



UNIVERSITY OF PLYMOUTH

Adoption Policy

V1 01.01.2017

Summary

This policy provides information for employees and managers about the University's adoption provisions to which employees are entitled, both before and after the adoption of their child.

The document explains the components being adoption leave, adoption occupational pay and statutory pay.

These adoption provisions comply with the relevant legislation (including the TURER Act 1993, the Employment Relations Act 1999, the Employment Act 2002, and the Work and Families Act 2006 and consequent regulations) and apply to all male and female employees employed by Plymouth University.

The policy applies equally to heterosexual intended parents and same-sex couples.

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2. List of Acronyms

OSAL	Ordinary Statutory Adoption Leave
AAL	Additional Adoption Leave
HRSAP	Higher Rate Statutory Adoption Pay
LRSAP	Lower Rate Statutory Adoption Pay
OAP	Occupational Adoption Pay
Matching Certificate	Proof of Adoption document from Agency
Parental Order	Transfer of rights from surrogate birth mother to adopting couple
SC6	Adopting a child from abroad legal document
Keeping In Touch (K.I.T. Day)	A day where an employee can undertake work, with the agreement of his / her line manager, for any activity which would ordinarily be classed as work under the employee's contract. No more than 10 K.I.T days can be worked.

2 Adoption Leave

2.1 Adoption Leave Entitlement

Adoption leave and pay are separate entitlements. All employees are entitled to take up to 52 weeks Adoption leave regardless of length of service. Adoption Leave is extended to include the primary adopter in a fostering and adoption arrangement and a surrogate parent who has applied for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008. Adoption leave is a single continuous period and is made up of 26 weeks Ordinary Adoption Leave (OAL) and 26 weeks Additional Adoption Leave (AAL). The other partner of the adopting couple could receive statutory paternity leave and pay instead.

Parents adopting step-children of a partner do not qualify for statutory adoption leave or statutory adoption pay, although they may be eligible for shared parental leave.

Only one period of adoption leave is permitted for each placement regardless of how many children are placed at that time as part of the same arrangement.

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Parents who adopt from overseas and do not use a registered adoption agency will not be entitled to statutory adoption leave and pay.

The adoption leave period cannot be extended, although it may be possible to take parental leave or annual leave immediately following the end of the adoption leave period if the qualifying criteria are met.

Employees must give the University at least 28 days' notice when they want their leave and pay to start, or as reasonably practicable.

If the employee starts their adoption leave before the child is placed, they need to be sure that the placement is going ahead. It is not possible to stop adoption leave and start again at a later date.

Adoption leave and pay can commence on any day of the week.

3. Adoption Pay

3.1 Statutory Adoption Pay (SAP)

Employees are entitled to SAP if they have 26 weeks continuous service by the matching week.

SAP is paid for 39 weeks of which:

- First 6 weeks higher rate SAP at 90% of average weekly earnings followed by
- 33 weeks Standard Rate SAP week (or 90% of average weekly earnings if this is less than Standard Rate SAP)
- Additional Adoption Leave is unpaid

Higher Rate SAP is a weekly amount determined by averaging the actual pay for the 8 calendar weeks previous to the Qualifying Week. Standard Rate SAP is a fixed amount, which is reviewed by the government annually in the budgetary process.

Entitlement to all SAP is lost if the employee is taken into legal custody or works for an employer other than the University, even for just one day, at any time whilst in receipt of SMP

N.B For certain groups of staff, continuous service with other employers may count towards the service used to calculate adoption benefits. Please refer to your contract of employment for details.

3.3 Occupational Adoption Pay (OAP)

Employees with 1 years' continuous service at the qualifying week are eligible to receive Occupational Adoption Pay (OAP):

- 12 weeks at full pay inclusive of SAP
- 12 weeks half pay plus SAP (if half pay plus SAP is greater than full pay, you will receive full pay)

Occupational pay is determined on received actual salary and continuing allowances at the time adoption leave commences and is fixed throughout the duration of the adoption pay period.

