

# UNIVERSITY OF ABERDEEN

## ADOPTION/SURROGACY PROCEDURE

### 1 INTRODUCTION

The University of Aberdeen is committed to fully supporting you if you are adopting a child. This Adoption Procedure outlines your rights and responsibilities and the adoption leave and pay benefits you can expect to receive.

This procedure is applicable to those who are adopting a child either through a legal surrogacy arrangement or an adoption agency.

If you are a birth parent in a legal surrogacy arrangement you have the same maternity rights as any other pregnant employee, irrespective of what happens after childbirth. Guidance should be followed as per the Maternity/Birth Parent Leave procedure.

If you are fostering for adoption you will become eligible for adoption pay and leave from when the child comes to live with you (provided you have at least 26 weeks continuous service for adoption pay).

Members of staff will not qualify for adoption/surrogacy leave or pay if they arrange a private adoption; become a special guardian or kinship carer; adopt a stepchild; or adopt a family member.

The following definitions are used throughout this Procedure

- **Matching Week** – the week, starting on a Sunday, in which you are notified in writing by an adoption agency of having been matched with a child.
- **Expected Placement Date** - the date on which an adoption agency expects that it will place a child into your care with a view to adoption.
- **Placed Date** – the date on which the child starts living with you on a permanent basis.
- **Ordinary Adoption Leave (OAL)** – the first 26 weeks of adoption leave
- **Additional Adoption Leave (AAL)** – a further period of up to 26 weeks' leave in addition to Ordinary Adoption Leave.
- **Statutory Adoption Pay** – a payment to you by the University from the Government, if you meet certain qualifying criteria. Paid for up to 39 weeks at the statutory rate set by the Government in the relevant tax year.
- **Adoption Allowance (AA)** - Paid to eligible employees who are not entitled to SAP/OAP, by the Job Centre Plus, for up to 39 weeks.
- **Matching Certificate** - A form that only the adoption agency responsible for conducting the adoption of the child in question can complete.
- **Parental Order** – A court order which makes the intended parents the legal parents of a child and permanently extinguishes the parenthood of the surrogate and their spouse.

### 2 ADOPTION LEAVE AND PAY ENTITLEMENTS

#### 2.1 Adoption Leave

If you are employed by the University and are the main/primary adopter you are entitled to receive 52 weeks Adoption Leave, irrespective of your length of service. In the case of overseas adoptions, you must have 'official notification' (permission from a UK authority) that you can adopt from abroad.

Adoption Leave is available when a child, up to the age of 18, is placed for adoption with you. If both partners are employed by the University of Aberdeen, either can choose to use adoption leave, whilst the other may choose to use shared parental leave or parental leave. Adoption Leave is only available for a child being matched and does not apply if there is no agency involved, e.g. if you are formally adopting a stepchild. If you are adopting more than one child at the same time i.e. twins/siblings you are only entitled to one period of adoption leave.

For employees adopting via a surrogacy arrangement the same leave entitlement applies as detailed above.

Adoption Leave can start:

- *UK adoptions* – on the date the child starts living with you or up to 14 days before the expected placement date. The period of leave must start no later than the date the child is placed (or the next day if the adoptive parent was at work on the Placed Date)
- or in the case of surrogacy subject to a parental order, the day the child is born or the day after, whether this is earlier or later than expected;
- *Overseas adoptions* – the date the child arrives in the UK or within 28 days of this date.

Confirmation of the actual date of placement/birth must be given to the HR department once the child has been placed/born.

If the placement ends during the period of adoption leave, adoption leave can continue for up to a further 8 weeks, unless your entitlement to leave and/or pay would have ended earlier in the normal course of events.

Once your adoption leave dates have been agreed, you can postpone or bring forward your chosen start date by informing your Human Resources Adviser in writing, at least 28 days (or as soon as possible thereafter) before your leave was due to start.

Further information about returning to work following your adoption leave is available in Section 3.3.

