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Applicable for placement on or after 5 April 2015

## **Introduction**

Care should be taken to distinguish adoption leave from the potential entitlement to pay during the period covered by this policy. In addition to this there are differences between benefits prescribed by law (statutory) and those provided for under the University Enhanced Adoption Pay Policy.

The University of Nottingham also has several other relevant policies, which the employee may wish to refer to. These are: Special Leave for Unplanned and Urgent Domestic, Personal and Family Reasons, Parental Support, Maternity Leave, Carer's Leave, Career Break, Job Share and Flexible Working.

The Flexible Working Code of Practice is available at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/worklifebalance/flexibleworking/index.aspx>.

All other policies are available in the Human Resources web site at: [www.nottingham.ac.uk/hr](http://www.nottingham.ac.uk/hr).

The respective forms are available in [UniCore](#), within the Document of Records section.

Employees who are adopting may wish to speak to their line manager or contact Human Resources by raising a Service Request in [UniCore](#) to arrange for a meeting with a member of the HR Employment Services Team, who can talk through all the process, benefits and the important dates to remember during the adoption period.

An employee, who will be the main carer for the adopted child(ren)<sup>1</sup> may apply for the benefits available within this policy. Adoption provisions will not be granted to two University employees in respect of the same adoption. If an employee is not the main carer for the adopted child they may qualify for time off with or without pay under the Parental Support Policy. Special Guardians, where the court has made a special guardianship order (SGO) are not entitled to adoption leave, but may be eligible for parental leave.

Employees should, therefore, explore the provision of Shared Parental Leave.

## **Eligibility for adoption leave**

To qualify for adoption leave, an employee must:

- be newly<sup>2</sup> matched with a child for adoption by an adoption agency;
- notify the agency to confirm agreement with the placement;
- give the correct notification and evidence to the University.

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<sup>1</sup> Please note any future reference to child may also mean children

<sup>2</sup> Adoption leave is not available to step parents who adopt their partner's child, or to foster parents who have previously fostered the child they adopt.

Eligible employees who are adopting are entitled to 52 weeks' adoption leave. This is made up of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

AAL follows immediately on from OAL and there can be no gap between the two. The adoption leave period cannot be broken by any other manner of leave and must be a continuous period.

## **Eligibility for adoption pay**

### **1. Statutory Adoption Pay (SAP)**

An employee who is adopting a child and who:

- has been continuously employed in the University's service for a minimum of **26 weeks** before the week the adopter is notified of having been matched with a child for adoption
- continues to work up to the date of placement\* for adoption
- earns above the lower earnings limit for National Insurance contributions

may be entitled to Statutory Adoption Pay (SAP) of up to 39 weeks. *[6 weeks at the "higher rate" of 90% of average weekly earnings, followed by 33 weeks at the lower rate of SAP, which is the lesser of standard rate of SMP or 90% of average earnings.]*

\* Placement is when the child goes to live with the adopter(s) with a view to being adopted by them in future.

### **2. Enhanced University Adoption Pay**

If an employee contracted to work full or part-time on terms and conditions in excess of the statutory requirements has a minimum of 52 weeks' continuous service with the University, ending with the week in which they are notified of being matched with a child for adoption and has given notice of their intention to return to work, they may be entitled to:

- **26 weeks' leave on full pay\*** (inclusive of any SAP) from the date on which the child is placed with a view to adoption followed by
- **13 weeks' leave** on SAP at the appropriate rate
- **up to 13 weeks'** unpaid leave

\* Please note this increased provision of Enhanced University Adoption Pay came into effect from 1 October 2023.

In any event, no combination of payments should exceed full pay. All adoption benefits are classed as earnings and are therefore subject to deductions for tax and National Insurance contributions.

### **3. No pay**

Employees contracted to work full-time or part-time qualify for unpaid adoption leave of up to 26 weeks.

### **Disrupted placement**

If after an employee has begun adoption leave:

- the expected placement did not occur
- the newly adopted child dies
- the child is returned to the adoption agency

the employee's adoption leave period ends eight weeks after the start of the OAL period (if the placement did not occur), or eight weeks from the end of the week in which death occurred or the child was returned to the agency (if the placement took place and disruption occurred later).

### **Entitlement to time off for pre-adoption meetings**

All employees who intend to adopt a child, will be required to attend pre-adoption interviews and meetings, and may be requested to visit the child prior to adoption placement. It is expected that arrangements will be made for these meetings to take place outside their normal working hours wherever possible. Where this cannot be arranged, time off with pay will be granted for a maximum of up to three interviews and up to three visits in any twelve-month period.

### **Entitlement to neonatal care leave**

The University provides neonatal care leave for employees whose baby requires neonatal care within the first 28 days of birth. Further details information can be found in the [neonatal care leave guidance](#).

### **Adoption hearing**

Employees required to attend an adoption hearing at court, usually one or two years after the placement, should request time off and will be entitled to reasonable paid time off to attend. Employees should be prepared to provide, if requested by their manager, a letter from the court confirming the date(s) of the adoption hearing.

