



**ROBERT GORDON  
UNIVERSITY ABERDEEN**

# Adoption and Surrogacy Leave Policy



<b>Approved by</b>	The Executive		
<b>Date Approved</b>	September 2018	<b>Status</b>	Approved
<b>Policy Owner</b>	HR Manager	<b>Impact assessed</b>	Yes
<b>Version</b>	1.1	<b>Date of next review</b>	November 2023

<b>Version Number</b>	<b>Purpose/Change</b>	<b>Date</b>
1	Creation of Policy	September 2018
1.1	Policy has been updated into new standard template and Policy owner has been updated from Director of HR to HR Manager.	August 2022

# ADOPTION/SURROGACY

## 1. Policy Statement

- 1.1 The University aims to support all employees in achieving a healthy work/life balance, recognising that many employees will have family responsibilities that will require them to be absent from work from time to time. As such the University has built on its statutory obligations and developed a number of flexible family friendly policies which are available to all staff irrespective of their gender or sexual orientation. Employees can access these policies [here](#).
- 1.2 For further advice and information on this policy or any of the University's other family friendly policies, please contact the HR department.

## 2. Purpose & Scope

- 2.1 This policy sets out the rights of employees to adoption leave and pay, including enhancements the University provides for those eligible employees. It outlines the process employees and managers should follow and ensures a consistent and fair approach in line with legislative requirements and commitment to best practice.
- 2.2 This policy is applicable for those who are adopting a child either through a legal surrogacy arrangement or an adoption agency.
- 2.3 If the employee is a birth mother in a legal surrogacy arrangement they have the same maternity rights as any other pregnant employee, irrespective of what happens after childbirth. Guidance should be followed as per the [Maternity Leave Policy/Procedure](#).
- 2.4 If an employee is fostering for adoption, they will become eligible for adoption pay and leave from when the child comes to live with them.

- 2.5 Employees 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.
- 2.6 A flowchart (appendix 3) is attached to help explain the process and adoption/surrogacy leave planning checklists have also been created for both employees (appendix 5) and managers (appendix 4). These should be used alongside this policy/procedure, to guide discussions and considerations before, during and after maternity leave.

### 3. Definitions

- 3.1 The following definitions are used within this policy.

Term	Definition
Expected Week of Childbirth (EWC)	The week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur.
Qualifying Week	The 15th week before the EWC.
Ordinary Adoption Leave (OAL)	The first 26-week period of adoption leave entitlement.
Additional Adoption Leave (AAL)	The remaining 26-week period of adoption leave entitlement.

Term	Definition
Statutory Adoption Pay (SAP)	Paid to eligible employees for up to 39 weeks by the University. Paid at the <a href="#">statutory rate</a> set by the Government in the relevant tax year.
Occupational Adoption Pay (OAP)	An enhanced payment to eligible employees paid by the University for up to 26 weeks (the OAL period). This is paid (see amount in section 5.2) on top of SAP entitlement.
Adoption Allowance (AA)	Paid to eligible employees for up to 39 weeks by the Jobcentre Plus who are not entitled to SAP/OAP.
Keeping in Touch (KIT) Days	Days that can be used whilst on maternity or adoption leave for any activity which would ordinarily be classed as work under the contract of employment.
MATB1 Certificate	Issued by a doctor or registered midwife verifying the pregnancy and confirming the EWC.
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.
Matching Certificate	A form that only the adoption agency responsible for conducting the adoption of the child in question can complete.

Term	Definition
Matching Week	The week in which notification of matching was given by an approved UK adoption agency, or in the case of adoption from overseas, the week in which notification of approval to adopt was received from the relevant UK authority.

#### 4. Eligibility & Notification

- 4.1 To be eligible to take adoption/surrogacy leave and pay the employee is encouraged to give early notification where possible to enable the University to plan ahead for their absence.
- 4.2 To be eligible for SAP employees must notify their manager in writing using the [Adoption/Surrogacy Leave Notification Form](#) and submit this no later than 7 days after the date on which notification of the match with the child/children has been provided by the adoption agency, or in the case of surrogacy arrangements no later than the qualifying week. If this is not possible the employee must tell their manager and HR Adviser/Business Partner as soon as possible.
- 4.3 Employees must provide documentary proof to show that they have the right to paid statutory adoption leave, usually in the form of a matching certificate. In the case of a legal surrogacy arrangement subject to a parental order, a copy of the birth mother's MATB1 certificate (or another form of documentary evidence of the pregnancy and expected date of child birth where possible) must be provided. The employee must submit this by the qualifying week.
- 4.4 On receipt of the [Adoption/Surrogacy Leave Notification Form](#) and the supporting evidence, the HR department will write to the employee to confirm their adoption/surrogacy leave and pay entitlements.



