

**Overview of/Guide to Adoption Leave and Pay and Post Adoption Rights –**  
*Revised June 2011; January 2016; April 2016; Aug 2017*

This guide outlines Statutory and Contractual rights and responsibilities/procedures to follow in relation to employees' entitlement to adoption leave and pay, where an employee is notified of a match with a child on or after 5<sup>th</sup> April 2015. In addition it also provides details of post adoption rights and useful sources of information.

**Adoption leave rights now extend to surrogacy and “foster to adopt” situations.** Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take statutory adoption leave if the child's expected week of birth begins on or after 5 April 2015. Local authority foster parents who are also prospective adopters, “foster to adopt” are entitled to take ordinary adoption leave in relation to child/ren matched on or after 5 April 2015.

**Shared Parental leave**

Information on shared parental leave and pay is contained in a separate guide, available from the HR web pages, and applies to adoptions where the employee is expected to be placed or matched with the child or after 5<sup>th</sup> April 2015. This enables the main adopter, having taken a minimum of 2 weeks' adoption leave to choose to bring to an end their adoption leave, and share the remaining leave and pay with their partner, so long as they meet certain eligibility criteria.

The University recognizes that employees may have questions or concerns relating to their adoption rights. It is the University's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the adoption provisions are complex, employees should clarify the relevant procedures by contacting a Human Resources Adviser to discuss the relevant procedures to ensure that they are followed correctly.

**Useful terms in this document:**

**Matching certificate/date** – a certificate or letter from the adoption agency setting out the date when an employee has been matched with a child/ren to be placed with them by a UK adoption agency.

**KIT days** – Keeping In Touch Days are mutually agreed between you and your line manager, which enable an employee on adoption leave to come into work for up to 10 days without losing their statutory adoption pay.

**SAP:** Statutory Adoption Pay is paid for up to thirty-nine weeks at £139.58 (April 2015) a week or 90% of normal weekly earnings whichever is lower.

**1. Rights for Adoptive Parents** – The essential requirements for qualifying for adoption leave are that an employee must:

- Be newly matched with a child for adoption by an approved adoption agency, and
- Have worked continuously for the same employer for 26 weeks leading into the week in which they are notified of being matched with a child for adoption (the matching week)
- Be the only partner taking adoption leave,

The system for adoption leave and pay mirrors that of the maternity leave provisions, but please note that:

- Adoption leave is not available to both parents (if one partner is eligible for adoption leave and pay the other may take paternity leave and pay)
- The entitlement to adoption leave applies to partners of the same sex
- An employee must be able to demonstrate that they will have responsibility for the upbringing of the child it does not matter if they are not married.

A match occurs when an approved adoption agency matches an adopter with a child

### **Time off to attend adoption appointments**

From 5<sup>th</sup> April 2015, employees who are adopting a child are entitled to take time off to attend adoption appointments:

- the purpose of which is to enable the employee and his/her partner, to have contact with the child (e.g. to bond before placement ) or for any other reason connected with the adoption:
- An employee adopting a child is entitled to take paid time off to attend up to five adoption appointments (under s.57ZJ of the Employment Rights Act 1996).
- In the case of a couple jointly adopting a child, the partner not taking the adoption leave, can elect to take unpaid time off to attend up to two adoption appointments (under s.57ZL of the Employment Rights Act 1996).
- The appointment must have been arranged by /at the request of the adoption agency.
- The time off must be taken before the date of the child's placement for adoption with the employee.
- The employee will have to provide proof of the date and time of the appointment and that it has been arranged by or at the request of the adoption agency (e.g. a letter or email form the adoption agency) on the first occasion on which they ask for time off.
- The right to time off to attend an adoption appointment is capped at a maximum of six-and-a-half hours on each occasion, though employees should only take the time that they need if this is less than the maximum.