### **Commencement of adoption leave**

An employee can choose to start their adoption leave and pay on any predetermined date:

- from the date of the child's placement (whether this is earlier or later than expected), or
- a fixed date which can be up to 14 days before the expected date of placement
- in the case of overseas adoption for a child entering Great Britain adoption leave cannot begin before the child enters Great Britain and the latest it can begin is 28 days after the child entered Great Britain

### **Notification process for commencement of adoption leave**

An employee should notify their Line Manager or designated nominee of their intention to seek leave under this policy at an early stage. Employees are asked to give as much notice as is reasonably practical of the date on which the child is to be placed with them.

The employee should notify their Line Manager or designated nominee of when they want to take their adoption leave within seven days of having been notified by the adoption agency of being matched with a child for adoption or, if this is not reasonably practicable, as soon as is reasonably practicable.

In the case of overseas adoption, employees should notify their Line Manager or designated nominee within 28 days of receiving an official notification from the relevant domestic authority, advising the date on which the official notification was received. Employees should state the date the child is expected to enter Great Britain. Once the child enters Great Britain, employee's should give at least 28 days' advance notice of the date adoption leave is to start, as well as evidence (e.g. a plane ticket) confirming the child's arrival.

The employee should then complete the adoption application form, which is available in [UniCore](#) uploading the letter from the adoption agency confirming their acceptance of the adoption placement (matching certificate).

Should an employee change their mind about the date on which they want their adoption leave to start, they should give their Line Manager or designated nominee at least 28 days' written notice of the new date or, if this is not reasonably practicable, as soon as is reasonably practicable.

### **Contact during adoption leave**

During the adoption leave period, the University may make reasonable contact with an employee and vice versa. This could be to discuss a range of issues, such as plans for returning to work, or to keep the employee informed of important developments.

Shortly before the employee goes on adoption leave, the manager should discuss arrangements for keeping in touch during the adoption leave period should the employee wish to do so. This should also include a discussion about “Keeping in Touch Days”.

### **“Keeping in Touch Days”**

An employee may, by agreement with the University, undertake up to 10 days’ paid work – known as “Keeping in Touch Days” (KIT) - under their contract of employment during the adoption leave period. Such days are different to the reasonable contact that employees and the University may make with one another, and can help to make it easier for the employee when returning to work. There is no obligation for the employee to attend KIT days or for the University to offer such work. The employee is entitled to turn down the opportunity of working such a day without suffering any consequences as a result.

The type of work that an employee undertakes could be a training activity, attending team away days or meetings and is subject to agreement between the manager and the employee. If the employee does any such work during agreed KIT days she should receive her normal contractual pay for the hours worked. The University reserves the right to count the amount of any adoption pay that may be received during a KIT day towards the normal contractual pay.

If the employee receives payment for a KIT day whilst in receipt of any form of adoption pay please be aware the payment will be pensionable. Where the employee is in a period of no pay any payment for KIT days will not be pensionable.

Eligible employees can opt into Shared Parental Leave, provided the main carer notifies their employee at least 8 weeks in advance that they wish to curtail their adoption leave. See the Shared Parental Leave policy for more information.

### **Return to work (including employee notification required)**

The employee must confirm and agree their return to work date. An employee may exercise the right to return to work at any time within their adoption leave period (either paid or unpaid, or during OAL or AAL) subject to giving **eight weeks’ written notice**, directly to their line manager, of the date on which the employee wants to return. If an employee returns to work during a period of paid adoption leave, they forfeit the right to any further adoption pay. Unless otherwise notified by an employee, the University will work on the basis of the employee returning on the first working day following AAL i.e. 52 weeks (one year) from the start of adoption leave. If the employee does not give the required notice, then the University can postpone the return date to secure eight weeks’ notice. This postponement can be to a date no later than the end of 52 weeks’ adoption leave.

Employees choosing to return to work at the end of OAL have the right to return to the position they occupied before their leave began. An employee who takes AAL is also entitled to return to the position they occupied before their leave began. However, if that is not reasonably practicable, then they are entitled to another position that is suitable and appropriate for the employee in the circumstances.

### **Continuity of employment during adoption leave and other contractual entitlements**

Where an employee returns to work, the period of adoption leave will form part of their continuous employment with the University. In connection with this, the University has agreed:

- Pension rights and contributions will be dealt with in accordance with the provisions of the appropriate superannuation scheme; please see the pension section below for further details

- The employee will be entitled to consideration in respect of ADC; further guidance is available at: <http://www.nottingham.ac.uk/hr/guidesandsupport/performanceatwork/index.aspx>
- Any increases to pay that the employee is awarded during an adoption leave period will be paid either, during the adoption leave period itself wherever possible, or in arrears on return from adoption leave

During the period of OAL and AAL, the contract of employment continues, and the employee is entitled to receive all contractual benefits, other than remuneration. This means that non-cash benefits that are in existence prior to the adoption leave (such as those provided through a salary sacrifice scheme for childcare vouchers, gym membership and staff cycle schemes) can be continued throughout both OAL and AAL. Employees should read the section regarding annual leave and pension to ensure any implications for pension benefits and membership are understood.

