

Adoption/Surrogacy Leave & Pay

Procedure No.	P1920-698	Review Interval:	Annual
Effective Date:	May 2020	Review Date:	July 2021
Last Revised:	May 2020	Approval Body:	N/A
Owner:	Head of Equality, Human Resources		
Author:	Head of Equality, Human Resources		

1 Introduction

Swansea University is committed to ensuring equality and diversity across the organisation and the purpose of this procedure is to support staff to balance work and family life.

This document outlines the conditions of the University's Adoption/Surrogacy Leave procedure. It sets out the appropriate entitlement and statutory rights for employees who are:

- ◆ newly matched with a child for adoption by an approved adoption agency or an appropriate statutory body
- ◆ intended parents of a child born through a surrogacy agreement and who will be subject to a Parental Order
- ◆ prospective adopters who are fostering a child under the "Fostering for Adoption" scheme.

Adoption leave and/or pay applications are open to all eligible employees regardless of age, disability, race, ethnicity, religion or belief, sex, gender identity or gender expression, sexual orientation, marriage or civil partnership, pregnancy or maternity or any other equality characteristic.

This procedure applies to all staff. It is inclusive of trans and non-binary staff.

Any reference to 'partner' should be read as including same-sex partners and same-sex spouses or same-gender or non-heterosexual couples.

It is not available in circumstances where you adopt a family member or stepchild, become a special guardian or kinship carer or arrange a private adoption.

2 Entitlement & Options

All employees are entitled to take up to one year (52 weeks') adoption leave regardless of length of service with the University.

Employees can choose to stay on adoption leave for the whole 52 weeks or end it early and share the remaining weeks leave with their partner by opting in to **Shared Parental Leave**. Further information on our Shared Parental Leave procedure can be found at: <http://www.swansea.ac.uk/personnel/current-staff/leave-flexible-working-and-absence/family-friendly-leave-arrangements/shared-parental-leave/>

Adoption leave is available to:

- ◆ Employees who adopt individually
- ◆ One member of a couple, regardless of gender, where a couple adopt jointly

If you are a couple jointly adopting, you must decide who will take the paid adoption leave. The other partner (male or female) may be eligible to paid paternity leave under the University's [Paternity/Parental Leave Procedure](#)

3 Adoption Pay

Although all employees are entitled to 52 weeks adoption leave the amount of pay received differs depending on an employee's length of service with the University and whether or not they return to work following adoption leave.

3.1 University Adoption Pay Scheme

To be eligible to receive Swansea University's Occupational Adoption Pay, employees must:

- ◆ Have completed at least 52 weeks' continuous service with the University by the week in which notification of the match is given
- ◆ Give the correct notice
- ◆ Return to work in either a full or part time capacity for at least 13 weeks following adoption leave. It should be noted that annual leave accrued during adoption leave and subsequently taken on return will not count towards those 13 weeks i.e. the 13 week period will start after the accrued annual leave has been taken. The University reserves the right to reclaim all the Non-Statutory elements of pay if an employee fails to return for this period of time. Eligibility to Statutory Adoption Pay remains unaffected, regardless of whether the individual returns to work

Members of staff who comply with the above criteria will be entitled to the following:

Weeks	Pay
1-8	Full pay*(inclusive of the basic statutory entitlement)text
9-26	Half pay (or half **average pay) + SAP
27-39	SAP only
40-52	Unpaid

** a full week's pay is determined by the actual contractual hours paid in the month immediately prior to the commencement of adoption leave*

*** an average week's pay is determined by multiplying basic contractual weeks pay by the number of weeks actually worked in the year, then dividing by 52.17. For variable hours contracts (those that do not have standard weekly hours eg paid by timesheet) an average week's pay is determined by the pay received from the University in the last 12 months immediately prior to the commencement of adoption leave.*

Employees who comply with the above service criteria but who indicate before commencement of adoption/surrogacy leave that they do not wish to return to work, will receive 39 weeks Statutory Adoption Pay only.

3.2 Statutory Adoption Pay

Employees with less than 52 weeks' continuous service with the University are not eligible for The University's Occupational Adoption pay but may be entitled to Statutory Adoption Pay (SAP). To qualify, employees must have had:

- ◆ 26 weeks continuous employment ending in the week in which notification is given of being matched with a child
- ◆ Give the correct notice
- ◆ earnings not less than the lower earnings limit for National Insurance contributions

SAP can be paid for up to 39 weeks. The first 6 weeks will be paid at 90% of your average weekly earnings and the remaining 33 weeks at the statutory flat rate.

