

## Adoption Policy (including Surrogacy)

### 1. Introduction

The School has a clear commitment to the promotion of equality of opportunity for all employees. It works towards positively supporting employees who are working parents and has attained a reputation as a top employer for working families. This policy demonstrates a commitment on the part of the School to enable employees to manage work and family. As part of this commitment, adoption leave and pay is available to all eligible employees within the diverse School community, including LGBT+ and same-sex families as well as those who have a surrogacy arrangement.

The policy uses the following key terms:

- adopter: the person who is eligible for adoption leave and/or pay.
- partner: the person who is the partner of the adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the adopter and the child.

Adopters and/or partners may be male, female or a trans individual (including individuals of a non-binary identity).

### 2. Policy aims

The School seeks to sustain a strong track record as a diverse, fair and flexible employer that attracts and retains high calibre talent, and supports the career progression of its diverse staff community during their employment by the School.

### 3. Policy principles

#### Legislation on Adoption Leave and Pay

1. The law entitles all employees who are newly adopting a child to:
  - 26 weeks' ordinary adoption leave (OAL)
  - 26 weeks' additional adoption leave (AAL)
  - the right to return to the same job held with the same terms and conditions, unless after additional adoption leave, this is not reasonably practicable.
2. Most employees will also qualify for Statutory Adoption Pay (SAP).
3. Entitlement to statutory rights is dependent on the correct implementation of the procedures, as defined by legislation.

It should be noted that employees will only be entitled to adoption leave and pay when the child has been newly matched for adoption, i.e. this will not apply in circumstances where a step-parent adopts a partner's child.

4. Adoption Leave is available to employees from the first date of their employment and SAP is 90% for the first six weeks. A person in a surrogacy arrangement, who meets the qualifying criteria in

Section 9 and who applies for a parental order in relation to a child born under a surrogacy agreement, will also qualify for adoption leave and pay.

5. For adoptions within the UK, the earliest an employee may start their OAL is 14 days before the expected date of placement. Once the adoption leave has commenced, there is a compulsory adoption leave period of a minimum of two weeks before an employee can return to work.

For overseas adoptions, it is the position of HM Revenue and Customs that the employee cannot start their adoption leave until the child has entered the UK.

#### Statutory Adoption Payments (SAP)

- (a) The qualification period for SAP is 26 weeks of continuous service with the School ending with the week in which the adopter was notified of having been matched with a child by an adoption agency, provided that normal weekly earnings at this point are not less than the lower earnings limit for National Insurance contributions for the eight week period ending with the week in which they were notified of being matched (More information can be found on: [www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions/rates-and-allowances-national-insurance-contributions](http://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions/rates-and-allowances-national-insurance-contributions) provides information on the rates of National Insurance contributions).
6. SAP is paid for up to 39 weeks at the rates given on [www.gov.uk/employers-adoption-pay-leave/entitlement](http://www.gov.uk/employers-adoption-pay-leave/entitlement) or 90% of normal weekly earnings, whichever is lower.
7. Those employees who do not qualify for SAP may be able to receive financial support from their adoption agency or local Jobcentre Plus Office.
8. There is no entitlement to Statutory Adoption Leave and Pay following a surrogacy agreement.

#### Eligibility for Contractual Adoption Pay

9. As part of the School's positive support of employees who are working parents, Contractual Adoption Pay is available for eligible employees who are newly matched with a child for adoption and have agreed the date of placement with the adoption agency or have applied for a parental order in relation to a child born under a surrogacy agreement. Therefore, subject to completing 26 weeks' continuous service by the end of the week of the notification of being matched, employees are eligible for:
  - a maximum of 18 weeks on full pay inclusive of SAP
  - 21 weeks of SAP
  - 13 weeks of unpaid leave.

#### The cost of adoption pay

10. The School can claim 92% of SAP back from the state. Only earnings used for the calculation of National Insurance contributions can be considered, so any pension payments cannot be counted.
11. In 1996/97 a contingency fund was set up to help departments that cannot easily meet the cost of adoption leave replacement. Applications for funding to assist with any additional costs required to enable a department to recruit replacement staff should be made by managers to the Academic Planning and Resources Committee (APRC) through the Planning Officer. The APRC will assess each application for assistance from the fund on its merits.

#### Research Leave, New Academic Career Structure

12. Employees who are employed under the terms and conditions of the New Academic Career are entitled to a period of research leave (i.e. four months) following SPL for a period of 18 weeks or more in total in order to re-establish their research trajectory. Absences of less than 18 weeks will not normally attract research leave. More information can be found on: [www.lse.ac.uk/intranet/staff/humanResources/reviewingAndRewarding/leave/academicStaffLeave/Research-Leave-2014.docx](http://www.lse.ac.uk/intranet/staff/humanResources/reviewingAndRewarding/leave/academicStaffLeave/Research-Leave-2014.docx)

## Adoption Procedure

### 1. Introduction

The procedure provides information on the steps necessary to apply the Policy on Adoption Leave to the School's eligible employees.