**2. Statutory Adoption Leave** – All employees, regardless of the number of hours they work, who adopt a child through an approved adoption agency are entitled to 52 weeks adoption leave, as follows:

- 26 weeks ordinary adoption leave, followed immediately by up to
- 26 weeks additional adoption leave

All employees who take adoption leave have the right to return to work at any time during either 'ordinary' or 'additional' adoption leave subject to their following the correct notification procedures set out in these guidelines.

**3. During Ordinary adoption leave**, an employee's terms and conditions of employment other than those relating to salary continue to apply, e.g. an employee will continue to accrue annual leave under his or her existing contract of employment , and s/he is entitled to return to their existing job.

**4. During Additional adoption leave**, an employee's terms and conditions of employment other than those relating to salary continue to apply, e.g. an employee will continue to accrue annual leave under his or her existing contract of employment,

and s/he is entitled to return to the same job, or if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

### **5. University Adoption Leave and Pay**

University adoption leave and pay (for all categories of staff) is payable for any employee with more than 41 weeks service at the expected date of placement of the child, and who give a commitment to return to work following adoption leave. The entitlement will be:

- 4 weeks at full pay; followed by
- 2 weeks at 90% of full pay; followed by
- 20 weeks at 50% of full pay plus Statutory Adoption Pay; followed by
- 13 weeks at Statutory Adoption Pay, followed by
- 13 weeks unpaid leave

***However please note that if an employee fails to return to work for at least three months after the period of adoption leave, then they will have to repay the non-statutory element of the adoption pay received.***

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

Statutory Adoption Pay is payable for up to 39 weeks, on the same basis as for Statutory Maternity Pay, as long as an employee meets certain conditions:

- Be newly matched with a child for adoption by an approved adoption agency, and
- Have worked continuously for the same employer for 26 weeks leading into the week in which they are notified of the match with a child for adoption (the 'matching week')

Employees who qualify for adoption leave will also qualify for statutory adoption pay, provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is set by the Government for the relevant tax year, currently 2015 £139.58 per week, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

**7. When can an employee begin his or her statutory adoption leave? –** An employee adopting a child from within the UK may choose to begin his or her statutory adoption leave from the date of the child's placement or from a predetermined date up to 14 days before the expected date of placement. An employee adopting a child from overseas may choose to begin his or her adoption leave from the date of the child's entry into Great Britain or from a predetermined date up to 28 days after that date.

An employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

**8. Notification to take adoption leave –** an employee must give the University notice no more than seven days after the date on which they have been notified of having been matched with a child for the purposes of adoption, unless this is not reasonably practicable in which case it should be undertaken as soon as possible. An employee needs to advise the University:

- When the child is expected to be placed with them
- When they want to start their adoption leave

**9. Documentary evidence of an employee's entitlement to adoption leave** – the University may request this evidence, and this would be in the form of a letter or 'matching certificate' from the adoption agency giving the name and address of the employee and the date on which a child is to be placed with them.

**10. Confirmation of adoption leave**

Once an employee has provided proper notification of their intention to take adoption leave the University will respond in writing within 28 days acknowledging their intentions and informing them of the date on which they must return to work after their adoption leave.

**11. Change of adoption leave start date**

An employee is permitted to bring forward or postpone their adoption leave start date, provided that they advise the University in writing at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.

**12. University Fixed Days and/or public holidays occurring during paid adoption leave**

An employee will be given additional days of leave, pro rata if an employee is part time, for any University Fixed Days and/or public holidays that occur during either their ordinary or additional adoption leave. These days of leave will be added to an employee's annual leave for the year in which they return to work, and can be booked through the normal system of requesting leave with their line manager.

**13. Keeping In Touch during adoption leave**

The University is entitled to make reasonable contact with an employee on adoption leave to help them plan their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence. The line manager and employee will agree the preferred method e.g. email, telephone, prior to the adoption leave commencing.

**14. Optional Keeping In Touch Days (KIT Days)**

Employees can agree to work for the University, or to attend training, for up to 10 days during their adoption leave without that work bringing their adoption leave to an end, and without any loss of a week's statutory adoption pay. These are known as 'keeping-in-touch' days. An employee can work for one hour or a whole day on a KIT day, and any work carried out on a day shall constitute a day's work for these purposes.