You can access a summary of your statutory entitlement and the current rates for SAP by using the on-line calculator at <https://www.gov.uk/employers-adoption-pay-leave/entitlement>

If an employee is not eligible for SAP the Human Resources Department will notify the individual within 7 days of making the decision, explaining the reasons why, together with a copy of the SAP 1 form. You may be eligible for other welfare benefits such as income support. Further details are available on the Department for Work and Pensions website at www.dwp.gov.uk

4 Official Meetings

4.1 Prior to adoption

The main adopter, regardless of length of service is entitled to reasonable paid time off for adoption appointments e.g. assessment meetings, meetings with social workers or meetings with the child. The secondary adopter is entitled to take paid time off for up to two appointments.

You should provide your Head of College/Directorate (or nominee) with as much notice as possible. They have the right to request that the employee produce documentary evidence showing that an appointment has been made.

4.2 Prior to surrogacy

Parental Order parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to up to 2 of her antenatal appointments. This is subject to meeting certain criteria, including a 12 week qualifying period of service.

5 Commencing adoption / surrogacy leave

Adoption/surrogacy leave can start:

- ◆ for UK adoptions - up to 14 days before the child starts living with you but no later than the date of placement
- ◆ for overseas adoption – when the child arrives in the UK or within 28 days of this date
- ◆ for surrogacy - the day the child is born or the day after

6. Notification of adoption / surrogacy leave

Employees should notify their Head of College/Directorate and HR in writing of their intention to adopt within 7 days of the match being confirmed. The information should include the expected date of placement, the date they wish leave to commence (which should be no later than the date of the placement) and how much leave they want.

The expected date of adoption must be confirmed by the `matching certificate` from the employee's adoption agency once it is issued.

This date can be amended due to any change in circumstances regarding the adoption. Any request given at short notice will be looked at as sympathetically as possible. If a placement is delayed and the employee has begun their adoption leave, this cannot stop and then to re- commence at a later date.

7. Applying for adoption / surrogacy leave

To apply for adoption/surrogacy leave employees should complete the adoption/surrogacy leave application form attached to this document, no later than 28 days before they want their leave to start. The form should be sent to the HR Department, copied to the Head of College/Directorate (or nominee) together with the following documentation:

UK adoptions:

- ◆ Letter from the appropriate agency confirming that adoption is being sought

- ◆ The matching certificate to confirm a child is being placed – issued by the adoption agency
- ◆ Confirmation letter from the adoption agency that a child has been placed with them

Overseas adoptions:

- ◆ A copy of the Official Notification issued by the relevant UK authority as proof of the eligibility to adopt a child from overseas
- ◆ Completed Form SC6 giving the date the child is expected to enter the UK and to declare that Statutory Paternity Pay is not being received (available from www.hmrc.gov.uk/forms/sc6.pdf)
- ◆ A copy of the evidence that the adoptive child has entered the UK e.g. plane ticket or copies of entry clearance documents (evidence to be submitted within 28 days of the child entering the UK)

Surrogacy arrangement:

- ◆ The birth mother's MATB1 form
- ◆ Parental Order within 6 months of the child's birth (if you fail to provide a copy of the Parental Order within 6 months of leave & pay starting the University reserves the right to reclaim any payment made and to be compensated for leave taken)

The Human Resources team will respond within 28 days, confirming how much pay you will receive and when it will start and stop.

8 Disruption to the placement

Adoption leave will normally finish eight weeks after the end of the week in which any of the following disruptions take place:

- ◆ adoption leave began before the expected date of placement and you are then informed that the child will not be placed
- ◆ the child stops living with the adopter
- ◆ the child dies during the adoption leave

Payment for SAP will continue for eight weeks after the end of the week in which the disruption took place or until the end of the adopter's 39 week SAP period, whichever is the sooner. You must give eight weeks' notice if you are returning to work earlier than expected due to the disruption.

Entitlement to University adoption pay and SAP would cease immediately if the employee works in any week in which SAP is payable during the adoption/surrogacy leave period (excluding Keeping in Touch days)

In the event of the adopter's death, entitlement to Statutory Adoption Pay will expire at the end of the week in which death occurs.

