



## **Adoption and Surrogacy Policy**

### **Index**

<b>1. Introduction to adoption and surrogacy rights and benefits</b>	<b>p.2</b>
<b>2. Who qualifies for statutory adoption pay and how much will the employee receive?</b>	<b>p.2</b>
<b>3. University Adoption Pay</b>	<b>p.2</b>
<b>4. Adopting from Overseas</b>	<b>p.3</b>
<b>5. Adopting through Surrogacy</b>	<b>p.3</b>
<b>6. Other Options</b>	<b>p.4</b>
<b>7. Timing of adoption leave</b>	<b>p.4</b>
<b>8. Notice requirements</b>	<b>p.4</b>
<b>9. Time off to attend adoption appointments</b>	<b>p.5</b>
<b>10. Rights during adoption leave</b>	<b>p.5</b>
<b>11. Parental Order parents</b>	<b>p.5</b>
<b>12. Contact during adoption leave</b>	<b>p.6</b>
<b>13. Keeping-in-touch days</b>	<b>p.6</b>
<b>14. Returning to work after adoption leave</b>	<b>p.6</b>
<b>15. Transfer of adoption leave</b>	<b>p.7</b>

## **1 Introduction to adoption rights and benefits**

- 1.1 This policy sets out the rights of employees to statutory and University adoption leave and pay. An employee who adopts a child through an approved adoption agency or surrogacy arrangement is entitled to up to 52 weeks' adoption leave from day one of their employment.
- 1.2 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 maximum entitlement is therefore up to 52 weeks' adoption leave. A minimum of 2 weeks' leave must be taken by the main adopter.
- 1.3 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 Who qualifies for statutory adoption pay and how much will the employee receive?**

- 2.1 Employees who take adoption leave will also qualify for statutory adoption pay (SAP), provided that they have 26 weeks' service calculated as at the week in which notification of matching was given by the adoption agency 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).
- 2.2 Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take statutory adoption leave. Local authority foster parents who are also prospective adopters ("foster to adopt") are entitled to take adoption leave.
- 2.3 Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

## **3 University Adoption Pay**

- 3.1 Employees who have continuous service with the University of 26 weeks or more at the start of the week you are matched with a child(ren) and provide a written statement of intent to return to work with the University after your Adoption Leave, will be entitled to the University's occupational scheme (University Adoption Leave or UAL).
- 3.2 Employees will be paid through the Payroll, monthly and on the same date and in the same manner as applies to your salary payments at the following rates:
  - 16 weeks on Full Pay;

- 10 weeks on Half Pay;
- 13 weeks during which SAP is payable subject to eligibility; and
- 13 weeks Unpaid Leave.

3.3 UAL with full pay includes any SAP entitlement. SAP at the lower rate will be paid in addition to half pay to those eligible for it for a maximum of 10 weeks provided that no combination of payments exceeds full pay.

3.4 Employees on return from UAL will be eligible to 1 weeks' full pay per month for a maximum of 4 months. Payments will be made through Payroll.

3.5 If an employee fails to return to work after Adoption Leave or, when they do return to work, fail to remain in employment at University of London for a minimum of four months from the date of return, entitlement to UAL is replaced by the relevant statutory scheme and employees will be required to repay the non-statutory elements of adoption pay inclusive of any return payments you may be receipt of, as cited at 3.4.

#### **4 Adopting from Overseas**

4.1 You have the same rights to adoption pay if you are adopting a child from overseas. In addition to the conditions detailed in section 4 you must:

- sign a [SC6](#) form if you are adopting a child with your partner;
- have at least 26 weeks' service by the time you get your 'official notification' or when you start to receive adoption pay.

4.2 If you haven't completed 26 weeks' service by the time you receive official notification, you might be able to get more time to complete it before the child enters the UK and is placed with you.

#### **5 Adopting through Surrogacy**

5.1 You have the same rights to adoption pay if you are adopting a child through a surrogacy arrangement. In addition to the conditions detailed in section 4, you must:

- have at least 26 weeks' service by the 15th week before the baby's due date;
- have entered into a surrogacy arrangement where the baby will be placed with you as the intended parent upon their birth;
- be the primary carer of the baby;
- intend to apply for a Parental Order;
- 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).

## **6 Other options**

- 6.1 If you don't qualify for SAP, we will issue you with a [SAP1](#) form explaining why you can't get statutory adoption pay.
- 6.2 You should contact your adoption agency who may be able to offer help.
- 6.3 You may also be able to apply for support from your local council.

## **7 Timing of adoption leave**

- 7.1 Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier.
- 7.2 An employee should discuss the timing of their adoption leave with their manager as early as possible.

## **8 Notice requirements**

- 8.1 To be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the University written notification of their intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends their adoption leave to start.
- 8.2 The employee is permitted to bring forward their adoption leave start date, provided that they advise the University 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. The employee must also, if the organisation requests it, provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.
- 8.3 Within 28 days of receiving the employee's notice of intention to take adoption leave, the University will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

## **9 Time off to attend adoption appointments**

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

- 9.2 An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments (under s.57ZJ 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.57ZJ of the Employment Rights Act 1996). The other can elect to take unpaid time off to attend up to two adoption appointments (under s.57ZL of the Employment Rights Act 1996).
- 9.3 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).
- 9.4 The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.

## **10 Rights during adoption leave**

- 10.1 During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory and / or University adoption pay if the employee is eligible for it.
- 10.2 This means that, while sums payable by way of wages/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.
- 10.3 Annual leave entitlement shall accrue in the usual way during adoption Leave. However you may not take accrued annual leave during your adoption Leave.

Annual leave entitlement must therefore be applied prior to going on adoption leave and/or prior to returning to work following adoption leave. Please note that the normal provisions with regard to the carrying of leave between leave years shall apply and there is no automatic entitlement to carry leave forward to the next leave year.

## **11 Parental Order parents (intended parents in a surrogacy arrangement)**

- 11.1 Employees who are Parental Order parents must notify the University that they want to take adoption leave by the 15th week before the baby's due date. This notice must include the baby's expected week of birth.
- 11.2 As soon as is reasonably practicable after the baby's birth, employees must notify the University of the baby's date of birth in writing.

- 11.3 Employees who are Parental Order parents must begin their adoption leave and pay on the day the baby is born (or the following day if they are at work on the day the baby is born).
- 11.4 The University may ask the Parental Order parent to provide a statutory declaration that they have obtained, or have applied for/intend to apply for, a Parental Order.

## **12 Contact during adoption leave**

- 12.1 The University 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.

## **13 Keeping-in-touch days**

- 13.1 Employees can agree to work for the University (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.
- 13.2 The University has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave.
- 13.3 After calculation of the amount that would be payable calculated at your normal pay rate for the number of hours performed on a KIT Day, such payment shall only be made where that amount exceeds the amount paid to you (including Statutory Adoption Pay) under the relevant adoption leave scheme for that day.

### **11.2**

In most cases, additional payments shall only therefore become due when you perform work on a KIT Day during the period of your adoption leave when only Statutory Adoption Pay is payable or when on unpaid adoption leave.

## **14 Returning to work after adoption leave**

- 14.1 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 University of the date on which they intend to return.

- 14.2 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.
- 14.3 Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.
- 14.4 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 University as soon as possible and in accordance with the terms of their contract of employment.

## **15 Transfer of adoption leave**

### **Shared parental leave**

- 15.1 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.
- 15.2 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 University 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 University's agreement).
- 15.3 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.
- 15.4 The adopter and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

## **Human Resources**

**April 2023**