

Adoption Leave Provisions – effective from April 2018

Adoption Rights – A guide for employees of the University of Bolton

Adoption leave and pay (if applicable) will give eligible employees the right to take paid leave when a child is newly-placed for adoption. Adoption leave and pay (if applicable) is available to:

- An individual who adopts
- One member of a couple where they adopt jointly (the couple must choose which partner takes adoption leave)

Qualifying Criteria for Adoption Leave:

- The employee must be newly matched with a child for adoption by an adoption agency,

and
- Have worked continuously for their employer for 26 weeks ending with the week in which they are notified of being matched with a child for adoption.

Note – adoption leave and pay are not available in circumstances where the child is not newly placed for adoption. For example, a step-parent adopting a partner's child.

Leave Entitlement:

An employee adopting a newly-placed child is entitled to **26 weeks ordinary adoption leave** followed immediately by up to **26 weeks additional adoption leave**.

An employee can choose to start their leave:

- From the date of the child's placement (whether this is earlier or later than expected), or
- From a fixed date, which can be up to 14 days before the expected date of placement.

Adoption leave can commence on any day of the week.

Note – As part of the same arrangement, only one period of leave is available, irrespective of whether more than one child is placed for adoption.

If the child's placement ends during the adoption leave period, the employee can continue adoption leave for up to eight weeks after the end of the placement.

Right to take time off to attend adoption appointments

The Children and Families Act 2013 introduces a new right to attend adoption appointments. The main adopter will be able to take time off to attend up to five, while the secondary adopter will be entitled to take time off for up to two such appointments

Documentation required by the Employer:

The employee must provide the University with documentary evidence that they are adopting a child through an adoption agency. Evidence may be provided by either a letter from the agency confirming that the adopter/employee has been matched with a child, or a Matching Certificate. The evidence must be provided at least 28 days before the **pay period commences** (unless this is not reasonably practicable).

Note - The Employer must acknowledge the employee's notification within 28 days' following receipt.

Notification by the employee of their intention to take Adoption Leave:

The employee will be required to inform the University of their intention to take adoption leave within 7 days of being notified by the adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable.

The employee will need to provide the University with the following notification:

- When the child is expected to be placed.
- The date they would want the adoption leave to commence, which should be provided at least 28 days in advance, unless this is not reasonably practicable.
- The employee should notify their Line Manager and Human Resources.

Note – the employee can change their mind about the date on which they want their leave to commence, providing they give notice at least 28 days in advance of the leave (unless this is not reasonably practicable).

Entitlement to Paid Adoption Leave:

Statutory Adoption Pay (SAP):

During the adoption leave period an employee may be entitled to SAP. From April 2017 the rate of statutory adoption pay is £145.18 per week, for the first six weeks the employee will be entitled to 90% of their normal earnings. The following 33 weeks will be paid at the statutory adoption pay rate. The rate of SAP is the same as Statutory Maternity Pay (SMP) – being £145.18 per week, or 90% of Average Weekly Earnings (AWE) if they are less than £145.18 at 2 April 2017.

If the employee's AWE are below the Lower Earnings Limit (LEL) for the payment of National Insurance contributions, they will not qualify for SAP.

Note: For the tax year 2017/18 the LEL is £113.00 per week.

If the employee does not qualify for SAP, form SAP1 should be provided by the University's Personnel Services. Form SAP1 notifies the employee why they do not qualify for SAP.

An employee who does not qualify for SAP may be able to receive Income Support. Form SAP1 should be supplied by the employee to Job CentrePlus to establish if other benefits are payable

If the employee is contributing to a Pension scheme through salary, they need to be aware that whilst on unpaid Adoption Leave there are implications in respect of their active membership of the scheme. The employee should seek guidance from Human Resources with regard to the implications of unpaid leave in respect of service/active membership in the relevant Pension scheme.

Occupational Adoption Pay (OAP):

An employee of the University will be entitled to receive Occupational Adoption Pay in addition to any SAP.

The Occupational Adoption Pay will amount to 12 weeks' half pay, based on average weekly earnings.

Note – the combined amounts of SAP and OAP **must not** exceed the employee's normal average weekly salary.

If the employee does not return to work for at least three months at the end of the adoption leave period, the University has the right to re-claim the whole (or part as applicable) of the 12 weeks OAP.

The employee can choose to suspend the payment of the 12 weeks OAP until their return to work.

'Keeping In Touch' Days (KIT days):

Whilst on adoption leave an employee can agree to work for up to 10 days during the statutory adoption leave period without bringing that period to an end as a result of carrying out the work.

Any such work must be by agreement between the employee and the University and there is no right for the employer to demand that an employee undertakes any such work, or the employee to be obliged to do such work.

Any such work will not have the effect of extending the adoption leave period. For the purpose of the provision, 'work' may include training or any other activity undertaken to assist in 'keeping in touch' with the workplace. As an example, attending a team meeting which lasts for one hour will be regarded as one day.

The provision also sets out that reasonable contact which employers and employees are entitled to have with each other during the adoption leave period does not bring that period to an end.

Returning to work after Adoption Leave:

An employee returning to work at the end of their full period of adoption leave (52 weeks) does not need to give the University any notification of their intention to return.

However, if an employee wishes to return to work before the end of the full adoption leave period, they must give the University 8 weeks' notice, in writing, of the date they intend to return to work.

An employee has the right to resume working in the same job if returning to work from ordinary adoption leave. If the employee returns to work after a period of additional adoption leave, he/she is entitled to return either to the same job, or if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Statutory Paternity Leave:

Following the placement of a child, where a couple adopt jointly the partner not taking the adoption leave is entitled to paternity leave and pay (as applicable) to care for their new child and support the adopter.

The employee must satisfy the following conditions to be eligible for paternity leave.

- Have, or expect to have, responsibility for the child's upbringing,
- Be the adopter's spouse or partner,
- Have worked continuously for the University for 26 weeks, ending with the week that the adopter is notified of being matched with a child.

Note – for further information about Paternity Leave and Paternity Pay entitlements, please refer to the Paternity Leave Guidance Notes.