The University has no right to demand any KIT work is undertaken and an employee has no right to undertake any such work without his/her line manager's agreement. Keeping In Touch days can be taken at any time during the adoption leave period.

Statutory adoption pay will continue to be paid during the week any keeping in touch work is carried out. Keeping in touch days will be paid at an employee's normal rate of pay, and if an employee is receiving SAP/University adoption pay, this will continue to be paid, but the amount will be counted towards the contractual pay. However if an employee is not carrying out their normal duties for the keeping in touch work, then he/she will be paid at an amount to reflect the work s/he has done.

**15. Returning to work**

Whilst an employee is under no obligation to do so, it would assist the University if s/he confirms as soon as convenient during his/her adoption leave that s/he will be returning to work as expected.

## **16. Mentoring on return to work**

There may be occasions when the University offer staff who has recently returned from long term absence or whose role is undergoing change, the opportunity to have a mentor. The mentor is there to support them as they settle back into work and this includes staff returning from adoption, maternity or shared parental leave. If this is something that is of interest to you, please discuss this with your line manager in the first instance.

## **17. Returning to work earlier than expected**

If an employee wishes to return to work earlier than the expected return date, he or she must give the University at **least eight weeks/56 days' notice** of his or her date of early return, preferably in writing. If s/he fails to do so the University can postpone his or her return to ensure proper notice, so long as this doesn't delay return beyond original date.

## **18. Termination of the child's placement during adoption leave**

If the child's placement is terminated during an employee's adoption leave, an employee will continue to be entitled to adoption leave and pay (if applicable) for up to eight weeks after the placement ends. As the employee will be returning to work earlier than intended, s/he should give eight weeks'/56 days' notice of the early return. In many cases where no notice of the termination of the placement is given this will effectively mean the employee should notify the employer of his or her early return on the day the placement ends.

## **19. Returning to work later than expected**

An employee will be formally advised in writing by the University of the date on which s/he is expected to return to work. An employee is expected to return on this date or at the end of his or her additional adoption leave if this date is later, and s/he gives at least eight weeks/56 days' notice of their intention. An employee may not postpone his or her return beyond this date without the agreement of their line manager/head of department.

## **20. Return to work delayed by sickness at the end of ordinary or additional adoption leave**

If an employee is unable to attend work at the end of his or her adoption leave period due to sickness or injury, the University's normal arrangements for sickness absence will apply, e.g. an employee should contact his or her line manager on the first day of absence. In any other case, late return without prior authorization will be treated as unauthorized absence.

## **21. Not returning to work/resignation**

If an employee decides not to return to work after adoption leave, s/he must give notice of resignation as soon as possible and in accordance with the terms of his or her contract of employment. If the notice period would expire after adoption leave has ended, the University may require the employee to return to work for the remainder of the notice period

***However please note that if an employee fails to return to work for at least three months after the period of adoption leave, then s/he will have to repay the non-statutory element of the adoption pay s/he has received.***

## **22. Increments, Pay Awards and Contribution Related Pay**

Any Increments, Pay Awards or Performance Related Pay that become effective during an employee's adoption leave period will be actioned within the month they become effective, or if this is not practicable then as soon as reasonably possible.

### **23. Pension during adoption leave**

#### **Local Government Pension Scheme**

An employee's pension contributions will continue to be made during his or her **paid** ordinary and additional adoption leave. However, during additional unpaid adoption leave pension contributions will be suspended. An employee will therefore have a break in pensionable service unless they elect to make additional equivalent payments to fill the gap (for any unpaid leave of 31 days or more). An employee will have the option to buy back periods of unpaid leave and details can be found on the [www.lgps2014.org.uk](http://www.lgps2014.org.uk). Please contact the Human Resources Department if you require assistance with this. Please note under current regulations if you buy back any authorized unpaid leave within 30 days of returning to work, the university will cover the employer's corresponding contribution.