- 4.5 Providing the employee has given the required notice and meets the eligibility requirements, adoption/surrogacy leave will start:
- 4.5.1 from the date of the child/children's placement (i.e. starts living with the employee) or in the case of surrogacy subject to a parental order the day the child/children is born or the day after (whether this is earlier or later than expected); or
  - 4.5.2 from a fixed date up to 14 days before the expected date of placement or the child/children's due date.
- 4.6 Confirmation of the actual date of placement must be given to the HR department once the child/children has been placed.
- 4.7 Leave can start no later than the expected date of placement or childbirth and only one period of leave will be available irrespective of whether more than one child is placed for adoption or subject to a surrogacy parental order.

## **5. Entitlement**

### **5.1 Adoption/Surrogacy Leave**

- 5.1.1 All employees, irrespective of their length of service are eligible to take up to 52 weeks adoption/surrogacy leave when notified that they have been newly matched with a child for adoption, or those who are intended parents upon birth subject to a legal surrogacy parental order, provided they have met the eligibility requirements and satisfied the notification requirements.
- 5.1.2 Adoption/surrogacy leave is made up of 26 weeks OAL and 26 weeks AAL. Any AAL must immediately follow OAL – there can be no break in-between.
- 5.1.3 The first two weeks of adoption/surrogacy leave are classed as compulsory adoption/surrogacy leave and the employee is not permitted to work during this time.

5.1.4 The start date can be altered but the University must be informed of the proposed change at least 28 days ahead of the new date.

## 5.2 Adoption/Surrogacy Pay

5.2.1 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/supporting partner leave and pay](#) or [shared parental leave and pay](#).

5.2.2 Adoption/Surrogacy Allowance (for employees with less than 26weeks service):

5.2.2.1 Employees with less than 26 weeks' service ending with the week (beginning with the Sunday and ending the Saturday) in which the employee has been notified of having been matched with a child. Or those employees with less than 26 weeks service by the qualifying week subject to a legal surrogacy arrangement will normally be entitled to AA by the local Jobcentre Plus office on receipt of the original matching certificate and a completed SAP1 form from the HR department. Employees should complete the form and take this to their local Jobcentre Plus Office with the required supporting documentation.



### 5.2.3 Statutory Adoption/Surrogacy Pay:

- 5.2.3.1 Employees with a minimum of 26 weeks' service at the week in which notification of matching was given by the adoption agency or for those entering into a legal surrogacy arrangement with a minimum of 26 weeks service at the end of the qualifying week, i.e. those with at least 41 weeks continuous service by the EWC, will qualify for SAP.
- 5.2.3.2 Also to qualify for SAP & OAP, an employee's average weekly earnings in the 8 weeks up to and including the 15<sup>th</sup> week before their EWC must be at least equal to the lower earnings limit for [national insurance contributions](#) .
- 5.2.3.3 Employees may be asked to complete a pay matching certificate in conjunction with the adoption agency in order to fulfil the evidence requirements for SAP. Or provide a copy of the birth mother's MATB1 certificate (or another form of documentary evidence of the pregnancy and expected date of birth where possible) and a parental order (the latter within 6 months of the child's birth) for those employees looking to enter into a legal surrogacy arrangement.

### 5.2.4 Statutory Adoption Pay Breakdown:

- 5.2.4.1 Weeks 1-6 are paid at 90% of normal pay
- 5.2.4.2 Weeks 7-39 are paid at [SMP Rate](#)
- 5.2.4.3 Weeks 40-52 are unpaid
- 5.2.4.4 i.e. the first 6 weeks are paid at 90% of normal pay, followed by 33 weeks at statutory pay followed by 13 weeks unpaid.

#### 5.2.5 Occupational Adoption Pay:

5.2.5.1 To qualify for OAP, employees must have accrued the same service and earnings as required for SAP (please read Statutory Adoption Pay above).

5.2.5.2 In addition, employees who are intending to return to work for a minimum period of 3 months will qualify for OAP. OAP is not suitable for those who are not planning on returning to the University after their adoption/surrogacy leave.

5.2.5.3 Prior to commencing adoption/surrogacy leave, the employee will be asked to sign a declaration agreeing that in the event they do not return to work for the minimum period, they will undertake to reimburse the University for the total amount of the enhanced adoption pay which they received.

