

Adoption Leave and Pay Procedures

These Procedures apply to all categories of eligible male and female staff adopting a child. This includes parents in surrogacy and 'foster to adopt'¹ arrangements.

1. Entitlement to Adoption Leave

Employees who are newly matched with a child for adoption are entitled to 26 weeks Ordinary Adoption Leave (OAL) and a further 26 weeks Additional Adoption Leave (AAL).

Only one parent can take adoption leave (the primary adopter). Their partner (the secondary adopter) may qualify for paternity leave; this applies to parents in same or opposite sex relationships.

The adoption must either be through an adoption agency which is recognised in UK law, or if the adoption is from overseas, be approved by the relevant domestic authority.

Adoption leave is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's child/children.

In surrogacy arrangements, if the intended parents have applied, or intend to apply for a Parental Order, subject to meeting qualifying conditions the nominated primary adopter, will be eligible for adoption leave and pay. Subject to meeting qualifying conditions, the surrogate mother is eligible for maternity leave and pay.

2. Entitlement to Adoption Pay

Statutory Adoption Pay (SAP)

Employees who are taking adoption leave and meet the eligibility criteria are entitled to 39 weeks Statutory Adoption Pay (SAP). This applies whether they intend to return to work or not.

Basic requirements for eligibility are that the employee must have at least 26 weeks continuous service with the University at the beginning of the week they are matched with the child and average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions.

Once an application for adoption leave has been made the Staff Payments Office will advise on eligibility.

SAP is paid for the first 6 weeks at 90% of average weekly earnings and then for a further 33 weeks at a standard rate of adoption pay (a set rate which is reviewed each year), or 90% of average weekly earnings, whichever is the lower.

¹ Foster to Adopt arrangements apply in England only

Occupational Adoption Pay (OAP)

Employees who have 12 months continuous service with the University before the beginning of the week when the child is expected to be placed with them, and who intend to return to work after their adoption leave, will receive full occupational pay for the first 18 weeks of the adoption leave period. Where continuous service with the University is for less than 12 months this entitlement to full pay will be on a pro-rata basis. Any SAP due during the period of full pay will be included in full pay.

Associate Lecturers are entitled to receive up to 18 weeks OAP, subject to 12 months continuous service at the start of the adoption leave period, provided this coincides with the normal pay period for the module presentation that they teach.

Employees who do not return to work after adoption leave for at least 3 calendar months will be required to repay the difference between SAP and OAP, except those who leave for reasons of redundancy or fixed-term contract staff whose contract expires within the OAP period (see Adoption Leave and Pay Policy for details).

3. Notification Requirements

Notification of Intention to take Adoption Leave.

Adoptions from within the UK

Employees must notify the University in writing of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption (unless this is not reasonably practicable).

The notification should include:

- the date on which the child is expected to be placed with them
- the date they wish the leave to start. This must either be the date of the child's placement (this will then vary should the placement be earlier or later than expected), or a fixed predetermined date which is no more than 14 days before the expected date of placement
- confirmation of intention to return to work

The 'matching' certificate or a letter from the adoption agency will be required (this will include basic information on matching and expected placement dates).

Adoptions from Overseas

Employees must notify the University in writing of their intention to take adoption leave within 28 days of receiving official notification from the relevant domestic authority that they are eligible to adopt (this notification will be required by the University)

The notification to the University should include:

- the date on which the employee received official notification
- the expected date of the child's entry into the country
- confirmation of intention to return to work

At least 28 days notice must then be given of the actual date which the employee wants the adoption leave to start (this can be from the date the child enters Great Britain, or from a fixed, predetermined date no later than 28 days after the date of entry).

Within 28 days of the child entering the country the employee must give further evidence of the date of entry e.g. entry clearance documents.

Response to Notification

The University will confirm in writing within 28 days the employees expected return to work date, the amount of OAP the employee will receive, and the notification requirements if the employee wants to return earlier than 52 weeks from the start of adoption leave. Details of entitlement to SAP will be provided in writing by the Staff Payments Office.

4. Change of Start Date

Notification

Employees can change the date they want to start their leave providing they give at least 28 days notice in writing (unless this is not reasonably practicable).

5. Return to Work before the end of the Full Adoption Leave Period (i.e. before the end of 52 Weeks)

The employee may return to work before the end of the 52 week period, providing they notify the University in writing at least 8 weeks before the proposed date of return. Where this notification is not provided the return to work may be postponed by the University to a date that will enable the 8 weeks' notice of return, subject to this being no later than the end of the 52 week adoption leave period. In the event of the return to work being postponed, there is no contractual obligation to salary during this period.

