

Scope: All Staff	Effective Date: June 2011	Responsible Dept: Human Resources	Equality Impact Assessment: Completed 10 April 2015
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ADOPTION LEAVE POLICY & PROCEDURE

1. Introduction

This document sets out the policy and procedures to be applied to adoption leave and pay.

2. Scope

This policy sets out the rights and responsibilities of adoptive parents to spend time at home with a child in the months following an adoption placement. The entitlement is for either adoptive parent. Only one parent may exercise this right, however the other parent may be eligible for Paternity Leave (please see separate policy). This Policy also applies to same-sex couples.

Where babies are placed with adoptive parents on or after 5 April 2015 (providing certain conditions are met) the parent taking adoption leave will be entitled to bring their adoption leave to an end early and convert the remaining balance into Shared Parental Leave (SPL). Please see the Shared Parental Leave Policy for further information.

3. Process

As soon as you know you have been matched with a child (under 18) by an approved adoption agency you should tell your manager. This is in your own interests and ensures that we can take any necessary steps to provide you with as much information as possible.

Early notice allows us to let you know what your rights will be to adoption leave and pay.

When telling us that you have been matched with a child, you should obtain documentary evidence from your adoption agency in the form of a matching certificate which includes basic information on matching and the expected placement dates.

4. Adoption Related-Rights

Once you are matched with a child you have certain rights under the law and certain rights which depend on how long you have been employed by York St John University.

The primary adopter will be able to take paid time off for up to five adoption appointments. The secondary adopter is entitled to take unpaid time off for up to two appointments.

You also have the right to:

- Adoption leave and the right to return to work (see section 5)
- Adoption pay, subject to satisfying certain conditions (see section 6)
- Occupational Adoption Pay, subject to satisfying certain conditions (see section 6.2)
- Protection against unfair treatment or dismissal (see section 8)

5. ADOPTION LEAVE

5.1 Adoption Leave

As an adoptive parent, providing you meet the qualifying criteria, you are entitled to take up to 52 weeks' adoption leave and then return to work at the end of this period.

The 52 weeks are made up of 26 weeks' Ordinary Adoption Leave (OAL) plus 26 weeks' Additional Adoption Leave (AAL)

During this period, the University will maintain your contractual rights, with the exception of pay. You will receive either Statutory Adoption Pay (SAP) and/or Occupational Adoption Pay (OAP).

In order to qualify for Adoption Leave, you must:

- Be newly matched with a child for adoption by an approved adoption agency
- Provide us with written notification stating when the child is expected to be placed with you and the date on which you would like to begin your adoption leave. This notification must be in the form of a matching certificate provided by your adoption agency.

Adoption leave is not available where a child is not newly matched for adoption, e.g. when a step-parent is adopting a partner's child.

We will write to you within 28 days of receiving the matching certificate and let you know the date on which your full Adoption Leave period will end and when you will be expected to return to work.

You must give the University 8 weeks' notice to return to work if you intend to return before the end of the date of the fixed period of leave.

5.2 Commencing Adoption Leave

You can choose when to start your adoption leave. This can be either 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 the placement.

Leave can start on any day of the week.

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement ends during the adoption leave period, you can continue to be on adoption leave for up to 8 weeks after the end of the placement.

Your Statutory Adoption Pay (SAP) will not commence until you start your adoption leave.

5.3 Changing the date of the start of your Adoption Leave

If you need to change the starting date of your adoption leave after you have already notified us you should do so at least:

- 28 days before the date (unless this is not reasonably practicable), or
- 28 days before new date,

whichever is the earlier.

We will notify you of the revised dates on which your adoption leave period ends, within 28 days or receipt.

5.4 Your contract during Adoption Leave

During the periods of Ordinary Adoption Leave (OAL) and Additional Adoption Leave (AAL) your contract of employment continues unless expressly ended or your contract expires. You are entitled to the benefit of (and also bound by the obligations of) your terms and conditions of employment with the exception of remuneration.

You will receive either Statutory Adoption Pay (SAP) or Occupational Adoption Pay (OAP) instead of pay, provided that you meet the qualifying requirements as set out in Section 6. Please see section 5.5 for details of your pension entitlements during adoption leave.

You will continue to accrue contractual holiday entitlement during your adoption leave. Standard procedures apply with regard to taking annual leave entitlement. The effect of this is that five days may be carried over beyond 30 September with line manager's approval, to be taken by mid-January. Any outstanding annual leave in excess of this will be lost, unless the business needs of your department have prevented you from taking it. This will need to be determined by your line manager.

5.5 Pension during your Adoption Leave

Local Government Pension Scheme

If you are a member of the Local Government Pension Scheme, pension contributions will be collected from your pay during the period of paid maternity leave. Employee contributions will be based on the actual pay received and employer contributions will be based on normal pensionable pay. Service will count in full during any period that contributions are being paid.

YSJ will only pay employer contributions where the employee pays their employee contributions.

You may also opt to make an Additional Pension Contribution (APC) to cover any lost pension during a period of unpaid maternity leave. This will be a Shared Cost Additional Pension Contribution (SCAPC) if you opt to do this within 30 days of returning to work. This means that YSJ will share the cost of buying this lost pension. You have the option to pay additional contributions in a one-off lump sum or through regular payments in your wages.