#### 5.2.6 Occupational Adoption Pay breakdown:

5.2.6.1 Weeks 1-13 will be enhanced to full pay

5.2.6.2 Weeks 14-26 will be enhanced to half pay Weeks 27-39 are paid at SAP rate

5.2.6.3 Weeks 40-52 are unpaid

5.2.6.4 i.e. the first 13 weeks are paid at full pay, followed by 13 weeks at half pay, followed by 13 weeks statutory pay, followed by 13 weeks unpaid.

5.2.7 Providing the employee has given the required notice and information, SAP and OAP will start on the first day of adoption/surrogacy leave.

5.2.8 For a flowchart diagram of the process that should be followed please refer to appendix 3.

## **6. Appointments - Adoption/Surrogacy**

- 6.1 An employee who is adopting a child is entitled to take reasonable paid time off to attend adoption appointments, where the appointment has been arranged by or at the request of the adoption agency. Please note, an employee may be asked to provide documentation confirming the appointment details.
- 6.2 An employee who is entering a legal surrogacy arrangement is entitled to reasonable paid time off to accompany the birth mother to antenatal care appointments. Please note, the employee may be asked to provide documentation confirming the pregnancy and/or relevant appointment cards.
- 6.3 Where possible, employees are encouraged to arrange appointments at suitable times to minimise disruption to their work.
- 6.4 An employee who is supporting a partner should refer to the [Paternity/Supportive Partner's Policy/Procedure](#) for their appointment entitlement.

## **7. Placement Disruption**

- 7.1 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 employee's adoption leave period if that is sooner).
- 7.2 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.

## **8. Keeping In Touch (Kit) Days**

- 8.1 Employees can work up to 10 days during adoption/surrogacy leave without bringing it to an end. These are called 'keeping in touch' (or KIT days).
- 8.2 KIT days cannot be worked during the 2 week period of compulsory adoption/surrogacy leave.
- 8.3 It is important to note that KIT days must be agreed by both the employee and the University. The employee is not obliged to work any KIT days nor is the University obliged to provide or agree to them.
- 8.4 An employee wishing to work a KIT day should complete a KIT Form (Appendix 6) and submit this to their line manager for approval.

## **9. Shared Parental Leave (SPL)**

- 9.1 SPL allows eligible parents to convert a primary adopter's adoption/surrogacy leave into SPL to share between both parents in order care for their child during their first year. Full details can be found in the University's [Shared Parental Leave Policy](#).

## **10. Returning to Work**

- 10.1 The adoption/surrogacy leave Planning Checklist for Employees (see appendix 5) and Planning Checklist for Managers (see appendix 4) highlight the key considerations to be taken into account when an employee returns to work following a period of adoption/surrogacy leave.
- 10.2 An employee who returns to work following OAL is entitled to return to the same job on the same terms and conditions as if they had not been absent. If it is not practical for the employee to return to the original job this should be discussed in full and, the employee must be offered a suitable alternative on no less favourable terms and conditions.

- 10.3 An employee does not need to give notice of their return to work date unless they wish to return before or after the date stated on the adoption/surrogacy leave acknowledgement letter. The employee must give the University 8 weeks' notice of the new date they wish to return to work. This notice applies during a period of OAL and AAL.
- 10.4 If the employee is 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 Policy](#).
- 10.5 If an employee wishes to return to work on alternative working arrangements, i.e. flexible working, then a flexible working application should be submitted. There is no statutory right for an employee to change the terms and conditions of their employment following leave. There is however the right to request a flexible working pattern and the University has a duty to consider any request. Further information including the application form can be found in the [Flexible Working Scheme](#).
- 10.6 Employees may also wish to familiarise themselves with the University's other family friendly leave policies/procedures such as Parental Leave and Dependents Leave.

## **11. Employees on Fixed-Term Contracts**

- 11.1 Where employees are entitled to SAP and are on a fixed term contract which expires before the start of the pay period, then the pay period will begin 14 days before the expected date of placement. Where the end of a fixed-term contract occurs within this 14-day period, the pay period begins on the day immediately following the employee's last day of employment. Eligible employees will continue to receive SAP for up to 39 weeks.
- 11.2 The employee will not be eligible for OAP as they will not be returning to work after their adoption/surrogacy leave and cannot work for the required 3 months after adoption/surrogacy leave as required for payment of OAP.

- 11.3 Where there is a surrogacy arrangement subject to a parental order, the University retains the right to reclaim all payments made in relation to the leave period, and cease the period of leave, if the employee fails to provide a copy of the Parental Order within 6 months of the child's birth.