9 Terms of Employment

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to salary and where varied in this procedure, throughout the 52 week period of adoption/surrogacy leave.

10 Sickness absence

If an employee is absent due to illness they can remain on sick leave up until the date of the child's placement or until the date they have given as their commencing adoption

leave, whichever is the earliest.

Sickness Absence which occurs after the first 39 weeks of Adoption Leave may be treated as normal sickness absence, provided that it is covered by a medical certificate, and will be subject to the provisions of the University's Policy on Sickness Absence.

11 Pension Arrangements

Employees on adoption/surrogacy leave will continue to be members of the relevant pension scheme.

The period of paid adoption/surrogacy leave will count in full as pensionable service. Whilst in receipt of full pay, employees will continue to pay contributions at their normal rate and the University will continue to pay at its normal rate. Whilst in receipt of half pay and/or Statutory Adoption Pay, employees will pay contributions based on the pay they receive, and the University will pay the remainder of the employee contributions and the full employer contributions based on the full salary (except for the NHS Scheme where employees pay contributions based on the pay they receive and the University pays contributions on the normal full salary).

During a period of any unpaid adoption/surrogacy leave, membership of the relevant pension scheme will be suspended. However, employees will not be treated as having left the scheme unless they fail to resume employment after the unpaid adoption/surrogacy leave. It is possible for employees with the consent of the University to make up their contributions for all or part of the period of suspended membership, and the University will continue to pay its contributions.

If contributions are NOT maintained during a period of suspended membership, a USS member is able to pay a special contribution directly to USS to cover the death-in-service/incapacity retirement benefits. If a special contribution is not paid and a USS member dies or becomes incapacitated during that time, he or she will be treated as a deferred member (i.e. the death-in-service payment of 3 x salary and incapacity retirement benefits as an active member will not apply).

If an employee is a member of SUPS/NEST, membership of the relevant scheme may continue for up to 3 years at the University's discretion. In this case, death benefits will continue to be payable and members will be given the opportunity to buy back lost service on their return to work.

12 Probation

If you are on probation at the start of your adoption/surrogacy leave, the probation will be extended by the period of your leave.

13 Research Excellence Framework (REF)

If you are eligible to be included in REF and, as a result of your adoption/surrogacy leave your research productivity is significantly affected then the number of outputs required for submission may be reduced. Further information please refer to the REF Individual Circumstances Guidelines.

14 Annual Leave during Adoption Leave

Employees will continue to accrue annual leave (pro rata for part time staff) during paid and unpaid adoption/surrogacy leave. They will also accrue University Days that occur during adoption/surrogacy leave. Bank Holidays do not accrue during Adoption/surrogacy Leave. If a period of adoption/surrogacy leave falls in two annual leave years, then annual leave may be carried over as long as this is taken immediately after the period of adoption/surrogacy leave.

If an employee returns to work on reduced hours, normally the employee will need to take the full time carried over leave entitlement before commencing their reduced hours.

15 Communication

It is good practice for the University and employees to keep in touch during the adoption/surrogacy leave period. It is recommended that staff discuss arrangements with their line manager on how to be kept informed of any promotion opportunities, restructuring or any other information related to their post before they commence leave. This practice of reasonable contact is distinct from keeping in touch days.

16 Keeping in touch days

Employees may, by agreement with their Head of College/Directorate (or nominee), undertake up to ten days paid work, referred to as 'keeping in touch days', during their adoption/surrogacy leave.

Such days may be undertaken at any stage during the leave period, except during the first two weeks.

The type of work undertaken is a matter for agreement between the employee and the Head of College/Department. The days may be used for any activity that would ordinarily be classed as work under the employee's contract such as attending a conference, undertake a training activity or attend a team meeting.

There is no obligation for the Head of College/Directorate (or nominee) to offer keeping in touch, neither is there an obligation on the employee to accept. Keeping in touch days are optional and can only take place by agreement between both parties.

Payment for keeping in touch days' will be at the employee's normal daily rate of pay. While an employee is on full pay, no additional payment will be made. While an employee is receiving SAP or no pay then they will be paid the difference between what they are receiving under their adoption pay and their normal rate. Where a full day is not worked the employee will only receive payment for the actual hours worked, based on their normal hourly rate. The total payment will not exceed their normal daily rate.

Employees wishing to undertake a keeping in touch day should in the first instance complete the Keeping in Touch form attached to this document and forward this to their line manager.