## **2.2 Shared Parental Leave**

If you decide to return to work early (and without using your full 52 weeks entitlement to adoption leave) you may be eligible for Shared Parental Leave (SPL) which enables eligible parents to choose how to share the care of their child during the first year of adoption.

Intended parents in a surrogacy arrangement are entitled to take shared parental leave during the year from the birth, if both parents qualify and the parent taking adoption leave returns to work early or curtails (reduces) adoption leave.

The earliest SPL may commence is 2 weeks after the matching date of your child, or in the case of surrogacy subject to a parental order, 2 weeks after the day the child is born or the day after, whether this is earlier or later than expected. The minimum period of SPL is one week, and the maximum period is 50 weeks. SPL must be taken during the 12 months after your child's adoption. Further information is available in the Shared Parental Leave Policy which is accessible from the Policy Zone at <http://www.abdn.ac.uk/staffnet/governance/policies-procedures-plans-and-guidelines-399.php>

## 2.3 Adoption/Surrogacy Pay

The right to adoption/surrogacy pay is available to only one parent in a couple jointly adopting or one of the intended parents subject to a legal surrogacy parental order. The couple will be able to jointly elect which partner takes adoption/surrogacy leave whilst the other partner may be entitled to paternity/co-maternity leave and pay or shared parental leave and pay.

### 2.3.1 Adoption/Surrogacy Allowance ( for employees with less than 26 weeks service)

If you have less than 26 weeks service ending with the week (beginning with the Sunday and ending the Saturday) in which you are notified of having been matched with a child or have less than 26 weeks service by the qualifying week and are subject to a legal surrogacy arrangement, you will normally be entitled to Adoption Allowance from the local Job Centre Plus. Please contact Payroll or HR for further information.

### 2.3.2 Statutory Adoption/Surrogacy Pay:

If you have 26 weeks continuous service and you meet the minimum earnings requirement you are entitled to receive 39 weeks of paid adoption leave. You will also be entitled to take 13 weeks of unpaid adoption leave following on from your 39-week period of paid adoption leave.

In surrogacy arrangements you must have been continuously employed by the University for at least 26 weeks up to any day in the 15th week before the baby is due.

The University provides several options in relation to adoption pay benefits. Your entitlement to adoption pay is based on:

- your earnings during a specific time period before your Matching Week
- your length of service with the University of Aberdeen
- whether or not you intend to return to work following your adoption leave

You will still be eligible to receive Statutory Adoption Pay (SAP) if you leave the University after your Matching Week e.g. if you resign or if your fixed term contract ends, and you have already been notified by an agency that you have been matched with a child. In this situation, your entitlement to receive SAP begins either the day after your employment ends or 14 days before the Expected Placement Date, whichever is the later.

The University provides 5 options for adoption leave and pay entitlements, with varying levels of benefits. The options available to you are outlined in below and summarised in Appendix 1.

## 2.4 Occupational Adoption Benefits (Option 1)

If you have been continuously employed by the University for 52 weeks prior to the end of your Matching Week/ the week your child is born (in the case of surrogacy) and you indicate that you intend to return to work following your adoption leave, any statutory entitlements may be supplemented by the University's occupational adoption leave benefits.

The pay which you will receive during this period will include any entitlement to Statutory Adoption Pay (SAP) from the Government. Where you agree that you will return to post for a minimum of 6 months following your period of adoption leave, you are entitled to choose either of the following Occupational Adoption Pay options:

**Option 1a** 18 weeks of full pay (inclusive of Statutory Adoption Pay (SAP)), followed by 21 weeks at the appropriate rate of SAP

**Option 1b** 9 weeks of full pay (inclusive of SAP), followed by 18 weeks of half pay (inclusive of SAP), followed by 12 weeks at the appropriate rate of SAP

You will also be entitled to take 13 weeks of unpaid adoption leave following on from this 39-week period of paid adoption leave.

