



THE UNIVERSITY *of* EDINBURGH

Leave and Pay for Adoption and Surrogacy

1. Policy Statement

As an employer of choice, the University provides additional benefits for new parents, and is committed to providing support for employees before the arrival of their child, and during their return to work. In addition to the statutory provision for benefits for new parents, the University provides additional contractual benefits, and will always take into account the employee's caring responsibilities when decisions about the employee's role, work and health and safety need to be made.

2. Scope and Purpose

This policy applies to all employees of the University.

The purpose of this policy and associated procedures is to:

- Outline the statutory entitlements for leave and pay/benefits for those staff either adopting children or having children through surrogacy arrangements
- Outline the University's additional provisions for paid time off for new parents
- Highlight the provision for Shared Parental Leave
- Ensure managers¹ are aware of their responsibilities to employees who are covered by this Policy
- Provide clear guidance on employee rights and responsibilities prior to, during and after Adoption or surrogacy.

3. Employee's Responsibilities including Early Notification Requirements

In order to access the benefits outlined in this policy, employees must meet the formal requirements set out below including the various notification procedures.

Employees are encouraged to inform their managers about their adoption or surrogacy arrangements at an early stage to facilitate making arrangements to cover their absence.

¹ For the purposes of this policy the term 'manager' will be defined so as to include the nominated or line manager or another designated person of suitable seniority and responsibility within the relevant work unit or group

4. Adoption Leave and Pay

4.1 Entitlement to Statutory Adoption Leave and Pay

Terminology

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

Statutory Adoption Leave

All employees, irrespective of their length of service or hours worked, have the right to 12 months' Statutory Adoption Leave (SAL) when they adopt a child provided they meet the required notification procedures. (See 4.3)

The SAL period is made up of 26 weeks' Ordinary Adoption Leave (OAL) followed immediately by 26 weeks' Additional Adoption Leave (AAL).

Statutory Adoption Pay

Employees who have at least 26 weeks' continuous employment by the Matching Week, and who have average earnings, over that period, which are above the Lower Earnings Limit for National Insurance Contributions will also be entitled to Statutory Adoption Pay (SAP).

SAP is payable for 39 weeks, and is paid at the lower of:

- 90% of the employee's average weekly earnings, or
- The standard rate of SAP set by the Government

Where a couple are adopting jointly, only one individual is eligible for SAP or SAL.

4.2 Entitlement to University of Edinburgh Adoption Pay

Employees are entitled to University of Edinburgh Adoption Pay (UEAP) provided that:

- They are employees of the University at the Matching Week, and
- They return to work for a minimum period of three months after the end of their Adoption Leave.

Employees will also be entitled to UEAP if they would have met the above conditions, but were prevented from doing so by reason of redundancy taking effect at a time when they would be eligible for paid adoption leave, or where redundancy prevents them from returning to work for the full three month period (see Section 7).

The return to work period begins from the point that the employee resumes working after Adoption Leave. Periods of paid or unpaid absence prior to returning to work, immediately following Adoption Leave, or in

the initial return to work period, for example annual or sick leave absence would not count towards the three month period.

Should an employee curtail their adoption leave in order to take Shared Parental Leave (SPL), they will be required to return to work for a minimum of three months following their final period of SPL.

If the employee curtails adoption leave in anticipation of taking SPL at a future date and does not actually take any SPL, the three month return period will start from the point the employee starts work after adoption leave.

Employees are entitled to up to 24 weeks UEAP (supplemented by SAP where applicable) and have a choice of options outlined below:

Option 1	Weeks 1 - 16:	Full Pay (inclusive of SAP, where applicable)
	Weeks 17 - 39:	SAP only (where applicable)
	Weeks 40 - 52:	Unpaid
Option 2	Weeks 1 - 8:	Full Pay (inclusive of SAP, where applicable)
	Weeks 9 - 24:	Half pay, plus SAP where applicable (capped at normal full pay)
	Weeks 25 - 39:	SAP Only
	Weeks 40 - 52:	Unpaid
Option 3	Taking SAP only, with the right to UEAP as above if employee subsequently decides to return. <i>(This option is generally used where the employee is undecided about returning to work after Adoption Leave)</i>	

If an employee selects either of Options 1 or 2 above and subsequently does not return for the stipulated three months, the University will reclaim those payments made to the employee which are over and above their statutory entitlement.

If an employee is undecided about returning to work after Adoption Leave, they may opt to receive SAP only (Option 3) but retain their statutory right to return. If they subsequently return to work for a period of three months, they will then qualify for the balance of payment due under Option 1 above. If the employee does not return to work, they will not owe the University any money and therefore no recovery of payment will be required.