17 Staff on Fixed Term Contracts

Employees whose contracts of employment expire during the adoption/surrogacy leave period, or prior to the completion of 3 months return to work, should consult with Human Resources at the earliest opportunity. Where, due to no further funding being available, an extension is not possible, Statutory Adoption Pay will continue for the full 39 weeks for eligible staff. Occupational Adoption pay will expire on the date of termination of the fixed term contract.

Consultation about the expiry of your fixed-term/ fixed funding contract will be in accordance with the University's Procedure for employing staff on Fixed Term Contracts and Fixed Term Funding Streams P1415-507.

18 Grant Funded Staff

Employees who are funded by external income should consult with the grant holder and Human Resources at the earliest possible opportunity. Some funding bodies have a policy to extend grants to cover adoption/surrogacy periods. This will not affect the employee's right to adoption leave and pay.

19 Term-Time Only Staff (working less than 52 weeks per year)

Employees who work less than a full year will receive a pro rata entitlement to adoption pay and leave, which will coincide with the periods during that the employee, would normally work and will be suspended during vacation periods. Statutory Adoption Pay will be continuous from the start of Adoption Leave. The total period of adoption leave will not exceed 52 weeks.

20 Returning to work after adoption / surrogacy leave

In accordance with law you must take a minimum of two weeks adoption/surrogacy leave. This can start up to 14 days before the child is placed for adoption or, for a surrogacy agreement, immediately following the birth.

A member of staff who intends to return to work at the end of their agreed adoption/surrogacy leave period does not have to give any further notification to the University. However, in order to ensure that correct payments are made, it would be helpful if the individual could confirm this, in writing, to their Head of College/Directorate (or nominee).

A member of staff who wishes to change the end date of their adoption leave period should give 8 weeks' notice in writing, to their Head of College/Directorate (or nominee) and Human Resources. Depending on circumstances this notice period may be varied by agreement with their Head of College/Directorate.

If an employee does not return to work or returns to work and leaves within 3 months of their return from adoption/surrogacy leave, the University reserves the right to recover all or part of the adoption pay (excluding the statutory amount) received during adoption/surrogacy leave.

21 Right to return to the same post

An employee returning to work after 26 weeks or less adoption/surrogacy leave has the right to return to the same job on the same terms and conditions as if they hadn't been away. If the total absence is more than 26 weeks they have the right to return to the same post unless it has been made redundant. In these circumstances the employee will return to a suitable alternative post, where one is available. However, if you are offered another post but chose not to accept it the University will claim back the non-statutory part of your UAP.

22 Returning to work on a part time basis

Employees do not have an automatic right to return to work on an alternative working pattern or different hours however they do have a right to request flexible working and the University will give sympathetic consideration to such requests on either a temporary or permanent basis.

Individuals should initially discuss this with the Head of College/Director at the earliest convenience but not later than 8 weeks before the notified return to work. Any change must be agreed with the line manager in conjunction with Human Resources. Should the job content and responsibilities of a revised role differ significantly to those of a previous role, the grading of the post may be reviewed.

For further details and how to apply for flexible working please see the University's [Flexible Working Policy](#).

23 Support for Returning to Work

Employees have a right to request flexible working for their return to work and the University will give sympathetic consideration to such requests on either a temporary or permanent basis. Employees should initially discuss this with the Head of College/Directorate at the earliest convenience, ideally before the commencement of their leave but not later than 8 weeks before the notified return to work date. Any change must be agreed with the line manager in conjunction with Human Resources. Should the job content and responsibilities of a revised role differ significantly to those of a previous role, the grading of the post may be reviewed. For further details and how to apply for flexible working please see the University's Flexible Working Procedure which is available on the Equality Team / HR intranet.

It is recommended that employees and managers discuss and agree return to work plans e.g. re-induction, office arrangements, breastfeeding arrangements and risk assessments (if applicable). This can be discussed before the period of leave, but should be reconfirmed immediately prior to the return date. The University has designated Wellbeing Rooms/Quiet Rooms for breastfeeding arrangements and breastfeeding parents can obtain information about the location and access to these rooms from the Equality Team's intranet page.

Managers should be mindful that employees may need additional support after a prolonged period of leave, such as training and time to re-orientate themselves with the role.