Further information is available on the LGPS website www.lgps2014.org.

Teachers' Pension Scheme

If you are a member of the Teachers' Pension Scheme contributions will continue to be from your pay during the paid period of adoption leave.

If you are not receiving any pay, you will no longer be a member of the scheme. However, you can make up any shortfall in service by purchasing additional pension in multiples of £250 of annual pension. Information is available on the Teachers' Pension website at www.teacherspensions.co.uk

5.6 Working during your Adoption Leave

You can work during your adoption leave by using a "keeping-in-touch" (KIT) day without it having any effect on your adoption leave and pay.

You can work for up to 10 KIT days during your adoption leave. The days and the work you are to undertake should be agreed in advance with your line manager and might include undertaking training or other activities that will keep you in touch with the workplace.

Any amount of work done on a KIT day counts as one KIT day. For example if you were to attend work for a one hour training session and do no other work that day you will have used up one of your KIT days.

Payment for working on a KIT day will be calculated according to your standard daily pay rate inclusive of any SAP. It is your manager's responsibility to inform payroll of any KIT days worked.

Regardless of whether you work KIT days, the total duration of your adoption leave period remains at 52 weeks.

6. ADOPTION PAY

6.1 Statutory Adoption Pay (SAP)

You will be eligible for Statutory Adoption Pay (SAP) during your adoption leave, if your average weekly earnings, over a period of 8 weeks which includes the date on which you are notified of being matched with a child, are at least the lower earnings limit for payment of Class 1 NI contributions.

Statutory Adoption Pay (SAP) is payable for a period of up to 39 weeks. The first 6 weeks' are 90% of your average earnings and the remaining 33 weeks are paid at the standard rate of Statutory Adoption Pay (SAP) applicable at the time.

The Statutory Adoption Pay (SAP) rate is fixed by law and is subject to deductions of Tax and NI. Please refer to <https://www.gov.uk/adoption-pay-leave/pay> for more information.

6.2 Occupational Adoption Pay (OAP)

You will be eligible for OAP if you have at least 26 weeks' continuous service by the week in which you are notified of being matched with a child for adoption.

If you qualify for Occupational Adoption Pay (OAP) you will receive payment for 39 weeks this is made up of full pay, including Statutory Adoption Pay (SAP), for the first 6 weeks' and half your contractual pay plus SAP for a further 20 weeks. The remaining 13 weeks is paid at the rate of SAP.

Occupational Adoption Pay (OAP) is paid in addition to Statutory Adoption pay (SAP) provided that the payments when combined don't exceed your normal contractual weekly pay.

You don't have to take Occupational Adoption Pay (OAP) but if you do and then don't return to work for a period of at least 3 months' following your adoption leave you will be required to refund all the Occupational Adoption Pay.

If you do not qualify for Statutory Adoption Pay (SAP) you should contact your adoption agency as you may be able to receive financial support in relation to your adoption.

6.3 Salary Sacrifice Scheme

If, whilst you are on adoption leave, you already have a salary sacrifice arrangement in place your SAP will be calculated using the lower pay level that applies under the salary sacrifice scheme. Occupational Adoption Pay will be calculated using the higher level pay.

7. Contact during Adoption Leave

The University is entitled to make reasonable contact with you during your adoption leave. This contact can be to:

- discuss whether or not your planned date of return to work has changed, or is likely to change
- discuss any flexible working arrangements that would make your return to work easier.

You are entitled to make reasonable contact with the University during your adoption leave.

8. Protection against unfair treatment and/ or dismissal

You have the right not to be dismissed or discriminated against for any reason connected with your adoption leave. This protection applies regardless of your length of service.

9. General Advice

You are strongly encouraged to use your right to return to work.

If you resign instead of taking adoption leave you forfeit your right to return to work at a later date.

All periods of adoption leave are counted as continuous service for the purposes of calculating any service related to statutory rights, (e.g. redundancy payments) and once you return to work, your length of service is calculated as if you had not been absent.

If you have any queries regarding your rights under this policy you should raise them firstly with your manager or with a member of the HR Team.

APPENDIX 1: Terms used in the Adoption Policy

Ordinary Adoption Leave	OAL	The first 26 weeks of your adoption leave. This entitlement is for either adoptive parent regardless of your hours of work. Only one parent may exercise the right to Adoption leave.
Additional Adoption Leave	AAL	The second 26 weeks of your adoption leave. This entitlement is for either adoptive parent regardless of your hours of work. Only one parent may exercise the right to Adoption leave.
Statutory Adoption Pay	SAP	SAP is paid to the adoptive parent provided your weekly earnings in the 8 weeks prior and including the date on which you are notified of being matched with a child is at least the lower earnings limit for Class 1 NI contributions. This is paid for a total of 39 weeks.
Occupational Adoption Pay	OAP	If you have at least 26 weeks' continuous service by the date you are notified of being matched with a child you are entitled to OAP of 6 weeks full pay and 20 weeks half pay (+SMP providing this does not exceed your normal full pay) and 13 weeks at the rate of SAP.
Matching Certificate		This is the certificate provided by the adoption agency and includes basic information on matching and the expected placement date.
Keeping in touch days	KIT	These are days when, during your adoption leave you can work. They must not exceed 10 days. They do not affect your adoption leave or pay.