You should note that if you qualify to receive Occupational Adoption Pay and decide that you do not wish to return to work after your adoption leave, or if you leave the University before the end of 6 months, you will only be eligible to receive Statutory Adoption Pay. Therefore, you will be required to repay the occupational element of your adoption pay, pro rata to the amount of time (if any) you returned to work.

## **2.5 Statutory Adoption Benefits (Option 2)**

To qualify for SAP, you must have been continuously employed by the University for at least 26 weeks into your Matching Week and be earning a minimum amount set by the Government. The weekly rate of SAP and the minimum rate of earning required to qualify for it are set by the Government and reviewed annually. Information about the current rate of SAP is available online at <https://www.gov.uk/adoption-pay-leave/pay>

If you qualify for SAP, you will be entitled to receive it for a maximum period of 39 weeks and the amount you receive will depend on your earnings. SAP is paid as follows:

Weeks 1 to 6 - 90% of your average weekly pay

Weeks 7 to 39 - 90% of your average weekly pay or the standard rate of SMP set by the Government (whichever is lower)

You will also be entitled to take 13 weeks of unpaid adoption leave following on from this 39-week period of adoption leave.

## **2.6 Undecided about Returning to Work (Option 3)**

Prior to commencing adoption leave you may be undecided about whether you will return to work following the adoption. The University will allow you to postpone your decision until 6 weeks after your Matching Week. In this case, where originally you would have been entitled to receive the University's Occupational Adoption Leave benefits, you will initially receive any appropriate statutory payment due to you.

Your HR Adviser will contact you 6 weeks after your Matching Week and request confirmation of your decision. You will be required to confirm your decision within 2 weeks of their request. If you decide to return to work, you will receive retrospective payment of the University's Occupational Adoption Pay entitlement, if eligible.

If you decide not to return, and so resign from your post, you will continue to accrue contractual benefits (excluding normal pay) until the end of your notice period. Upon the expiry of your notice period, you will continue to receive SAP only until your entitlement to receive this payment ends. You will be asked to give the University notice of your resignation as per your contract of employment. Your last day of employment will then be notified to you, in writing, by Human Resources. If you have given notice that you will not be returning to work, you cannot reverse this decision without the University's agreement. This does not affect your right to receive SAP.

## **2.7 Not Returning to Post (Option 4)**

If you do not intend to return to work following your adoption leave, you must give the University notice of your resignation as stated in your contract of employment. Even if you choose not to return to your post, you still have the right to receive 26 weeks of Ordinary Adoption Leave and 26 weeks Additional Adoption Leave.

However, you will be required to repay any University Occupational Adoption Pay received over and above any SAP to which you are entitled before your last date of employment.

The normal qualifying criteria for SAP (as outlined in Section 2.4) will still apply.

### **3 ADOPTION PROCEDURE**

#### **3.1 Prior to Commencing Adoption Leave**

For the University to help you in making appropriate arrangements to support you during the adoption/surrogacy process, you should discuss your forthcoming adoption leave with your Line Manager and arrange to meet your HR Adviser to discuss your entitlements as early as possible.

You should confirm your Expected Placement Date (EPD) and the date on which you would like your adoption leave to start to your HR Adviser within 7 days of receiving notification from the adoption agency that it has matched you with a child by completing an Adoption Leave application form (Appendix 2)

At least 15 weeks before the due date, employees in surrogacy arrangements must tell us when the baby is due and when you want to start your leave.

On receipt of your Adoption Leave Application Form you will receive a letter confirming your entitlements.

#### **Adoption**

You must also provide us with your Matching Certificate at least 28 days before your adoption leave commences. This certificate should confirm the agency's name and address, the name and date of birth of the child, the date you were notified of the match and the EPD.

In the case of overseas adoptions, you must have 'official notification' (permission from a UK authority) that you can adopt from abroad.

#### **Surrogacy**

In the case of surrogacy, you must provide proof of a legal surrogacy agreement or proof that you intend to become the baby's legal parent e.g. parental order.