Academic Staff with a research or innovation and engagement enhanced strand are eligible to six months relief from teaching duties on their return from maternity leave, to allow a period of time to concentrate on their research and hence minimise the impact of their leave on research outputs. Academic staff with a teaching & scholarship enhanced strand are eligible for a 50% reduction in teaching load for their first semester. On return they will also be allocated the modules they have previously taught (unless requested by the member of staff to change).

Employees requesting flexible working or relief from teaching duties should initially discuss this with the Head of College/Director at the earliest convenience, ideally before the commencement of their leave but not later than 8 weeks before the notified return to work date.

Any change must be agreed with the line manager in conjunction with Human Resources.

Adoption/Surrogacy Leave Application Form

This form should be completed and returned to the College/Directorate Human Resources Officer within 7* days of being notified by the adoption agency of a match between the adopter and child/children and by the 15th week before the expected week of childbirth for intended primary carers of a child born through a surrogacy arrangement, who will be subject to a Parental Order.
* Overseas Adoption/Surrogacy Leave: 28 days' notice

Personal Details	
Full Name:	
Job Title:	
College/Department:	
Start date of employment	
Employee Number:	

Please accept this notification as an application for adoption/surrogacy leave. I confirm that I have read the University's adoption/surrogacy leave procedure and agree to the terms and conditions contained therein. I understand that I must submit the required documentation listed below before my application can be progressed.

Dates of Adoption/Surrogacy Leave	
Date you intend to commence adoption/surrogacy leave:	
Do you intend to return work after your adoption/surrogacy leave?*	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undecided
Date you intend to return to work:	
Dates of Annual Leave to be taken: (to be taken before or after adoption/surrogacy leave within the current leave year)	

*Please note you will not be entitled to the University's Enhanced Adoption/Surrogacy Pay if you do not return to work for at least 13 weeks after your adoption/surrogacy leave.

I am taking leave as:	✓
I have been matched with a child for adoption (UK Adoption):	
I have been matched with a child for adoption (Overseas Adoption):	
I am an intended parent of a child born through a surrogacy arrangement:	
I am a prospective adopter fostering a child under the 'Fostering for Adoption' scheme:	

I attach copies of the following documentary evidence:

UK Adoptions		✓
Letter from the appropriate agency confirming that adoption is being sought:	through the Fostering for Adoption Scheme:	
	other adoption agency:	
Matching certificate to confirm a child is being placed, issued by the adoption agency:		

Confirmation letter from the adoption agency that a child has been placed with me:	
Surrogacy Arrangement	✓
A copy of the birth mothers form MATB1:	
A copy of the Parental Order within 6 months of the child's birth:	

Overseas Adoptions	✓
A copy of the 'Official Notification' issued by the relevant UK Authority as proof of the eligibility to adopt a child from overseas:	
Completed Form SC6 (available from www.hmrc.gov.uk/forms/sc6.pdf giving the date the child is expected to enter the UK and to declare that Statutory Paternity Pay is not being claimed:	
A copy of the evidence that the adoptive child has entered the UK such as a plane ticket or copies of entry clearance documents:	

Declaration	
<p>I understand that if I am applying for surrogacy leave, the University reserves the right to reclaim any payment made, and to be compensated for leave taken, if I fail to provide a copy of the 'Parental Order' within 6 months of the birth.</p> <p>I understand that if I fail to return to work following my adoption/surrogacy leave for a period of 3 months the University reserves the right to recalculate and claim back the non-statutory element of my pay.</p> <p>I understand that, if I am eligible, SAP will be subsumed within the full pay arising from the University's adoption/surrogacy leave scheme and will be paid in addition to half pay under that scheme (subject to the total amount not exceeding my normal pay).</p>	
Signed:	Date:
Please provide a contact details should we need to contact you once you commence your adoption/surrogacy leave.	
Email:	Phone:
Address:	

Head of College / Department	
Signed:	Date:
HR Department :	
Signed:	Date:

Keeping in Touch Record

During Adoption/Surrogacy Leave it is beneficial to maintain contact with the University as this eases your return to work, please read the relevant section of the Adoption/Surrogacy Procedure.

Your Personal Details			
Employee Name:		Manager's Name:	
Employee Number:		Department:	

Keeping In Touch - KIT Days				
Date:	From –To (time)	Purpose :	Signed (Employee)	Signed (Manager)

KIT Days should be agreed by both parties. Manager and employee should each keep a copy of this form. After the employee has returned to work the line manager should forward a copy to the Human Resources Department.