6. Terms Which Apply During Adoption Leave

Contractual Benefits

An employee will continue to receive all of their contractual benefits such as holiday accrual throughout their adoption leave (i.e. during ordinary adoption leave and additional adoption leave). Holidays accrued must be taken in accordance with the employees' terms and conditions.

Employees who are currently receiving Computershare Voucher Services Childcare Vouchers may continue to receive these whilst on leave, if they so wish, by contacting the People Hub (Academic Services team for Associate Lecturers).

Pension rights will continue during the adoption pay period (OAP and SAP) – see section 11.

Annual Leave – Internal Staff

Employees are entitled to take their annual leave for the leave year in which adoption leave is taken, before and/or after adoption leave. Annual leave cannot usually be carried over from one annual leave year to the next. If the end of the annual leave year (31st July) is due to fall during the adoption leave period, the employee should ensure (in discussion with their line manager) that, where operationally feasible, they have taken the remainder of their entitlement for the current leave year before starting their adoption leave period.

Where it is not possible to take annual leave either before or after adoption leave within the same leave year, in exceptional circumstances annual leave may be carried forward into the next leave year. The timing of this leave must be agreed in advance with the line manager (it may be agreed that it is possible to take leave before returning to work, or at agreed times throughout the following leave year, subject to operational needs). Public Holidays and closure days that fall within the adoption leave period are recorded as additional leave and can be taken at the end of the adoption leave period and immediately prior to returning to work or added to the annual leave entitlement on return to work.

Managers are encouraged to discuss and plan with their members of staff the taking of annual leave around the adoption leave period at an early stage, making it clear what is operationally feasible in terms of timing.

Where a member of staff is changing to part-time working on return from adoption leave and there is a substantial amount of outstanding leave which will be difficult to accommodate operationally, consideration should be given to this being taken before the contractual change takes place, in discussion with the individual.

Annual Leave - Associate Lecturers

In accordance with the Associate Lecturers' terms and conditions of service, Associate Lecturers should ensure that they take all annual leave in a part of the leave year during which they are being paid. A record should be kept of any annual leave taken.

Keeping in Touch (KIT) days

Managers can make reasonable contact with employees during their adoption leave (e.g. to let them know about any changes happening at work). The kind of contact which will be maintained should be agreed with the employee beforehand.

Employees can carry out up to 10 days work during their adoption leave period without losing their entitlement to SAP or bringing their adoption leave to an end. Any work on any day will constitute a day's work for this purpose. This can include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Employers do not have the right to require an employee to work during the adoption leave period, nor does the employee have the right to insist that the employer provides any days of work during that period. Any work carried out under this provision will not have the effect of extending the total duration of the adoption leave period.

The University will enhance the statutory payment and pay full pay for KIT days, except during the full-pay period when the employee is already receiving full payment.

KIT days will be paid at the employees' normal rate of pay. This will be paid at either a full day or half day depending on the number of hours worked.

Redundancy

Where it is not possible for an employee on adoption leave to continue in their role as a consequence of redundancy, they are entitled in law to be offered any suitable alternative vacancy. The work has to be suitable and appropriate for them. The terms and conditions of the new job must be substantially no less favourable than if they had continued under their previous contract. If such an alternative role exists it must be offered to them without a competitive process. The employee on adoption leave must be given priority for such a role over any employee at risk and must not be put into competition with any other staff not on adoption leave, regardless of whether there are other people at risk who might have been suitable for the post. The University has responsibility for deciding whether a vacancy is suitable, after considering aspects such as function, location, pay and reasonableness based on the knowledge of the personal circumstances and will make every effort to identify a suitable acceptable alternative. Appropriate consultation will take place but special arrangements may be necessary if adoption leave has commenced. Any new role will be offered subject to a trial period.

7. Consultancy payments for University staff during adoption leave

Where a member of staff undertakes consultancy work for the University (i.e. work outside of their contract of employment) during their adoption leave period, they will lose the right to receive any SAP which would have been payable in relation to the week(s) in which the

work was undertaken. This will not affect any entitlement to OAP under the University's adoption leave scheme. If the work is undertaken in one of the first 6 weeks of adoption leave (when SAP is payable at a higher rate), this period will be extended so that the individual still receives 6 weeks of SAP at the higher rate. The overall duration of the statutory adoption pay period will not be extended. A Keeping In Touch (KIT) day cannot be used to undertake the consultancy work.