#### **Teachers Pensions**

An employee's contributions will continue to be made during paid adoption leave. During any period of unpaid leave, including unpaid adoption leave, both the employee's and employer's contributions will stop. On return to work the scheme provides a number of options to address any unpensionable service. Employees are advised to contact Teachers Pensions [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk) for further information.

**24. Adopting a child from overseas** – the above adoption provisions apply, so long as the employee meets one of the following qualifying conditions:

- 26 weeks continuous service ending with the week in which Official Notification is received, or
- 26 weeks continuous service by the time an employee wishes their adoption leave to start

Official notification is notification in writing from the relevant central authority (usually the Department of Education if you live in England) that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

Adoption leave cannot start until the child enters Great Britain and the latest adoption leave can commence is 28 days after that date of entry.

**25. An employee who already lives with their partner's children and adopts those children** – is not currently entitled to adoption leave and pay. The only form of leave available to them (and subject to certain qualifications) would be unpaid parental leave or unpaid family emergency leave, and details of these are listed directly below.

### **26. Additional rights following adoption leave**

#### **Right to request flexible working patterns**

- From 30<sup>th</sup> June 2014, changes brought in by the Children and Families Act 2014 mean that, employees are no longer required to have parental responsibility for a child under the age of 17 (or 18 where the child is

disabled) or caring responsibility for an adult aged 18 or over to make a request to work flexibly. The right is available to all employees who have at least 26 weeks' continuous service, and the University has a duty to seriously consider an employee's application.

- This new legal right mirrors the approach the University has adopted over a number of years, in that the University will seriously consider flexible working requests from all staff no matter what their length of service, wherever reasonably practicable. It is important to note that any change agreed becomes a permanent change to an employee's contract, although parents have the right to make one request in each 12 month period.
- Any requests for such changes should be raised with your immediate line manager by completing the Flexible Working Request Form. The form and policy are available online from the HR web pages at: <http://www.worc.ac.uk/hr/684.htm> or from the HR Department.

### **Parental Leave, 18 weeks unpaid**

The right to parental leave entitles all parents who have one year's service with their employer to take a period of:

- up to 18 weeks unpaid leave (in total, not per year) to care for each of their children, up to the child's eighteenth, or up to eighteen years after the placement date of an adopted child;
- Parental leave may be taken in blocks or multiples of one week only, subject to a maximum of four weeks' parental leave in any one year - unless the employee's child has been awarded disability living allowance, in which case the leave may be taken one day at a time or in blocks or multiples of one day.
- The right applies to mothers and fathers and to a person who has obtained formal parental responsibility for a child under the Children Act. Parents are able to start taking parental leave as soon as the child is born or placed for adoption, or as soon as they have completed the required one year's qualifying service with their employer, whichever is later.

### **Right to unpaid time off for Family Emergency – this right applies to all employees**

In many cases an employee now has the right to take time off work to deal with an emergency involving someone who depends on them. A husband, wife or partner, child or parent, or someone living with them as part of their family can all be considered as depending on them. Others who rely solely on them for help in an emergency may also qualify. An employee can also take time off if a dependant dies and they need to make funeral arrangements or attend the funeral.

The amount of time an employee can take off is as long as it takes to deal with the immediate emergency. For example, if their child falls ill they can take enough time off to deal with its' initial needs, such as taking them to the doctor and arranging for their care. But an employee will need to make other arrangements if they want to stay off work longer to care for them themselves.

### **27. University Childcare Provision**

The University has a fee-paying nursery 'Unitots' which is available to all employees and students. The Nursery is located on the University St John's campus. It is self-contained and has a large outdoor area. The Nursery is registered with Ofsted to provide day care for 36 children aged from 3 months to 5 years. It is open Monday – Friday, 8am – 6pm, 50 weeks of the year, excluding bank holidays and University fixed holiday. For further information an employee should contact the nursery on: 01905 855277 or email: [unitots@worc.ac.uk](mailto:unitots@worc.ac.uk)

## **28. Childcare Vouchers – Salary Sacrifice**

The University operates the childcare voucher scheme where any University of Worcester employee who is a parent of a child under 16 can apply for childcare vouchers up to the current value, as at April 08, £243 per month/£56 per week (for each parent) free from NI and income tax. An employee's gross salary is reduced by the value of the vouchers they choose to take and employees are required to sign up for a 12 month period, though an opt out is provided for life changing events that may occur. The vouchers can be used for any childcare service, provided they are officially registered. This includes the services provided at the University - the nursery and vacation schemes.