The procedure uses the following key terms:

- adopter: the person who is eligible for adoption leave and/or pay. They can be male, or female).
- partner: the person who is the partner of the adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the adopter and the child.

Adopters and/or partners may be male, female or a trans individual (including those of a non-binary identity).

#### Pre-Adoption leave

1. Employees can apply for up to five days' paid Pre-Adoption Leave. Should you wish to apply for pre-adoption leave, please speak to your line manager and HR Adviser.

#### Notification procedures

2. Please note that the notification procedures are a statutory obligation and therefore, in cases where these are not complied with, it may affect payment of adoption pay.

#### Notification of intention to take adoption leave

3. The manager must be informed, in writing, of the date of which placement is expected and their intended start date of the adoption leave period within seven days of being notified by the adoption agency that an individual has been matched for adoption, or as soon as reasonably practicable.
4. The leave may start up to 14 days before the actual placement. Any subsequent amendments to the intended start date should also be notified in writing with at least 28 days' notice, unless that is not reasonably practicable. A matching certificate from the adoption agency should be sent to the HR Adviser with a copy sent to the manager.
5. If matching occurs before the notified start date then the adoption leave will begin with the actual date of matching.
6. It is presumed that statutory additional adoption leave will be taken by those who qualify unless notification is given of an earlier return; no separate notification for additional adoption leave is required.
7. In surrogacy agreements, the notification of intention to take adoption leave should be made within seven days of the Parental Order being agreed and a copy of the Parental Order should be provided to the line manager within 6 months of the baby's birth. The notification should include the expected date of childbirth.

#### Notification of return to work

8. By law all employees have the right to return to work after a period of adoption leave. The following procedures should be followed to ensure protection of both legislative and contractual rights.
9. If an individual takes the full entitlement to adoption leave of 52 weeks, this requires no notice of return to work, unless return is intended before the end of the 52 weeks, when eight weeks' notice must be given in writing to the manager. If this notice is not given then the School may postpone the return until 28 days have elapsed, or until the end of the relevant adoption leave period if that is earlier.

#### Transfer of adoption leave – Shared Parental Leave and Pay

10. If an employee proposes to return to work early, without using the full 52-week entitlement to adoption leave, they may be eligible to apply for Shared Parental Leave with their partner. For more information on this, please see the Shared Parental Leave Policy and Procedure.

#### Adopting a child from overseas

11. The criteria regarding eligibility and adoption pay remain the same when adopting a child from overseas apart from the fact that the adoption leave and therefore pay cannot start until the child has entered the UK.
12. The notification procedures for adopting a child from overseas are different from domestic adoption as there is no Matching Certificate. In place of this, individuals should submit the Official Notification, which confirms that the Certificate of Eligibility has been granted. Where a child is being adopted from abroad with a partner, the pay and leave declaration must also be completed in order for the employee to receive adoption pay. In order to make administration as easy as possible, the employee should discuss the timing of their adoption leave with the line manager as early as possible.
13. The employee should advise their manager of:
  - the date of receipt of official notification from the relevant UK authority of their eligibility to adopt a child from overseas;
  - the date the child is expected to enter the UK.
14. Where the employee has completed 26 weeks' continuous service at the time of receiving the official notification, the manager should be advised within 28 days of receipt of official notification. Where this is not the case, the individual should advise their line manager within 28 days of the Sunday of the week that 26 weeks' service is completed.
15. The employee should notify the line manager of the date that they wish the adoption leave to start at least 28 days beforehand unless this is not reasonably practicable.
16. The employee should also provide evidence of the date on which the child enters the UK within 28 days of the child entering the UK, unless this is not reasonably practicable, to the line manager.
17. The employee can choose to start their adoption leave either on the date that the child enters the UK or on a fixed date no later than 28 days after the child enters the UK.
18. Once the employee becomes the legally adoptive parent of the child and can provide documentary evidence e.g. a certificate of adoption, should the line manager request this, the employee can request unpaid parental leave providing they meet the correct criteria. Please see the parental leave webpage for further information.

### Contact during adoption leave

19. The School reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employee's plans for 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. It is advisable that the manager and employee discuss how they will keep in contact and how the accrual of annual leave will be used, before the employee commences their leave.