4.2.1 Calculation of UEAP

Under any of the above options, no combination of payments (UEAP and SAP) is permitted to exceed normal full pay, where normal full pay is classed as the salary payment employees usually receive for their contractual working hours.

4.3 Formal Notification of Adoption

Employees are encouraged to give early notification of their adoption where possible to enable the University to plan ahead for their absence.

In order to qualify for Adoption Leave and Adoption Pay (either under the Statutory or University's schemes) the employee must notify their local College/Support Group HR Team, in writing, within seven days of being matched with a child:

- That they intend to take SAL
- When they intend to start their SAL
- The date the child is expected to be placed with them for Adoption

If it is not reasonably practicable for the employee to meet this deadline they should notify the University as soon as possible.

Employees must, where possible, provide documentary evidence that they have been matched with a child.

Once the employee has notified the University of the adoption, the University will respond in writing, within four weeks, to acknowledge their intentions. Where the employee intends to return to work after their Adoption Leave, the University will, for legal compliance, note the full 52 weeks' entitlement date on correspondence issued.

4.3.1 Notification of Change to Start Date

An employee can change their intended SAL start date as long as they notify the University of their new start date in writing. They must do this by whichever is the earlier of:

- 4 weeks before their original start date of SAL, or
- 4 weeks before their new SAL start date

In some cases, the University recognises that giving the required notice may not be possible.

4.3.2 Notification of Early Conclusion of Adoption Leave (Curtailment)

The University will assume that employees wish to take their full 52 weeks of entitlement unless they inform their manager otherwise. An employee may bring forward their return to work date following Adoption Leave by advising their local College/Support Group HR Team and line manager as soon as is reasonably practicable.

If the employee wishes to return during the first 26 weeks (OAL) they should give a minimum of four weeks' notice of their new return date; if wishing to return during weeks 27-52, they should give a minimum of eight weeks' notice.

If an employee attempts to return early without giving the required notice, consideration will be given to their request, but, depending on business needs, their return may be postponed.

Where the early return is prompted by a wish to take Shared Parental Leave (SPL) and pay, the employee must provide their manager with at least eight weeks' notice prior to the start of SPL, using the Maternity/Adoption Leave Curtailment Notice:

http://www.docs.csg.ed.ac.uk/HumanResources/Forms/SPL_Form1_Curtailment_.doc.

For more information regarding shared parental leave and pay, see the University's Shared Parental Leave Policy: http://www.docs.csg.ed.ac.uk/HumanResources/Policies/Shared_Parental_Leave_Policy_.pdf.

4.3.3 Notification of Late Return to Work

If an employee wishes to return to work after their planned return date, they should give the University notice of this new date at least eight weeks before the original planned return date.

In these circumstances, the employee may:

- Request further Adoption Leave if they have not already used their maximum 52 week entitlement
- Request Parental Leave, or
- Request paid Annual Leave in accordance with the terms of their employment contract, which will be granted at the line manager's discretion.

4.4 Resignation whilst on Adoption Leave

If an employee does not intend to return to work following their leave they should discuss the matter with their line manager at the earliest opportunity. If the employee decides not to return, they should give notice of resignation in accordance with the terms of their employment contract.

The remaining amount of leave, when the employee gives notice, must be at least equal to their contractual notice period otherwise the University may require the employee to return to work for the remainder of their notice period.

The employee's decision to resign does not affect their right to receive SAP.

If the employee changes their mind after submitting their resignation, they have no right to return to work without the University's agreement.

4.5 Commencement of Adoption Leave

For UK adoptions, an employee can choose to begin the Adoption Leave on either of the following:

- The date on which the child is placed with them for adoption, or
- A pre-determined date no earlier than 14 days before the expected date of placement and no later than the expected date of placement.

For overseas adoptions, the employee may choose to start their Adoption Leave from either the date the child enters the UK, or a fixed date no later than 28 days after the date the child enters the UK.

4.6 Shared Parental Leave and Pay

Employees may opt to curtail their adoption leave and pay and share the remaining leave and pay with their partner (Including same-sex relationships). Details of Shared Parental leave can be found at <http://www.ed.ac.uk/human-resources/policies-guidance/leave-absence/shared-parental-leave>

4.7 Additional Provision

Up to 6 days paid leave is available to either parent for the purposes of attending meetings, conducting visits etc. before the adoption takes place.

5. Surrogacy

The University provides the same benefits for employees who are the intended parents of a child through a surrogacy arrangement as those outlined in the provision for Adoption Leave and Pay, subject to the criteria as set out below.