## **Potential Changes to Childcare Voucher Schemes**

The Government has indicated potential changes to Childcare Voucher Schemes and these have now been delayed until early 2017. In the meantime our existing Childcare Voucher Scheme will continue to operate and we will provide further information on the changes as they become available. You will find a link for childcare vouchers under item 31 of this document, 'Useful sources of information'.

## **29. Childcare Salary Sacrifice**

As the University operates a registered workplace nursery we are able to offer employees who use this facility the option for a free nursery place in return for taking a reduction in basic pay, usually equivalent to that of their nursery fees. The scheme works because under current legislation the provision of a free place at a qualifying workplace nursery does not give rise to a taxable benefit in kind – in effect the employee swaps taxable pay for a non-taxable benefit (the free nursery place) resulting in savings in tax and NI. The total tax and NI saving is shared between the employee and the University to produce the mutual benefits under the scheme. Because the scheme depends on tax savings it is therefore only suitable for an employee if they pay tax on their University salary.

## **30. University school vacation schemes –**

The University offers an array of activities throughout the holiday periods, these include our own camps and those linked with our community partners. These include; Worcester Wolves Basketball, West Bromwich FC, Flics Gymnastics, Rhythmic Gymnastics, Netball and more. Employees can obtain details of these from the Sports Facilities Manager, please email [gemma.jones@worc.ac.uk](mailto:gemma.jones@worc.ac.uk) for more information.

## **31. Parking Permits**

Please note that during the period of any maternity/adoption or shared parental leave any monthly parking payments deducted from your salary will continue, unless you elect to withdraw via email or letter. Employees need to return their parking pass to Finance in order for deductions to cease. Further information is available on the finance pages at <http://www.worc.ac.uk/finance/38.htm>

## **32. Useful sources of information:**

**Benefits Agency** – local Worcester office 01905 684600 Haswell House, Sansome Street Worcester WR1 1UZ <http://local.dwp.gov.uk/worcester/>

**Childcare Vouchers** <http://www.moneysavingexpert.com/family/childcare-vouchers>

**CoramBAAF (British Association for Adoption and Fostering)** Adoption & Fostering Academy offer resources for those caring for children [www.baaf.org.uk](http://www.baaf.org.uk)



**Gov.UK** site provides Tailored Interactive Guidance on all employment rights including adoption, paternity and shared parental leave. <http://www.gov.uk>

**Human Resources Department** – please contact one of the HR Advisers to discuss any queries or concerns you have: **01905 85(5175)** or [hr@worc.ac.uk](mailto:hr@worc.ac.uk)

**The Advisory, Conciliation and Arbitration Service (Acas)** offer free, confidential and impartial advice on employment rights issues. You can call the Acas helpline on 08457 47 47 47 from 8.00 am to 6.00 pm Monday to Friday. <http://www.acas.org.uk>

**The Trade Union Council (TUC)** provides detailed explanations on employees' rights at work, including adoption: <http://www.tuc.org.uk>

**Worcestershire.gov.uk** provides a wide range of free family information and advice to parents and carers of children aged 0-19, and up to 24 for those with a learning difficulty and/or disability.

[http://www.worcestershire.gov.uk/info/20223/support\\_for\\_children\\_and\\_families](http://www.worcestershire.gov.uk/info/20223/support_for_children_and_families)

**Working Families** advice for parents, carers and employers on balancing work and family life 020 7253 7243 <http://www.workingfamilies.org.uk/advice-information/>