### 'Keeping in Touch' (KIT) days

20. Whilst on adoption leave, individuals may either request, or be requested to undertake up to 10 days' paid work under their contract of employment. 'Keeping in Touch' (KIT) days may be taken at any stage during the adoption leave period.
21. The type of work that an individual undertakes on a KIT day is a matter for agreement between the individual and their manager. Subject to such mutual agreement, keeping in touch days may be used for any activity that would ordinarily be classed as work under an individual's contract and could be particularly useful to assist the return-to-work process, to undertake an important work-related training activity or to enable an individual to attend an important team meeting or conference.
22. Work during the adoption leave period may take place only by agreement between both an individual and their manager. A manager may not insist that an individual works during the adoption leave period if they do not wish to do so, nor does an individual have the right to a KIT day if their manager does not agree to it.
23. If a manager requests that an employee works a KIT day, the individual is entitled to turn the opportunity down without suffering any consequences as a result. It is unlawful for an individual to suffer detriment for not agreeing to work keeping in touch days, or for requesting to work KIT days.
24. Where a disagreement arises in respect of KIT days either about the principle of taking such days or the schedule of how the days are to be taken, the manager and the employee should try to resolve the disagreement as informally and quickly as possible.
25. Throughout the process, managers should seek advice from their HR Adviser concerning any related queries that they may have.
26. KIT days are paid by the hour at the individual's standard hourly rate. On a KIT day an individual should work no more than their normal working hours set out in their appointment letter or agreed with their line manager. Any work carried out under an individual's contract on any day will count as a whole KIT. For example, if an individual attends work only for a one-hour training session, they will have used one of their KIT days. Undertaking work on a KIT day will not affect an individual's adoption pay entitlement.
27. To be paid for KIT days worked, the KIT day form should be completed by both the employee and line manager and returned to the Human Resources Division. This should be received by the payroll deadline of the month in which the KIT day was worked or, if this is not possible, the following month. Payment will be made at the end of the month in which the form was received.

### Contract of employment

28. Adoption leave does not break continuity of employment for contract purposes. The period of paid adoption leave taken after 26 weeks' continuous service with the School is used in the calculation of continuous employment at the LSE for increments, pension rights, annual leave, sabbatical leave, and redundancy purposes. If return to work takes place after a period of unpaid adoption leave, then employees have the option of making pension contributions to cover the period of unpaid leave, if they decide to do this, the School will also make contributions in accordance with the pension scheme rules. Subsequent awards of backdated salary, which take effect during the calculation period used to work out adoption pay, will lead to a recalculation of the amount payable.
29. Annual leave will be accrued during the whole leave period. Where on return to work either, the employee is unable or, it is not operationally possible for them to take all their accrued annual leave, the untaken leave can be carried over into the following year. Employees should discuss how they wish to take the annual leave that they will accrue whilst on adoption leave with their line manager, ideally before the employee starts the aforementioned leave. As with any annual leave request, the annual leave must be agreed by the line manager. The possible options to discuss with the line manager include taking a block of accrued leave before returning to work or using accrued leave to allow a phased return to work by working shorter working weeks for a fixed period. In the event of an individual not returning to work following the period of adoption leave, due to resignation, payment in lieu of annual leave calculated up to the last working day and not taken before the start of the adoption leave will be given.
30. Return to the job in which an individual was employed under the original contract of employment and on the same terms and conditions is automatic following the statutory period of 26 weeks. However, if more than 26 weeks has been taken, it may be difficult for the manager to arrange return to exactly the same job. Suitable alternative work must be provided on terms and conditions that are no less favourable than the original job.

#### Decision made not to return to the School

31. If, after the adoption leave begins, a decision is made not to return to work, the normal contractual period of notice must be given.

#### Failure to return after the adoption leave period

32. Failure to return on the due date after the adoption leave expires will be regarded as unauthorised absence and may be treated as a disciplinary matter. This will not apply if the absence is due to illness and the sickness absence procedure has been correctly followed.

#### Non-renewal of fixed term contracts

33. Non-renewal of fixed-term contracts due to adoption leave is discriminatory. Fixed term contracts should be renewed if the work or funding is continuing. Where work or funding is not continuing procedural advice should be sought from their HR Partner.

#### Redundancy

34. An individual on adoption leave can be made redundant as long as it is genuine. As with all redundancies, the correct procedure must be followed and the normal rules relating to redundancies applied.

#### Further information and advice

35. The policy and procedure are intended to outline entitlements to statutory and contractual adoption rights; all employees who wish to apply for adoption leave and pay should also contact the HR Departmental Advisory Team for more specific advice. Information regarding paternity leave can be found on the Paternity Leave Policy webpage.

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