You will be allowed to take reasonable time off with pay during working hours for formal visits and appointments relating to the adoption in the UK. You should give your Line Manager as much notice as possible of these appointments and you may be requested to provide evidence of them. This entitlement does not cover time spent travelling overseas to arrange an adoption or to visit a child. The main/primary adopter will be able to take paid time off for up to five adoption appointments, the secondary adopter will be entitled to take unpaid time off for up to two appointments.

##### **3.1.2 Antenatal appointments**

If you intend to apply for a parental order you are entitled to take unpaid time off to accompany the surrogate mother to two antenatal appointments.

#### **3.2 Placement Disruption**

In the event of a disruption to the placement of a child, the entitlement to leave will remain in place for 8 weeks following the disruption (or until the end of the adoption leave period if that is sooner).

A disruption will be deemed to have occurred where an employee has commenced adoption leave prior to the child/children's placement and they are then informed that the placement will not be made; where the child/children are returned to the adoption agency during the adoption leave; or when an adoption process is disrupted through the death of the child/children during the adoption leave. Employees must give 8 weeks' notice if they are returning to work earlier than expected because of a disrupted placement.

#### **3.3 During your Adoption Leave**

### ***Keeping in Touch (KIT Days)***

We may make reasonable contact with you from time to time during your adoption leave e.g. to make arrangements for your return to work or to notify you of developments in your School/Section etc.

KIT days cannot be worked during the 2-week period of compulsory adoption/surrogacy leave.

You can work (including attending training or conferences) for up to 10 days during your adoption leave without bringing your adoption leave or Statutory Adoption Pay (SAP) to an end

These days are called 'keeping in touch days' as the purpose of them is to allow you to keep up to date with changes in the workplace/participate in important meetings/attend training/conferences etc.

KIT days are optional, you are not obliged to undertake any such work during your adoption leave. Both you and your line manager need to agree to you working a 'keeping in touch' day.

Your right to adoption leave and pay is not affected by taking KIT days however there are some things that you should consider before you opt to take a KIT day. Please refer to the HR Handbook for further guidance:

<https://www.abdn.ac.uk/staffnet/working-here/leave-6719.php#panel5490>

If you wish to utilise "KIT" days, you should contact your Line Manager in the first instance.

### **3.4 Returning to Work**

You do not need to give notice of your return to work date unless you wish to return before the date stated on your Adoption Leave Application Form.

If you wish to return to work earlier than had been agreed prior to the start of your Adoption Leave, you should advise your HR Adviser, in writing, giving at least 8 weeks' notice of the date you intend to return. If you wish to return to work later than had previously been agreed, you should either request paid annual leave or unpaid parental leave. The relevant Procedures are accessible from the Policy Zone.

If you are unable to return to work due to sickness or injury, this will be treated as sickness absence in line with the University's Sickness Absence Management Procedure.

If you wish to return to work on alternative working arrangements, you should refer to the Flexible Working Procedure and discuss your request with your Line Manager and/or HR Adviser. You should raise this as early as possible to allow full consideration to be given to your request. If you do return to reduced, part-time hours, your adoption pay will not be affected as your adoption pay is based on your earnings prior to your adoption leave period.

When you return from Adoption Leave, you will normally return to your original job. In some cases, a return to your original job may not be possible e.g. as a result of restructuring within your School/Section. In such circumstances, you will be guaranteed to return to a post with no less favourable terms and conditions. In all cases your return to work will be without loss of seniority or status.

It is recognised by the University that when you return from adoption leave, it is important that reasonable steps are taken to facilitate a smooth re-integration to your workplace. In this connection, your Line Manger will provide you with appropriate support to ensure that you become familiar with any changes which have taken place in your absence and, where appropriate, to re-focus your research and/or teaching profile.

