

## Adoption Leave and Pay (including Surrogacy)

### Introduction

The following provisions shall apply to any member of staff who wishes to take adoption leave subject to the general condition that no provision contained herein shall apply if it is less generous than the statutory provisions made under the law.

For employees who are the intended parents in a surrogacy arrangement, including notification requirements and rights to time off work. The College is committed to ensuring employees in such a position are provided with support and ensuring they are aware of the entitlements that they will receive. This policy for Adoption Leave and Pay applies to all employees who are the intended parents in a surrogacy arrangement and who intend to apply for a Parental Order.

The responsibility of employers is outlined along with the criteria parents will need to meet in order to receive their entitlement to adoption leave and pay arrangements.

### 1. Adoption Leave and Pay

- 1.1. Employees are entitled to take 52 weeks adoption leave after adopting a child. It applies to a single employee or one member of a couple who elects to take the adoption leave. The adoptive parent applying for adoption leave, who is employed at the College, will be entitled to:
- 1.2. 4 weeks full pay  
2 weeks at 90%  
12 weeks at half pay plus Statutory Adoption Pay  
21 weeks at the lower rate of Statutory Adoption Pay
- 1.3. [Except where the combined rates exceed full pay and where a normal week's pay is less than the lower rate SAL, then 90% of full pay will apply]
- 1.4. Additional 13 weeks' unpaid adoption leave.  
A proviso to this is that the employee must earn more than the lower earnings limit for National Insurance.
- 1.5. The new right is in addition to the right to take 13 weeks' parental leave. The adoptive parents will themselves choose which one of them takes the time off work and receive the payment – the other parent can take two weeks paid 'paternity' leave.

If an employee does not meet the conditions (see 2) for unpaid adoption leave other options such as paid holiday or unpaid leave may be considered.

### 2. Conditions

- 2.1. Applies to employees only (not contract/agency/self-employed workers), who have **26 weeks** continuous service with the same employer by the week in which an approved match with the child is made to be able to take **both** ordinary and additional adoption leave.

- 2.2. The child placed for adoption must be under 18.
- 2.3. The employee seeking adoption leave must produce a Matching Certificate from an approved adoption agency. The adoption can be with a child from overseas. The leave does not apply to stepfamily adoptions or adoptions by a child's existing foster carers. The leave only applies for children who have been placed with an adoptive parent.
- 2.4. Adoption leave can begin no earlier than 14 days before the expected date of placement, and no later than the date on which the child is placed for adoption.
- 2.5. The adoptive parent will have the same employment protection rights and rate of pay as with maternity leave.

### **3. Notification**

- 3.1 In order to be entitled to take adoption leave and receive statutory adoption pay, the eligible employee must:
  - 3.1.1. provide written notification of his or her intention to take adoption leave within seven days of having been notified by the adoption agency that they and or their partner have been matched with a child was provided by the adoption agency
  - 3.1.2. provide documentary evidence in the form of a "matching certificate" provided by the adoption agency
  - 3.1.3. advise in writing the date on which the child is expected to be placed with them and when they want their adoption leave to start (adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier)
- 3.2 The employee is permitted to bring forward their adoption leave start date, provided that the member of staff advises the College in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone his/her adoption leave start date, provided that they advise the College in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.
- 3.3 Within 28 days of receiving the employee's notice of intention to take adoption leave, the Personnel Unit will write to the employee confirming their entitlements and the latest date on which the employee must return to work after adoption leave.

### **4. Rights during adoption leave**

- 4.1 During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory adoption pay if the employee is eligible for it.
- 4.2 This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid whilst in receipt of paid Adoption Leave.

### **5. Keeping-in-touch days**

Employees can agree to work for the College (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 loss

of a week's statutory adoption pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

## **6. Annual Leave/Holiday Entitlements**

Holiday entitlement will continue to accrue while on Adoption Leave. Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave and within the same leave year.

## **7. Returning to work after adoption leave**

- 7.1 The adoptive parent may return to work at any time during ordinary adoption leave or additional adoption leave, provided that he/she gives the appropriate eight weeks notification of the date on which he/she intends to return. Alternatively, they may take his/her full period of adoption leave entitlement and return to work at the end of this period.
- 7.2 The 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, the member of staff 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.
- 7.3 Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.
- 7.4 In the event of the employee not returning to employment by the college for a period of at least three months s/he shall refund the 12 weeks half pay (but not the SAP element), or such part thereof if any as the college in its discretion may decide.

## **8. Transfer of adoption leave**

- 8.1 If the adoptive parent proposes to return to work early without using the full 52-week entitlement to adoption leave by giving proper notification of an early return in accordance with the rules set above, he/she may be eligible to transfer up to 26 weeks of the outstanding adoption leave (and outstanding statutory adoption pay) to his/her spouse, civil partner or partner, to be taken as additional paternity leave (and additional statutory paternity pay) once he/she has returned to work.
- 8.2 The earliest that additional paternity leave may commence is 20 weeks after the adopted child's placement and it must end no later than 12 months after the date of placement. The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks. The employee must therefore have at least two weeks' adoption leave that remains unexpired.
- 8.3 Further details should be obtained from the employee's spouse's or partner's employer. If the employee does wish to transfer part of the adoption leave entitlement in this way, he/she will be required to submit a written and signed declaration form to that employer, which may also make additional enquiries of the College to verify its employee's entitlement to additional paternity leave and pay.

## **9. Shared Parental Leave**

Ordinary Parental Leave and Shared Parental Leave is also available to apply for and the College has policies for this too.

## 10. Right to Request Flexible Working

If a parent returning from adoption leave wishes to return on a part time basis, the College will give consideration to any such request. The employee should give as much notice as possible to the College.

Such arrangements could be either:

- a short term arrangement; or
- a permanent reduction.

It could also be for a set period of time, leading to a return to full hours. Such arrangements will be on a fractional basis.

Where changes to working are not possible, the reasons will be fully discussed and put in writing to the employee concerned.

## 11. Equality and Diversity Considerations

This policy applies to all staff employed by the College, whether they work full-time, part-time or on a casual basis as the law stipulates.

## 12. Data Protection

When managing an employee's shared adoption leave and pay, the College processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which an employee informs the College that she/he plans to take adoption leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing her/his leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the College's Data Protection Policy immediately.

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