For hourly paid employees, the level of occupational pay will be determined by average pay weekly pay based on the hours worked in the 8 weeks prior to the matching week.

An employee who has received OAP must return to work for 13 weeks at the end of the adoption leave to retain the right to receive OAP. Authorised paid leave or sickness absence that immediately follows adoption leave will count towards the 13 weeks. If the employee does not return for this period then OAP must be repaid in full to the University.

The employee may opt to defer receipt of OAP until returned to work. In this case they will still receive Statutory Adoption Pay (SAP) whilst on leave, but the OAP will be paid as a lump sum after their return to work assuming they continue to work for 13 weeks or more.

Where entitlement to both SAP and OAP arises, whichever amount is most beneficial to the employee is paid.

5. Communication

During the adoption leave period an employer may make reasonable contact with the employee. Before the employee departs on adoption leave the line manager should discuss the amount of contact with the University that would be helpful during the leave period.

In any case, the employee must be kept informed of any information relating to their job which they would normally be made aware of if they were at work.

6. Time off for adoption appointments

The primary adoptive parent is entitled to paid leave to attend, by appointment, at any place for the purpose of having contact with the child or for any other purpose connected with the adoption – capped at five. There is no length of service or earnings criteria for entitlement to this type of paid leave.

The secondary adoptive parent of the same child entitled to unpaid time off to attend appointments – capped at two.

The manager is entitled to request evidence of the appointments.

8. Before Adoption Leave starts the employee must: -

Inform their manager at an early stage of the process. This information will be kept confidential if required. The individual may at this point contact the HR Administrator to clarify the procedure and their entitlements.

The employee should also keep their manager informed of progress with the adoption, and the manager will offer all appropriate support, for example flexitime for appointments with the adoption agency.

The individual must give notice in writing to Human Resources Department and their line manager that they intend to take adoption leave. Notice must be given within 7 days of receiving Adoption Agency confirmation that they have been matched with a child. The written notice must specify:-

1. the date on which the child is expected to be placed for adoption
2. the date they wish to commence adoption leave and adoption pay. This may be the date of placement, or no more than 14 days before the expected date of placement, and no later than the expected date of placement.

Within 28 days of receiving this written notification the HR Administrator will notify the employee of the date on which their adoption leave will end; this will be 52 weeks after the start of the adoption leave.

The individual can change the adoption leave start date by giving further notice, but this must be given at least 28 days before the leave is scheduled to begin.

A copy of the adoption papers should also be provided to Human Resource Department.

9. **Keeping in Touch Days**

The University may, at its discretion, offer an employee on adoption leave the opportunity to work for up to 10 'Keeping in Touch Days'. These days may be either separate days or one or more blocks of several days. An employee offered such work is under no obligation to agree to do it. However, if it is mutually agreed, the line manager (with advice from Human Resources) will confirm the terms of the work assignment including what will be paid.

If a KIT day is worked whilst in receipt of SAP and / or OAP, the KIT payment will be offset by these amounts.

Agreeing to work up to 10 'Keeping in Touch Days' will not affect the employee's SAP entitlement, or his / her entitlement to continue on adoption leave until the due return date. (See Appendix B).

10. **The Employment Relationship**

Conditions of service and contractual terms – the employment terms and conditions are protected and employees are entitled to any pay rises and improvements in terms and conditions given during the leave.

Annual leave accrues throughout the full period of adoption leave. Leave also accrues for any statutory public holiday and/or University closure day that falls during the period of adoption leave. All annual leave accrued during your period of adoption leave will need to be taken, where possible, during the leave year in which you return from your adoption leave. Accrued leave will be calculated and confirmed by the line manager. Any variation to this or the need to carry over into the following leave year should be discussed and agreed with your line manager.

Pension Contributions – Employer and employee pension contributions will stop when the adoption leave becomes unpaid. The employee should contact Human Resources for information about their pension benefits as the terms vary for different schemes.

