account the various public holidays and office closures (total 11 days) over the year.

You must take this additional holiday within 12 months of your return to work. There may be an option to receive pay *in lieu*, but this must be discussed with Sustain's HR Manager.

7. Contact during adoption leave

Shortly before your adoption leave starts, your line manager will discuss the arrangements for you to keep in touch during your leave, should you wish to do so. Sustain would like - and is entitled - to maintain reasonable contact with you from time to time during your adoption leave, e.g. to discuss your plans for return to work or update you on developments at work. It is helpful if you can indicate how much contact you would like, preferably by providing a contact email address.

You may agree to work for Sustain (or attend training) for up to 10 days during either your Ordinary Adoption Leave or Additional Adoption Leave without that work bringing the period of your adoption leave to an end and without loss of SAP. These are called keeping in touch (KIT) days.

There is no obligation on your part to work keeping in touch days nor on Sustain's part to provide them; it is entirely a matter of an agreement between both parties.

Any keep in touch days worked do not extend the period of adoption leave. Once the keep in touch days have been used up, you would lose a week's SAP for any week in which you agree to work for Sustain.

8. Returning to work

You will have been formally advised in writing by Sustain of the date on which your adoption leave will end and the date on which you are expected to return to work if you take your full 52-week entitlement of adoption leave. You are expected to return on this date, unless you notify Sustain otherwise. If you are unable to attend work at the end of

your adoption leave due to sickness or injury or for another serious personal reason such as bereavement, you will be expected to comply with the reporting procedure set out in Sustain's *Sickness and Absence Policy* or other policies relevant to your personal circumstances. In any other case, late return without prior authorisation will be treated as unauthorised absence.

It would help Sustain if you can confirm as soon as convenient during your adoption leave when you will be returning to work, especially if your plans or circumstances change. If you wish to return to work earlier than your expected return date, you must provide Sustain with 8 weeks' notice, preferably in writing. If you don't, Sustain reserves the right to insist that you do not return until the 8 weeks have passed (provided this is not later than your expected return date), usually in order to have time to manage the employment relationship with the person providing parental (or maternity) leave cover.

If you decide not to return to work at all after adoption leave, you must give notice of resignation as soon as possible and in accordance with the terms of your contract of employment. If the notice period would expire after your adoption leave has ended, Sustain may require you to return to work for the remainder of your notice period.

9. Your rights and responsibilities on return to work

According to the ACAS rules, which Sustain abides by:

- If you return to work after Ordinary Adoption Leave you have the right to return to the same job on the same terms and conditions.
- If you return to work after taking Additional Adoption Leave you also have the right to return to the same job. If however it is not reasonably practical for you to resume your original role then you have the right to return to another job, which is both suitable and appropriate in the circumstances (described as 'suitable alternative employment' – see further information below), if there is a suitable vacancy.

If you do not wish to return to work after adoption leave, you must give notice in line with the terms and conditions of your employment contract.

If your original job is continuing, but you would like to apply for another job vacancy at Sustain, then you are free to apply in the normal way. This will not affect your rights to continue in your existing job, if you are unsuccessful in your application or if you choose not to accept an offer from Sustain of employment in this different job.

Should your position become redundant during Ordinary or Additional Adoption Leave, or if your contract expires during the period of adoption leave, or if there is some other reason why it is not reasonably practicable for Sustain to take you back in your original job, you are entitled to be offered suitable alternative employment (if such employment is available) of equivalent status and responsibility and on terms and conditions that are no less favourable than would have applied if you had not been absent. Sustain will offer you suitable alternative employment, if such employment is available.

If no suitable alternative employment is available, then you will be offered redundancy in line with the terms and conditions of your employment contract.

As ACAS explains, the meaning of 'suitable alternative employment' depends on:

- how similar the work is to your current job
- the terms of the job being offered
- your skills, abilities and circumstances in relation to the job
- the pay (including benefits), status, hours and location.

In some circumstances, Sustain may need to conduct a review and interview process with you to determine whether a role meets the 'suitable alternative employment' criteria and to help you understand what you are being offered. Sustain may also need to do this to balance and manage different legal, employment, contractual and funder commitments and responsibilities. If you are asked to participate in such activities during your period of adoption leave, this will be treated as part of your KIT days. Sustain will endeavour to keep things as clear and simple as possible, and to consult you and inform you of the process and reasons for decisions throughout.

