

## Adoption and surrogacy leave and pay

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### 1. Summary

- You can take up to 52 weeks adoption or surrogacy leave;
- If you have 52 weeks or more continuous service, you will receive Occupational Adoption Pay at the rate of 18 weeks full pay, 8 weeks half pay and 13 weeks at the statutory rate. You can choose to take the remaining 13 weeks of your leave without pay;
- If you have between 38 and 52 weeks or more continuous service, you will receive Enhanced Adoption Pay at the rate of 12 weeks full pay, 4 weeks half pay and 23 weeks at the statutory rate. You can choose to take the remaining 13 weeks of your leave without pay;
- Occupational and Statutory Adoption Pay are also available to qualifying employees having a child through surrogacy;
- Any statutory pay you are due will be included in your full and half pay;
- On return from adoption or surrogacy leave, employees with 52 weeks or more continuous service at the time of applying for adoption or surrogacy leave will receive an additional 8 weeks full pay payable over 8 months (i.e. 1 additional week's full pay per month);
- If you don't qualify for Occupational Adoption Pay, you may receive Statutory Adoption Pay, depending on your earnings. You can choose to take the remaining 13 weeks of your adoption or surrogacy leave without pay;
- If you want to end your leave early, you can choose to opt into Shared Parental

Leave with your partner and share the remaining weeks' leave and pay.

## **2. Eligibility for adoption or surrogacy leave**

This policy sets out the adoption provisions and rights for employees who are:

- newly matched with a child for adoption;
- intended parents of a child born through a surrogacy arrangement, who will be subject to a Parental Order;
- prospective adopters who are fostering a child under the 'Fostering for Adoption' scheme.

An employee who adopts a child through an approved adoption agency or has a child through surrogacy is entitled to take up to 26 weeks' ordinary leave followed immediately by up to 26 weeks' additional leave. The employee's maximum entitlement is therefore to take up to 52 weeks' leave.

The entitlement to adoption and surrogacy leave applies from day one of employment. If you are a couple adopting or having a child through a surrogacy arrangement, you can decide who will take the leave. The other partner may be eligible to take partner leave under the School's Partner/Paternity Leave policy.

All employees who take adoption or surrogacy leave have the right to return to work at any time during either the ordinary or additional leave period, subject to following the correct notification procedures as set out below.

## **3. Overseas adoption**

Some of the eligibility and notification procedures listed in this policy differ where a child is being adopted from overseas. For further information, please contact the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk)

## **4. Eligibility for pay**

Occupational Adoption Pay and Statutory Adoption pay are also available to parents having a child through surrogacy and who meet the qualifying requirements.

### **4.1 Option 1 (Occupational Adoption Pay) – *employees with 52 weeks' service***

Employees who have been continuously employed by SOAS for at least 52 weeks calculated as at:

- the week in which notification of matching was given by the adoption agency or for surrogacy, at the 15th week before the baby is due

AND are still employed during that week, will be eligible for Occupational Adoption Pay, providing that:

- they have provided the relevant supporting documentation;
- they intend to return to work with the School at the end of their adoption/surrogacy leave.

Occupational Adoption Pay is due for 39 weeks, at the following rates:

- 18 weeks' full pay;
- 8 weeks' half pay;
- 13 weeks Statutory Adoption Pay;
- (Followed by 13 weeks unpaid leave).

Occupational and Statutory Adoption Pay are treated as earnings and therefore subject to PAYE and national insurance deductions.

On return from adoption or surrogacy leave, an employee will receive an additional 8 weeks full pay payable over 8 months (i.e. 1 additional week's full pay per month).

If the employee resigns and leaves the School's employment before end of the 8-month period, or their employment ends, the additional payment will cease on the last day of service with the School.

If an employee who has received Occupational Adoption Pay does not return to work for a period of at least 3 months, they will be required to repay to the School the difference between the Occupational Adoption Pay and Statutory Adoption Pay.

#### **4.2 Option 2 (Enhanced Adoption Pay) – employees with 38 to 52 weeks' service**

Employees who have been continuously employed by SOAS for between 38 and 52 weeks calculated as at:

- the week in which notification of matching was given by the adoption agency or
- for surrogacy, at the 15th week before the baby is due

AND are still employed during that week, will be eligible for Enhanced Adoption Pay, providing that:

- they have provided the relevant supporting documentation
- they intend to return to work with the School at the end of their adoption/surrogacy leave.

Enhanced Adoption Pay is due for 39 weeks, at the following rates:

- 12 weeks' full pay;
- 4 weeks' half pay;
- 23 weeks Statutory Adoption Pay;
- (Followed by 13 weeks unpaid leave).

Enhanced and Statutory Adoption Pay are treated as earnings and therefore subject to PAYE and national insurance deductions.

If an employee who has received Enhanced Adoption Pay does not return to work for a period of at least 3 months, they will be required to repay to the School the difference between the Enhanced Adoption Pay and Statutory Adoption Pay.

#### **4.3 Option 3 (Statutory Adoption Pay) - employees with 26 weeks' service**

Employees who have been continuously employed by SOAS for at least 26 weeks

calculated as at:

- the week in which notification of matching was given by the adoption agency or
- for surrogacy, the 15th week before the baby is due

AND are still employed during that week, will qualify for Statutory Adoption Pay, providing that:

- they have provided the relevant supporting documentation; and
- their average weekly earnings are not less than the lower earnings limit for national insurance contributions.