5.1 Entitlement to Leave and Pay

Employees will be entitled to the same leave and pay provisions as for Adoption where they are having a child through a surrogacy arrangement if they:

- Have entered into a surrogacy agreement where a child will be placed with them as an intended parent upon birth
- Are to be the primary carer of the child
- Intend to apply for a Parental Order after the birth of the child
- Notify the University of the pregnancy in line with the requirements for Maternity/Adoption Leave and Pay

Employees will be paid at the same rates outlined for Adoption during their absence from work, both for the statutory element of SAP and also for UEAP, so long as they meet the same qualifying criteria as for adoption pay and benefits.

5.2 Notification

There may be some circumstances in cases involving surrogacy where MATB1 forms are not made available to Intended Parents. In these cases, employees should seek other forms of documentary evidence of the pregnancy and expected date of birth where possible.

In the absence of any formal documents, the employee must discuss the matter with their local College/Support Group HR Team.

5.3 Other provisions

All provisions for protection of employment, notification, returning to work and continuity of employment, as outlined for Adoption, will apply to employees who are eligible for leave and pay through a surrogacy arrangement.

6. Rights during Adoption/Surrogacy Leave

6.1 Continuity of Employment

Continuity of employment is maintained during Adoption/Surrogacy Leave, which means there is no break in service during the employee's absence from work.

The employee is entitled to return to work, normally to the same job, after their leave. However, in exceptional circumstances where it may not be feasible to return to their original role, for reasons other than redundancy, they will be offered a suitable alternative post.

Specific queries relating to this matter should be directed to the employee's local College/Support Group HR Team.

6.2 Salary and Pensions Arrangements

All terms and conditions of employment remain in force during an employee's period of leave except for those terms relating to pay.

Employees will receive all pay awards and incremental awards that apply during their leave and those on lower rate of SAP or unpaid leave when such awards are due will have their salary adjusted when they return to work.

Employees are entitled to continue to receive all non-cash benefits applicable to them during their leave, such as Childcare Vouchers and accrual of annual leave.

During their leave, a member of either the USS or SBS scheme is fully covered for pension benefits, based on the pensionable salary they would have been paid had they not been on leave, provided that they continue to make contributions based on the pay they are receiving.

During unpaid leave, neither the employee nor the University makes pension contributions. Their membership of the pension scheme is suspended and the period of unpaid leave does not count as pensionable service. Upon returning to work, the employee will have the opportunity to pay additional contributions to make up the difference so that the period of suspended membership can then count as pensionable service.

Further details about all pension schemes and their rules can be obtained from the University's Pensions Office, Charles Stewart House, 9-16 Chambers Street, Edinburgh or by email to Pensions@ed.ac.uk

6.3 Annual Leave and Public Holidays

An employee accrues contractual annual leave throughout paid and unpaid Adoption/Surrogacy Leave. They can, with their line manager's agreement, add their annual leave entitlement onto the beginning or end of their Adoption/Surrogacy Leave. Arrangements for carrying over annual leave should be discussed and agreed with the employee's line manager.

Where an employee's leave period covers public holidays which are recognised by the University (i.e. closure days), then the employee will be entitled to take the appropriate amount of time off for those days following their return to work. The time off granted should be in line with the number of days / part-days they would have been granted had they been at work (e.g. if the employee worked part-time hours at the commencement of the Adoption Leave, then this calculation should reflect that).

6.4 Keeping in Touch Days

The University is entitled to make 'reasonable contact' with employees whilst they are on Adoption/Surrogacy Leave, to keep them up to date with developments at work.

Additionally, an employee can agree, with their line manager, up to 10 'keeping in touch' (KIT) days during their Adoption/Surrogacy Leave without bringing their Adoption/Surrogacy Leave or Pay to an end. There is no obligation on the employee to do this, and as such making use of KIT days should be seen as entirely voluntary.

Keeping in Touch days should be agreed with managers in advance. The manager and employee should agree the date and hours to be worked on each KIT day, as well as the specific purpose and work to be carried out. The purpose for the KIT day must be one, or a combination of, the following:

- job related training or development activities
- update meetings with the manager
- carrying out work as agreed by the employee's manager

Informal visits to the workplace should not be treated as KIT days.

Paid time off in lieu (TOIL) will be granted for the hours the employee has attended work for the purposes outlined above. Agreement should be reached between the employee and manager about how the TOIL is subsequently taken, e.g. it could be added on to the end of the Adoption Leave period, or taken after the employee has physically returned to work.

7. Redundancy whilst on Adoption/Surrogacy Leave

There may be exceptional occasions where an employee is made redundant prior to or during adoption/surrogacy leave. In these circumstances, if the redundancy takes effect at a date where the employee is or will be on adoption/surrogacy leave, the employee will be entitled to receive their UEAP in full, and no repayment of monies received for UEAP will be required provided that:

- they comply with the formal notification procedures for UEAP
- they have 52 weeks' service with the University at the expected date of being matching with a child for adoption, or 52 weeks service at the expected EWC through surrogacy arrangements, or would have had 52 weeks service had it not been for their contract being ended early due to redundancy

Payment of any outstanding UEAP and/or SAP will be made by lump sum at the end of employment. The sum payable is calculated based on the UEAP option chosen by the employee.