Notice Periods During Adoption Leave - Normal contractual notice conditions continue to apply during periods of adoption leave. If an employee tenders their resignation during the adoption leave period, the date of termination will normally be the end of the contractual notice period. If there is

still an SAP entitlement at the end of the contract and the employee is not taking up other employment, the payments will continue until the 39th week.

11. Returning to Work

The latest date of return is 52 weeks after the start of the adoption leave – the exact date will have been confirmed in writing by the University before the adoption leave period started.

The employee can change the date they return to work but must give 8 weeks written notice confirming the new date.

If for some reason the placement is not successful and ends after the adoption leave period has begun the employee will be allowed to continue their adoption leave for a maximum of 8 weeks after the end of the week the placement ends or until the end of the maximum leave period if that is sooner.

Employees have the right to return to their job if they take only Ordinary Adoption leave (OAL) – first 26 weeks paid leave. The rules are different if the employee takes additional adoption leave (AAL) – weeks 27 to 52. In this situation, employees have the right to their job or similar job with the same or better terms and conditions.

It should be noted that where parental leave is taken immediately following adoption leave, the terms of the parental leave policy will apply in deciding which job an individual returns to. The employee should refer to the Parental Leave Policy.

The employee may wish to apply for flexible working on return from Adoption Leave and should do so by referring to the Flexible Working Procedure.

The manager should confirm with Human Resources on the first day of return to work that the individual has either returned, or is on authorised leave. This will help to ensure that pay is accurate.

12. Shared Parental Leave

Employees who wish to curtail their Adoption Pay and / or Leave so as to opt into Shared Parental Leave, must give 8 weeks' notice to their line manager. The employee should refer to the Shared Parental Leave Policy to confirm eligibility and entitlement before confirming their intentions.

14. Parental Leave

The employee may apply to transfer from adoption leave to Parental Leave provided they meet the qualifying criteria by the time the parental leave is due to start. The employee should refer to the Parental Leave policy.

A period of unpaid parental leave will not count towards the 13 weeks return to work required in order to retain Occupational Adoption Pay. This period will start to count once the employee actually returns to work.

15. Flexible Working

There is a legal requirement for the relevant manager to seriously consider any request by a member of staff to be permitted to return on a part-time or job-share basis at the end of adoption leave. Such requests must normally be met unless there are justifiable business reasons to refuse (Please refer to the Flexible Working Policy and the Job Share Policy found on the HR Community). Managers should discuss the matter with an Employee Relations Specialist in HR before turning down such a request.

16. Legal Requirements

Managers should be aware that the University is bound by certain legal requirements in relation to adoption situations:

- Employees are protected from unfair treatment at work in connection with taking adoption leave. An employee who believes they have been treated unfairly on any of these grounds can complain through the University's Grievance Procedure or to an Employment Tribunal.
- A manager cannot dismiss an employee, or fail to renew their fixed-term contract, for a reason related to adoption or because they took adoption leave. Managers and staff who find themselves in a situation where a fixed term contract would be due to terminate while the employee is on adoption leave should seek advice from an Employee Relations Specialist in HR at the earliest opportunity.
- Employees on adoption leave are also protected with regard to redundancy, and must be offered any suitable alternative employment available even if other colleagues are more suitable for the role. If a suitable alternative position is not available, then redundancy will be applied in line with statutory and contractual entitlements.

If you are in any doubt about a particular aspect of this policy, please contact the HR Administrator within Human Resources

17. Review

The University is committed to improving the way we lead and develop people, including ensuring all procedures are fit for purpose at individual, team and organisational level.

This procedure will be reviewed as necessary, taking into account user feedback, evaluation mechanisms and any changes in statutory regulations that may be relevant. Any feedback or comments that could improve the procedure should be fed back to the document owner.