### **Career break**

Where an employee becomes pregnant, has a child placed with them for adoption, or opts to take a period of Shared Parental Leave during a career break, the normal accrued Statutory Maternity, Adoption or Shared Parental Leave entitlements will apply. Where appropriate, the career break will be superseded by Maternity Leave, Adoption Leave or Shared Parental Leave, but the parental Leave will not extend the period of the Career Break, nor there be entitlement to Occupational Maternity, Adoption, or Shared Parental pay in these circumstances.

For further information, please see the [Career Break Policy](#).

### **Requests for flexible working**

All employees have the right to request flexible working from day one of employment. The procedure for making a flexible working request is set out in the Flexible Working Code of Practice available on the Human Resources web site at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/worklifebalance/flexibleworking/index.aspx>.

### **Staff not returning to work**

Staff who decide not to return to work following a period of adoption leave must give the University written notice in accordance with their contract of employment. If an employee leaves the employment of the University for any reason, before the date notified as the start date of adoption leave, they lose the right to adoption leave but will still be eligible for SAP if they qualify for SAP. An employee who qualifies for enhanced University adoption pay but decides to resign prior to adoption leave being taken will not receive any enhanced University adoption pay beyond statutory adoption pay.

The contract of employment continues throughout the adoption leave, unless either:

- (a) the employer expressly ends it, in which case the employee is entitled to receive whatever period of notice the contract provides for if employment is terminated
- (b) the employee expressly ends it, by resigning
- (c) it expires (e.g. ending of a fixed-term contract), in which case, the employee is entitled to be given reasonable notice of the ending of the contract in accordance with the University policy on the ending of fixed term contracts. The employee is also entitled to any other relevant contractual pay including statutory redundancy pay where applicable if made redundant

In such cases, the right to return to the former job under the University's Adoption Leave Policy will have been overtaken by the expiry of the contract and will cease to be applicable. All payments under the University's Adoption Leave Policy will cease upon expiry of the contract. If, however, the employment is continued on an alternative contract, University adoption benefits will continue on the basis of that new contract. This paragraph is without prejudice to the individual's right to receive SAP where applicable. In cases where a fixed-term contract has come to an end or in a

redundancy scenario, the University will not seek to recover payments made prior to the expiry of that contract under the University's Adoption Leave Policy.

### **Failure to return to work after receiving enhanced University adoption pay**

Employees are advised that the University reserves the right to reclaim the element of pay in excess of statutory benefits received under the Adoption Leave Policy if the member of staff fails to return to work for at least three months following adoption leave. Employees will be required to give a signed undertaking to make the appropriate repayment to the University should they be unable to fulfil this requirement. This repayment requirement will apply to staff who have been granted a career break immediately following adoption leave.

It will not apply to those who opt to take parental leave or carer's leave immediately following adoption leave, providing the employee returns to work for a three-month period following the parental or carer's leave.

### **Entitlement to sick pay**

If an employee cannot return to work at the end of adoption leave because of illness, they should follow the normal sickness notification procedures, and it shall be dealt with under the University Sick Pay Scheme and will count against the normal entitlement to paid sick leave.

### **Pension**

During any period of paid adoption leave (whether this is OAL or AAL), the University pension contribution will be calculated as though the employee was working normally and receiving their normal salary. Therefore, employee contributions continue throughout this period of paid adoption leave based on what is earned. This means that there is no suspension of membership during this time meaning all benefits where applicable, such as death in service and ill health retirement, continue based on the pensionable salary they would have been paid but for their absence.

It may be possible for employees (subject to scheme rules allowing for this) to continue to make payments to the scheme during the unpaid period. Employees should indicate this on their application for adoption leave. Human Resources will be responsible for informing the University Pensions Administrator, who will liaise directly with the employee regarding any options available. Where an employee elects to do this the University will pay the missing normal employer contributions for this period. There is a limited time period for this option to be exercised and for the relevant payments to be made which should be discussed with the University Pensions Administrator.

Employees should contact the University Pensions Administrator to discuss the options available during any unpaid period of adoption leave to ensure that any implications for their pension membership and benefits are understood. Staff can also contact the relevant pension scheme helpline direct, details of which is available at: <https://www.nottingham.ac.uk/hr/pensions/your-pension.aspx>.

### **Annual leave**

You will accrue annual leave during your adoption leave at the contractual rate, additionally you will accrue Bank Holiday and University closure days during your adoption leave (pro-rata for part-time staff). You are encouraged to consider using a proportion of your annual leave entitlement before the start and after the end of your adoption leave.

If your maternity/adoption/shared-parental leave period is likely to cross two annual leave years and it is impractical to take all of the leave in the year it was accrued (in line with the Annual Leave Policy) you may carry over the accrued annual leave, but must use these days within three months following your return to work, except where an alternative timescale is agreed with your manager due to operational requirements.

**For further information:**

- Contact the HR Employment Services Team via [UniCore](#) or via HR-Employment-Services@nottingham.ac.uk