## **4 TERMS AND CONDITIONS OF EMPLOYMENT DURING ADOPTION LEAVE**

All the terms and conditions of your employment remain in force during your adoption leave, except for those relating to normal pay and pension benefits.

### **4.1 Continuity of Service**

The date of your continuous service with the University is not affected by any period(s) of adoption leave which you take. This means that there will be no break in service during your absence on adoption leave.

### **4.2 Pay**

You will continue to receive all pay awards and any increments which are due to you during your adoption leave. If you are on a period of unpaid leave when such awards become due, your salary will be adjusted upon your return to work.

### **4.3 Annual Leave**

Your contractual annual leave entitlement shall continue to accrue throughout the period of your adoption leave. You can, with your Line Manager's agreement, add your annual leave entitlement onto the beginning or end of your adoption leave. Arrangements for carrying over annual leave entitlement should be discussed and agreed with your Line Manager.

Where you do not return to work following your adoption leave, you will be paid for your accrued holidays.

### **4.4 Pensions**

During any paid period of adoption leave, the University will continue to pay employer's contributions to your pension scheme for as long as you continue to make contributions. The percentage paid will be based on what your earnings would have been if you had not been on adoption leave. The period during which you receive paid adoption leave also counts towards your pensionable service.

During unpaid adoption leave, the University will not make employer's contributions into your pension scheme. You do not have to make any contributions, but you may do so if you wish. It should be noted that if you choose to make these contributions, you would be required to pay both employer and employee contributions to the scheme. If you choose not to make such contributions, your membership of the pension scheme will be suspended, and the period of unpaid adoption leave does not count as pensionable service.

Further information about your pension benefits and how they will be affected by your adoption leave is available from the Pensions Office ([pensions@abdn.ac.uk](mailto:pensions@abdn.ac.uk)).

### **4.5 Resignation**

If you choose to resign from your post, you will continue to accrue contractual benefits (excluding normal pay), until the end of your notice period. Upon the expiry of your notice period, you will continue to receive SAP only until your entitlement to receive this payment ends.

Approved by University Court on 30 June 2015

Revised version approved by Policy and Resources Committee March 2020

**OPTION SUMMARY**

The options for adoption leave and pay which are available to you are summarised as follows;

| <b>Options</b>  | <b>Criteria</b>   | <b>Adoption Leave Entitlement</b> | <b>Adoption Pay Entitlement</b>  |
|---|---|-----------------------------------|--|
| Occupational Adoption Leave Scheme<br>(Options 1a and 1b) | Minimum of 52 weeks' service into your Matching Week/ the week you child is born in the case of surrogacy<br><br>Intention to return to work for at least 6 months following Adoption Leave   | Up to 52 weeks                    | <b>Option 1a</b><br>18 weeks of full pay ;<br>21 weeks of Statutory Adoption Pay (SAP)<br>13 weeks unpaid<br><br><b>Option 1b</b><br>9 weeks of full pay;<br>18 weeks of half pay<br>12 weeks of SAP<br>13 weeks unpaid            |
| Statutory Adoption Leave Scheme<br>(Option 2)             | No service criteria for leave but a minimum of 26 weeks' service into your Matching Week for pay<br><br>Employees in surrogacy arrangements must have been continuously employed by the University for at least 26 weeks up to any day in the 15th week before the baby is due. | Up to 52 weeks                    | <b>Option3</b><br>39 weeks of Statutory Adoption Pay (SAP)<br>13 weeks unpaid  |
| Undecided About Returning to Work<br>(Option 3)           | Undecided about whether to return to work or not following Adoption Leave   | Up to 52 weeks                    | Any statutory entitlement (SAP).<br><br>However, if you qualify for the University's Occupational Adoption Pay scheme and decide to return to work for a minimum period of 6 months, you will receive retrospective payment of OAP |
| Not Returning to Post<br>(Option 4)                       | Decided not to return to work following Adoption Leave  | Up to 52 weeks                    | Any statutory entitlement (SAP).   |



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|-----------------------------------|---|
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