Adoption Entitlements for all members of staff

	Less than 26 weeks' continuous service at the Qualifying Week	More than 26 weeks' but less than 1 years' continuous service at the Qualifying Week	1 years' continuous service at the Qualifying Week
Adoption Leave	26 weeks Ordinary Adoption Leave 26 weeks Additional Adoption Leave	26 weeks Ordinary Adoption Leave 26 weeks Additional Adoption Leave	26 weeks Ordinary Adoption Leave 26 weeks Additional Adoption Leave
Adoption Pay	No entitlement to statutory adoption pay.	SAP is payable: <ul style="list-style-type: none"> • 6 weeks at 90% of average weekly earnings • 33 weeks at standard rate SAP or 90% of average weekly earnings (whichever is lower) (NI contributions must have been paid with this University for eight weeks before the Qualifying Week)	OAP is payable: <ul style="list-style-type: none"> • 1st 12 weeks at full pay • Next 12 weeks at ½ pay PLUS standard rate SAP.
Amount repayable	None	None	Repayable in full if employee does not return to work for 13 weeks after adoption leave

KEEPING IN TOUCH DAYS

Important: The maximum number of Keeping in Touch Days (K.I.T days) which can be taken in one adoption leave period is 10. If this is exceeded this may affect entitlement to SAP.

Such days may be undertaken at any stage during the adoption period. The days may be used for any activity which would ordinarily be classed as work under the employee's contract.

Keeping in Touch Days do not extend the Statutory Adoption Pay or Occupational Adoption Pay or Ordinary Adoption Leave or Additional Adoption Leave periods in any way.

Payment for a Keeping in Touch Day will be based on the number of hours worked using the following formula: $(\text{full time salary} + \text{contractual allowances} / 1929) \times \text{number of hours worked}$. However, it should be noted that any payment will also take into consideration any SAP entitlement payable in the same period. If the employee works for part of a day then this will count as one whole Keeping in Touch day, i.e. one hour's work will count as one whole K.I.T day.

Payment for Keeping in Touch days will only be made after completion of the day's work.

Employees wishing to undertake a Keeping in Touch Day should complete a "Keeping in Touch Day Form" and forward to their manager in the first instance.

The manager, with advice and guidance from HR/Payroll, will discuss with the employee before the work is undertaken the terms of the assignment including the payment that will be made.

The manager must forward the "Keeping in Touch Day Form" to the HR Administrator immediately after the K.I.T. day in order for Payroll to action any payment in the next pay period.

PLYMOUTH UNIVERSITY

KEEPING IN TOUCH DAY FORM

**PART A BEFORE A KIT DAY IS WORKED YOUR MANAGER MUST AGREE
WITH YOU AND HUMAN RESOURCES THE TERMS OF PAY**

PART B – To be completed by Employee

Name:

Payroll Reference:

Job Title:

Department:

Keeping in Touch Day details

Number of previous KIT days:

Date(s) of latest KIT days:

Number of hours worked per KIT Day:

Total number of hours:

Brief description of activities:

Employee signature:

Date:

PLEASE PASS THIS FORM TO YOUR MANAGER IMMEDIATELY

PART C – To be completed by Manager

Comments:

I confirm that the above work was undertaken as detailed above

PLEASE REFER TO PART A

Manager's Name:

Signature:

Date:

Budget holders name (if different from above):

Signature:

Date:

**PLEASE SEND TO THE HR ADMINISTRATOR, HUMAN RESOURCES, 17
PORTLAND VILLAS, IMMEDIATELY**

FOR PAYROLL USE ONLY

NAME **PAYROLL REFERENCE**

Date of KIT day	Salary + Allowances	KIT Hours	KIT Payment	Offset by KIT	Offset by OAP
	Divided by 1929 / 1700 / 1663 =				
	Divided by 1929 / 1700 / 1663 =				
	Divided by 1929 / 1700 / 1663 =				
	Divided by 1929 / 1700 / 1663 =				
	Divided by 1929 / 1700 / 1663 =				

Total KIT Payment

Less SAP Offset

Less OAP Offset

Kit Payment due

Month Paid