

Adoption policy and procedure

1. Policy

It is the School's policy to support employees who are newly matched with a child for adoption and have agreed the date of placement with the adoption agency by paying enhanced contractual adoption pay where an employee has 26 weeks continuous service by the end of the week of the notification of being matched.

Where a couple is adopting jointly and the employee's partner is taking adoption leave, the School offers enhanced contractual paternity pay where 26 weeks continuous service has been worked.

The procedure is intended to outline entitlements to statutory and contractual adoption rights; all employees who wish to apply for adoption leave and pay should also contact HR Services for more specific advice. Information regarding paternity leave can be found on the Paternity Leave Policy web page.

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.

The document is written primarily for employees but managers may also find it useful to read.

2. Statutory adoption rights

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 before the start of the adoption leave with the same terms and conditions, unless after additional adoption leave, this is not reasonably practicable.

For adoptions within the UK, the earliest an employee may start their OAL is 14 days before the expected date of placement and the latest OAL may start is the date of the placement.

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

Most employees will also qualify for Statutory Adoption Pay (SAP).

Entitlement to statutory rights is dependent on the correct implementation of the procedures as defined by legislation.

Employees also have the right not to be subjected to detrimental treatment on grounds of adoption. Infringement of this right may lead to redress being sought through an employment tribunal.

3. Statutory adoption payments (SAP)

The qualification period for SAP is twenty-six 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 NI contributions for the eight week period ending with the week in which they were notified of being matched.

SAP is paid for up to thirty-nine weeks at £138.18(correct as of 6 April 2014) per week or 90% of normal weekly earnings, whichever is lower.

3.1 Other financial support

Those who do not qualify for SAP may be able to receive financial support from their adoption agency, local Jobcentre Plus Office or Social Security Office.

4. The School's adoption leave and pay policy

All employees that have continuously worked for the School for a minimum of twenty-six weeks ending with the week in which the person adopting was notified of having been matched with a child by an adoption agency qualify (inclusive of SAP) for:

- eighteen weeks of leave on full pay inclusive of SAP;
- twenty-one weeks of SAP at £1368.18 (correct as of 6 April 2014) per week;
- thirteen weeks of unpaid leave.

4.1 The cost of adoption pay

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.

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 APRC through the Planning Officer. The Academic planning and resources committee (APRC) will assess each application for assistance from the fund on its merits.

5. Pre-Adoption leave

Adopting in the UK or elsewhere, involves pre-adoption stages, which can be both lengthy and difficult as typically there is a process of checks, referee interviews, applicant interviews, familiarisation sessions that require several days. In recognition of this fact, employees can apply for up to 3 days' paid Pre-Adoption Leave. Should you wish to apply for pre-adoption leave, please speak to your line manager and HR Services.

6. Notification procedures

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.

6.1 Notification of intention to take adoption leave

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.

The leave may start up to fourteen days before the actual placement. Any subsequent amendments to the intended start date should also be notified in writing with at least twenty-eight days notice, unless that is not reasonably practicable. A matching certificate from the adoption agency should be sent to HR Services with a copy sent to the manager.

If matching occurs before the notified start date then the adoption leave will begin with the actual date of matching.

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.

6.2 Notification of return to work

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.

If an individual takes the full entitlement to adoption leave of fifty-two weeks, this requires no notice of return to work, unless return is intended before the end of the fifty-two 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 twenty-eight days have elapsed, or until the end of the relevant adoption leave period if that is earlier.

7. Transfer of adoption leave

If an employee 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.

The earliest that additional paternity leave may commence is 20 weeks after the date on which the adopted child enters Great Britain and it must end 12 months after the date of entry. 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.

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 School to verify its employee's entitlement to additional paternity leave and pay.

8. Adopting a child from overseas

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.

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 his/her adoption leave with his/her immediate manager as early as possible.

The employee should advise his/her manager of:

- the date on which he/she received official notification from the relevant UK authority of his/her eligibility to adopt a child from overseas;
- the date the child is expected to enter the UK.

Where the employee has completed twenty-six weeks continuous service at the time of receiving the official notification, the manager should be advised within twenty-eight days of receipt of official notification. Where this is not the case, the individual should advise his/her manager within twenty-eight days of the Sunday of the week that twenty-six weeks service is completed.

- the date on which he/she wishes the adoption leave to start;

This should be notified at least twenty-eight days beforehand unless this is not reasonably practicable.

- evidence of the date on which the child enters the UK.

Notification of this date should be given within twenty-eight days of the child entering the UK unless this not reasonably practicable.

The employee can choose to start his/her adoption leave either on the date that the child enters the UK or on a fixed date no later than twenty-eight days after the child enters the UK.

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](#) page for further information.

9. Contact during adoption leave

The School reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' 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.

9.1 'Keeping in Touch' days

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' days may be taken at any stage during the adoption leave period.

The type of work that an individual undertakes on a 'Keeping in Touch' day is a matter for agreement between the individual and her 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 individuals 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.

Work during the maternity leave period may take place only by agreement between both an individual and her manager. A manager may not insist that an individual works during the maternity leave period if she does not wish to do so, nor does an individual have the right to a 'Keeping in Touch' day if her manager does not agree to it.

If a manager requests that an employee works a 'Keeping in Touch' 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 'Keeping in Touch' days.

Where a disagreement arises in respect of 'Keeping in Touch' 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.

Throughout the process, managers should seek advice from Human Resources concerning any related queries that they may have.

'Keeping in Touch' days are paid by the hour at the individual's standard hourly rate. On a 'Keeping in Touch' 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 individuals contract on any day will count as a whole keeping in touch day. For example, if an individual attends work only for a one-hour training session, she will have used one of her keeping in touch days. Undertaking work on a Keeping in Touch' day will not affect an individuals maternity pay entitlement.

To be paid for 'Keeping in Touch' days worked, the 'Keeping in Touch' 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 'Keeping in Touch' 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.

Select this link to view the [keeping in touch day form](#).

10. Conditions of service

Adoption leave does not break continuity of employment for contract purposes. The period of paid adoption leave taken after twenty-six weeks continuous service with the School is used in the calculation of continuous employment at the LSE for increments, pension rights, annual leave, sabbatical and redundancy purposes.

Annual leave will accrue during the full 52 week period.

If return to work takes place after unpaid adoption leave, then the option of making pension contributions to cover the period of unpaid leave is available, and, in such cases, the School will also contribute for this period.

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.

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 twenty-six weeks. However, if more than twenty-six 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.

11. Decision made not to return to the School

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

12. Failure to return after the adoption leave period

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.

13. Annual leave and time off in lieu

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 him/her to take all her/his 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.

14. Non-renewal of fixed term contracts

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.

15. Redundancy

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.