## **12. Resignation**

- 12.1 In the event that an employee chooses to resign from their post, they must give the required notice as detailed in their contract. If the employee meets the requirements for SAP they will remain entitled to SAP and adoption/surrogacy leave regardless of later submitting their resignation.
- 12.2 If an employee receives OAP and does not return to work for a minimum period of 3 months after adoption/surrogacy leave the enhancement will be subject to repayment. The Payroll department will calculate the amount of OAP to be repaid and notify the employee as soon as possible so that arrangements can be made for repayment. Any form of leave taken immediately after adoption/surrogacy leave does not count e.g. sickness absence, annual leave, unpaid leave etc.



## APPENDIX 1: ADOPTION/SURROGACY LEAVE FAQs

### 1. How does this affect my contract of employment?

The contract of employment continues throughout the period of leave unless either party expressly ends it. The period of leave therefore counts towards the period of continuous service for the purposes of entitlement to statutory employment rights.

### 2. Does this policy cover single or multiple placements/births?

The entitlement will remain the same irrespective of the number of children placed for adoption as part of the same arrangement.

### 3. What happens to my annual leave?

Annual leave will continue to be accrued at the contractual rate during both ordinary and additional leave. Annual leave cannot be taken during a period of adoption/surrogacy leave. After the period of adoption/surrogacy leave, arrangements should be made to take any annual leave which has been accrued immediately following leave, unless it is not a full day.

### 4. What happens with public holidays?

All public holidays that fall in the period of Adoption/surrogacy Leave will be accrued. Accrued holidays will be dealt with as per the provisions for annual leave detailed above.

### 5. How does adoption/surrogacy leave affect increments?

Incremental salary increases will not be affected by adoption/surrogacy leave and, where appropriate, you will be entitled to receive your normal annual increment on your salary scale.

## **6. Am I obliged to take 'Keeping in touch' days?**

'Keeping in touch' days must be at the agreement of both the employee and the University. It is important to note that the employee is not obliged to work any 'keeping in touch' days nor is the University obliged to provide or agree to them.

## **7. How will leave/pay affect my pension?**

During any period of paid ordinary leave and paid additional leave, full pension membership will continue. Normal pension contributions will be based on actual pay received during this period and the University will continue to pay normal contributions based on notional full pay. Statutory adoption/surrogacy pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

### **Local Government Pension Scheme (LGPS)**

During any period of unpaid additional leave, membership will cease to continue for that period unless the employee has the right to return to work, in which case they can choose to make up pension contributions to cover the unpaid period. If the employee does this within 30 days of returning to work (or within 30 days of leaving, if they do not return to work) the costs of making up contributions will be split 1/3rd payable by the employee, and 2/3rds payable by the University. The employee may still elect to make up the pension after the 30 day period has expired, but the costs will fall fully to the employee. The cost of paying back is based on the last rate of pay received just prior to the period of unpaid leave (excluding any increase in pay due to working a keep in touch day). The employee can discuss this directly with an LGPS Advisor at 01224 264264 or e-mail at [pensions@nespf.org.uk](mailto:pensions@nespf.org.uk).

Scottish Teachers Superannuation Scheme (STSS)

During any period of unpaid additional leave, an employee's membership will cease to continue for that period. Under the current rules of the scheme members are not able to buy back the lost pension during any period of unpaid leave.

## **8. What other support does the University offer?**

The University is committed to helping working parents and carers, and offers a variety of family friendly benefits and flexible arrangements. Policies and procedures within the suite of [family friendly](#) include: maternity leave and pay, paternity/supporting partner leave and pay, adoption/surrogacy leave and pay, shared parental leave and pay, parental leave, fertility treatment leave and pay, foster care leave and pay and time off for dependents. In addition the University offers:

Childcare facilities

The Treehouse Early Care Centre is a purpose build facility based on the University Campus. It provides high quality care and education for children aged 3 months to 5 years during Monday to Friday, 7.30am – 6pm.

Employees may be eligible to salary sacrifice part of their salary for the full cost of their childcare place, saving between 30% and 42% depending on the tax rate.

Employees are advised to submit applications to their preferred nursery provider(s) as early as possible as places are normally reserved very quickly.

Kings Camps is a holiday childcare provider (OFSTED-registered) which operate from RGU:SPORT on the University campus during the Easter, Summer and October holidays. University Employees can book in advance to spread the cost and currently receive a discount.

Further information and contact details can be found at [Supporting Working Parents](#).

Employees will also find information here on childcare support including the [Governments Tax Free Childcare scheme](#).