Any employee who does not have 52 weeks' University service at their expected date of being matched with a child/EWC surrogacy date, and is made redundant at a date when they could be on adoption/surrogacy leave will be entitled to receive UEAP until the end of employment.

Further information about redundancy can be found in the University's Redundancy Avoidance Policy:

http://www.docs.csg.ed.ac.uk/HumanResources/Policies/Redundancy_Avoidance_Policy.pdf

8. Time off to attend Antenatal Appointments

The right to unpaid time off to attend up to two antenatal appointments is available to employees (including the mother's husband/ civil partner/ partner (including same-sex relationships)/ the father or parent of the child and intended parents under surrogacy arrangements). The time off is capped at six and a half hours for each appointment. Further guidance is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/351413/bis-14-1063-time-off-to-accompany-a-pregnant-woman-to-ante-natal-appointments-employer-guide.pdf

9. Flexible Working Arrangements

The University recognises the benefits of supporting flexible working practices and assisting employees to achieve a balance in their working commitments and their life outside work.

New parents have a statutory right to make a request for flexible working. As such, if they wish to return to work following Adoption/Surrogacy Leave on a different basis from their current contractual arrangements, for example part-time, they should put their request in writing to their line manager as soon as possible.

In line with the University's Flexible Working Policy, every effort will be made to accommodate the employee's wishes and each case will be considered on its own merits, within the needs of the business.

10. Cover Arrangements during Adoption/Surrogacy Leave

If there is a requirement for cover during an employee's absence on Adoption/Surrogacy Leave, the line manager has a responsibility to obtain the relevant approval through agreed local processes and thereafter make appropriate arrangements. The employee is not responsible for making these arrangements.

11. Policy History and Review

This policy was approved by CJCNC on 28th April 2015. It was reviewed in October 2015 in light of the publication of the University's Shared Parental Leave Policy and again in April 2016 to remove reference to Additional Paternity Leave.

In the event of any significant change to the legal position on Adoption Leave, any relevant statutory requirements or any other related matter, this policy will be subject to immediate review in consultation with the Trade Unions. In the absence of such a change, the policy will be reviewed by 2019.

12. Change control record:

No.	Approval date:	Amendment made:	Approved by:
1.	13 Dec. 2012	Minor amendment to section 6.4 to clarify the process and arrangements for Keeping in Touch Days whilst on Adoption/Surrogacy Leave.	HRPDG and CJCNC
2.	27 Sep. 2013	Amendment to section 4.2 removing the service requirement for UEAP, while retaining the requirement for 52 weeks' University service for the payment of UEAP on redundancy (beyond the end of employment). Effective for staff who begin Adoption/Surrogacy Leave on or after 3rd June 2013. Amendment to Section 7 to clarify processes for Redundancy whilst on Adoption/Surrogacy Leave.	Staff Committee, HRPDG and CJCNC
3.	1 Oct. 2014	Legislative Amendment: Footnote added to Section 2 noting for information the right to unpaid time off to attend up to two antenatal appointments for the mother's 'partner' (or the father or parent of the child and intended parents under surrogacy arrangements).	HRPDG
4.	Apr. 2015	Legislative Changes: Section 4.3.2 to include a Section introducing Shared Parental Leave, the abolition of Additional Paternity Leave for babies placed for adoption on or after 5 April 2015; and Section 6.3 removing the statement that annual leave cannot straddle 2 years. From 6 April 15, provided they meet the eligibility criteria parents who have a child through surrogacy will be permitted to take ordinary paternity leave and pay; adoption leave and pay and shared parental leave and pay, and unpaid time off to attend two antenatal appointments with the woman carrying the child. Section 5 and 5.1 removing the reference to the 26 week statutory qualifying period which no longer applies from 6 April 15.	HRPDG and CJCNC
5.	28. Oct 2015	Minor amendments Section 4.2: to clarify a) requirement to return to work for 3 months includes final period of shared parental leave; b) full pay option only applies in event of employee having been undecided about return to work Section 4.6 to highlight the abolishment of additional paternity leave for children adopted on or after 5 April 2015	HRPDG
6.	April 2016	Legislative Changes: Minor amendment to Section 4.6 by removal of additional paternity leave and reference to Shared Parental Leave Policy	HRPDG
7.	August 2017	Minor amendment to section 8 to include 'same-sex relationships' as definition of partner.	HRPDG

13. Alternative Formats

If you require this document in an alternative format please email UHRS@ed.ac.uk or telephone 0131 650 6303.