If you are offered suitable alternative employment by Sustain, you do not have to accept it. However, you should be aware that you may lose your right to statutory redundancy pay if you unreasonably turn down an offer of suitable alternative employment. If you do turn a first offer down, Sustain will endeavour to find you other suitable alternative employment, however we are not obliged to do so after a first offer has been turned down. If there is no other suitable alternative employment at Sustain, then Sustain may need to offer you redundancy.

You have the right to a four-week trial period for any suitable alternative employment that you are offered. The four-week period could be extended if you need training. Any extension must be agreed in writing before the trial period starts. Tell Sustain during the trial period if you decide the new job is not suitable for you. This will not affect your employment rights, including your right to statutory redundancy pay. You will lose your right to claim statutory redundancy pay if you do not give notice within the four-week trial period.

Sustain will ask you to provide contact details (usually a personal email address and/or a phone number) to enable us to notify you during your maternity leave of any opportunities for suitable alternative employment, or other employment opportunities with Sustain. There will be a deadline attached to any offer of suitable alternative employment, and to any review or interview process, and Sustain will give you reasonable notice and time to respond. If you miss a deadline to respond, then Sustain reserves the right to offer the opportunity to someone else.

10. Adoptions from overseas

If you adopt a child from overseas, you may still be entitled to statutory adoption leave and pay. Special rules apply in these circumstances.

11. Flexible working

You have the right to apply for flexible working. It is Sustain’s policy to promote flexible working arrangements for all employees and in particular for people returning from maternity, adoption and other parental leave. Further details, including the procedure to be followed, can be found in Sustain’s *Flexible Working Policy*.

12. Data protection

Sustain will treat all information about adoption and parental circumstances with care, compassion and the utmost sensitivity. We will not disclose the status of your child, or your legal relationship with your child, without your express consent to do so, or unless required to do so by an appropriate authority or regulator. We will not ask for any details of your child’s or children’s background or circumstances, other than those required for implementation of this policy, or if we agree with you that it would be useful for us to understand more details in order to help you manage your personal circumstances.

For the period of your absence, any fulfilment of your employment tasks by a temporary member of staff will be treated as, and described as, temporary parental (or maternity) leave cover. As a point of principle, we will not make reference to ‘adoption’ in public-facing documents to maintain the privacy of you, your family and your child or children.

In the implementation of this policy, Sustain may process personal data and/or special category personal data collected in accordance with its GDPR and data protection policy. Data collected from the point at which this policy is invoked will only inform the organisation for the benefit of implementing this policy. All data is held securely and accessed by, and disclosed to, individuals only for the purposes of this policy. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation’s GDPR and data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation’s disciplinary procedure.

13. Information for internal use

Date of most recent update:	11/05/21		
Reviewer and lead on policy:	Kath Dalmeny, Quoc-anh Tran, Merav Shub, working with CBR Solutions		
Considered by management team:	Yes / No	Done (date):	01/05/21
Approved by (usually Chief Executive):	Kath Dalmeny	Done (date):	11/05/21
Sustain Council of Trustees approval required?	Yes		
At which Council meeting?	May 2021	Done (date):	05/05/21
Is this policy in the list of ‘required’ policies?	Yes		
For <u>required</u> policies only, updates include (describe the changes in brief list format; keep and add older date to list of previous updates):	Policy published as part of HR Healthcheck 2021, adapted from CBR Solutions template		

<i>Note: For <u>discretionary policies</u>, updates will be recorded in Sustain Council meeting minutes.</i>	
Next review date (minimum period – usually three years – or if prompted by legislative change; or in the interim at the discretion of Sustain/trustees):	May 2024
Filed in Sustain drive (drive and folder names):	Line managers drive / HR policies
Publish privately on intranet? (include the final part of the file location – page name not full URL):	www.sustainweb.org/intranet/parental-policies
Publish publicly on Sustain website? (include location – full URL):	No
Policy adapted from template provided by CBR Solutions: www.cbrsolutions.org.uk	