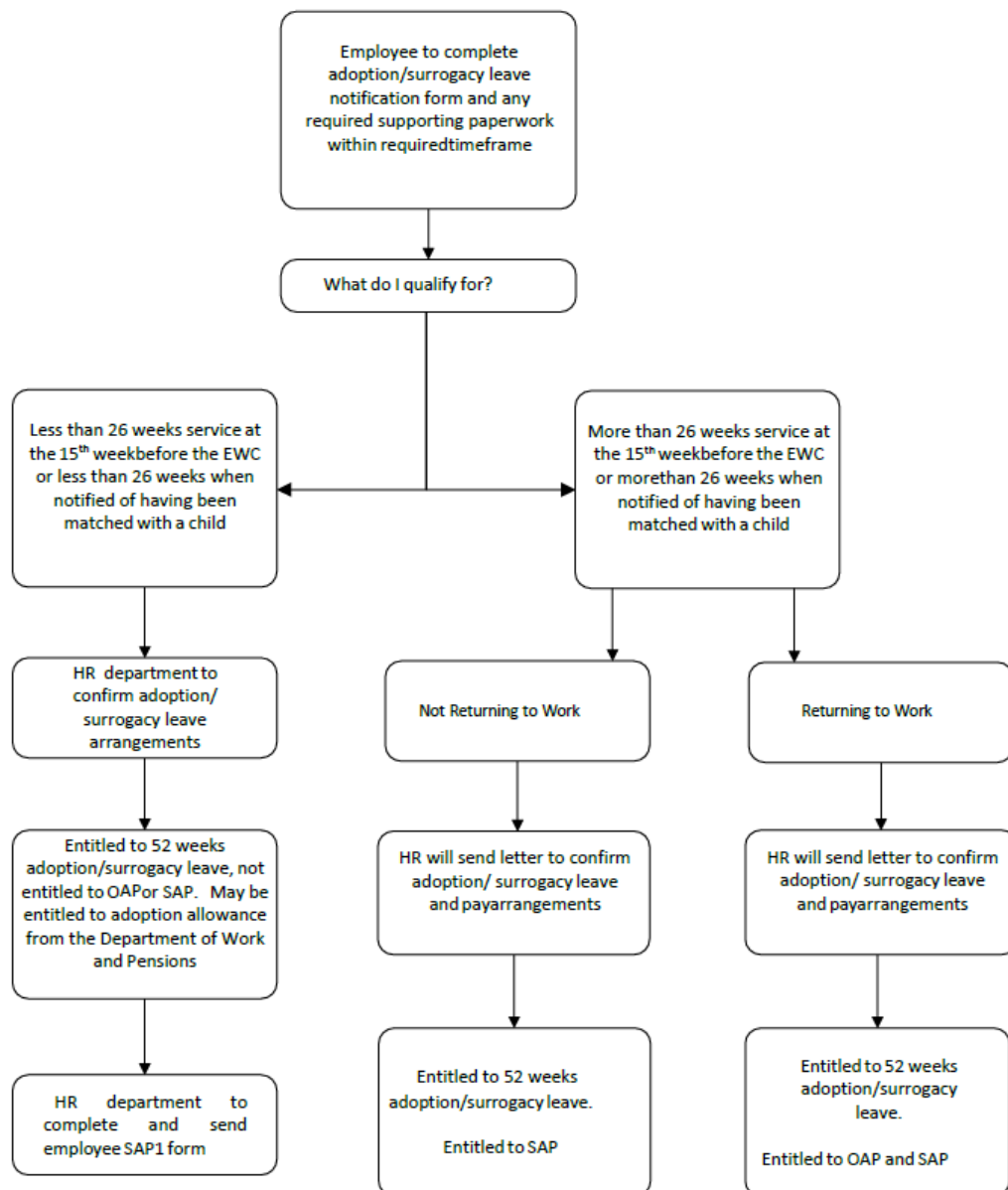
### Flexible Working

The University's flexible working scheme can help achieve a better work-life balance, and enable employees to develop a work pattern that suits their family commitments. For more information please refer to the University's [Flexible Working Scheme](#).

### University Support Helpline

The University recognises that employees may need confidential independent help, information, and guidance. For that reason a 24 hour confidential support [employee helpline](#) is available to employees and their family members to access. Professionals are available to answer queries on a wide range of practical and more sensitive issues and the service offers: life support, legal information, bereavement assistance, medical information, a wellbeing portal and online CBT.

## APPENDIX 2 – PROCESS FOR ADOPTION/SURROGACY LEAVE





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