8. Return from Adoption Leave

Statutory Unpaid Parental Leave

Where eligible, employees will be entitled to a period of up to 4 weeks unpaid parental leave immediately following the 52 weeks of adoption leave (see the Unpaid Parental Leave Policy for more details)

Employment Position

If employees return to work after the ordinary adoption leave period (the first 26 weeks of leave) they retain the right to return to the job in which they were previously employed under their contract of employment. If they return during or immediately after the additional adoption leave period (the second 26 weeks of leave) they have the right to return to their own job or suitable alternative employment on terms and conditions not less favourable than those which would have applied if adoption leave had not been taken. When an employee returns to work they will benefit from any improvements made to their rate of pay or other terms and conditions while they were on adoption leave.

Agile Working

The University will seriously consider all requests for changes to working arrangements (on either a temporary or permanent basis) following adoption leave, in accordance with the 'Agile Working Policy'.

Personal circumstances can be disclosed and will be taken into consideration when making decisions concerning such requests. Employees should be aware that student focus and operational effectiveness take precedence in any considerations about agile or flexible working.

9. The Right to attend Adoption Appointments

All employees, and qualifying agency workers, are entitled to time away from work to attend adoption appointments.

The Primary Adopter is entitled to up to 5 paid appointments. The Secondary Adopter is entitled to up to 2 unpaid appointments. However, the University will pay employees for up to two appointments at the basic rate of pay.

This right to have unpaid time off to attend antenatal appointments will also apply to intended parents in a surrogacy arrangement, which means they can attend up to two antenatal appointments with the surrogate. The University will pay these at basic rate of pay.

It is expected that no more than half a day of pre-authorised absence from work will be required for each adoption appointment and the University will support up to a maximum of six and a half hours for each paid appointment, in order to allow for travel and waiting time, plus attendance at the adoption appointment.

Any additional time and/or appointments may be taken as annual leave.

Qualifying agency workers may take the statutory time off as unpaid leave and should notify their employment agency directly.

Notification Requirements

Any employee who wishes to apply to take paid leave to attend an adoption appointment is required to provide the following details, in writing, to their line manager:

- a) whether they are the Primary or Secondary Adopter
- b) the date and time of the appointment.

The request for time off should provide reasonable notice of the appointment and may be used to attend introduction meetings or other appointments, as necessary.

10. Shared Parental Leave (SPL) and Shared Parental Pay (ShPP)

Eligible employees can decide whether to exercise their right to take SPL.

If they choose to do so, the primary adopter must provide appropriate notice to end his or her adoption leave early. SPL can be taken at any time during the period that starts immediately from the date of the placement and ends 52 weeks after that date.

The remaining weeks of leave/statutory pay may then be shared with the secondary adopter, where eligible to do so. The SPL and ShPP may be taken in blocks by the parents/partners, either consecutively or concurrently, so long as the correct notice period is provided to the employer(s) and that the employer(s) agree with the proposed patterns of leave.

The entitlement for the primary adopter to take adoption leave and receive adoption pay remains unchanged - if the primary adopter decides to continue on adoption leave (as per the University's Adoption Leave and Pay policy) and not to take SPL and ShPP, they may do so and need take no further action.

Further guidance can be found in the Shared Parental Leave and Pay Policy and Procedures on the HR Intranet.

11. Pension Arrangements

During adoption leave those staff who are members of the pension scheme will:

- Continue to pay member pension contributions which will be based on the level of actual pay received (the University will make up any shortfall resulting from a reduction in earnings during paid adoption leave);
- Continue to build up pensionable service while in receipt of any form of adoption pay. During unpaid adoption leave pensionable service will be suspended, and there will be a gap in the pensionable service record unless the individual elects to make up the contributions on their return to work.
- Continue to benefit from life cover or incapacity benefits, whilst on suspended membership during adoption leave.

A gap in the pensionable service record arising from suspended membership whilst on adoption leave can be made up on return to work, as long as the individual elects to do so within six months of returning from adoption leave. In these circumstances the contributions due would be based on the salary earned on return to work, and the University would pay the usual employer contribution. The arrears are due over the same period as the length of suspended membership. Please refer to the relevant information on the USS website for further details.

12. Useful References

Adoption Leave and Pay Policy

Unpaid Parental Leave Policy

Agile Working Policy

Shared Parental Leave and Pay Policy

Unpaid Career Break Policy (for Staff with Caring Responsibilities)

Line Managers Guide: Redundancy and Redeployment of Staff who are on Maternity/Shared Parental/Adoption Leave

USS website: www.USS.co.uk