Statutory Adoption Pay is payable for up to 39 weeks, at the following rates:

- 6 weeks at 90% of the employee's average weekly earnings;
- 33 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate;
- (Followed by 13 weeks' unpaid leave).

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Annual incremental increases due and any agreed cost of living awards will be applied to contractual salary during any period of adoption or surrogacy leave.

Payment of Statutory Adoption Pay can start from any day of the week in accordance with the date the employee starts their adoption leave.

Statutory adoption pay is payable whether or not the employee intends to return to work after their adoption leave.

Employees who are not entitled to Statutory Adoption Pay may be entitled to receive adoption allowance payable directly by the Government.

Parents in a surrogacy arrangement who do not qualify for Statutory Adoption Pay should contact their adoption agency for further guidance of the benefits they may be entitled to.

## 5. Supporting documentation

The following documentation is required to support a request for pay:

UK Adoptions	Surrogacy	Overseas Adoptions
<p>The name and address of the adoption agency.</p> <p>The date on which the employee was notified that they had been matched with the child.</p>	<p>A surrogate parent should inform the School of the baby's due date and when they want to start their adoption at least 15 weeks before the expected week of birth.</p>	<p>A copy of the 'official notification' issued by the relevant UK authority as proof of the eligibility to adopt a child from overseas.</p> <p>Copy of the evidence that the adoptive child has entered the UK, such as a plane ticket or</p>

The date on which the agency expects to place the child with the employee.	The surrogate parent should also provide a parental statutory declaration, stating that they have either applied, or intend to apply within the six-month time limit for a parental order in respect of the child AND that they expect the court to make the parental order.	copies of entry clearance documents (within 28 days of entry).
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## 6. Timing of adoption/surrogacy leave

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. Surrogacy leave can start the day the child is born, or the day after. The date of surrogacy leave can change as this is dependent on the date the baby is born.

To make administration as easy as possible, the employee should discuss the timing of their adoption/surrogacy leave with their immediate manager as early as possible.

## 7. Notice requirements

### 7.1 Adoption

To be entitled to take adoption leave and receive adoption pay, the employee is required to give the School written notification of their intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. The notification should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk). The written notice must specify:

- the date the child is expected to be placed with the employee for adoption;
- the date the employee intends their adoption leave to start;
- whether they intend to return to work following their leave.

The employee is permitted to bring forward their adoption leave start date, provided that they advise the School in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. This should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk).

The employee may also postpone their adoption leave start date, provided that they advise the School in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. This should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk).

The employee must also provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

### 7.2 Surrogacy

By the end of the qualifying week (the 15<sup>th</sup> week before the expected week of childbirth), the employee is required to inform the School in writing of:

- the expected due date;
- the date on which they intend to start surrogacy leave (which may be the day the child is born, or the day after);
- whether they intend to return to work following their leave.

This should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk).

## **8. Confirmation of return date**

Within 28 days of receiving the employee's notice of intention to take leave, the School's HR Recruitment and Operations Team will write to the employee confirming the latest date on which they must return to work after adoption or surrogacy leave.

## **9. Time off to attend adoption/surrogacy appointments**

### *9.1 Adoption*

Employees who are adopting a child are entitled to take time off to attend appointments. An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments.

Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments. The other can elect to take unpaid time off to attend up to two adoption appointments<sup>1</sup>.

The purpose of the appointment is to enable the employee and their partner to have contact with the child (for example, to bond with them before the placement) and for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).

The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.

The School may ask the individual for proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

### *9.2 Surrogacy*

In a surrogacy arrangement, the intended parents will be entitled to attend two paid antenatal appointments to enable them to accompany the surrogate.

## **10. Rights during adoption and surrogacy leave**

During ordinary and additional 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.

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<sup>1</sup> Note that SOAS offers its employees paid time off for attendance in such circumstances.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, annual leave entitlement will continue to accrue and pension contributions will continue to be paid.

Employees are encouraged to take any outstanding annual leave due to them before the commencement of adoption/surrogacy leave

### **11. Contact during adoption/surrogacy leave**

The School reserves the right to maintain reasonable contact with employees during their 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.

### **12. Keeping-in-touch (KIT) days**

Employees can agree to work for the School (or to attend training) for up to 10 days during their adoption/surrogacy leave without that work bringing their leave to an end and without loss of a week's statutory 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.

The School has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption/surrogacy leave.

Any days worked, should be mutually agreed by the employee and their line manager.

If the employee works any keeping-in-touch days during the period they are receiving Occupational half pay, Statutory Pay or are in the unpaid period of leave, the employee will be paid at their normal contractual rate.

Any work carried out on a day will count as a whole working day e.g. if the employee attends work for a one hour meeting, this will count as one of the 10 days available.

It is the line manager's responsibility to advise the HR Recruitment and Operations Team ([HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk)) of worked KIT days so that arrangements can be made to make the appropriate adjustments to the employee's pay.

### **13. Returning to work after adoption/surrogacy leave**

The employee may return to work at any time during ordinary adoption/surrogacy leave or additional adoption/surrogacy leave, provided that they give the appropriate notification, this should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk). Alternatively, the employee may take their full period of adoption/surrogacy leave entitlement and return to work at the end of this period.

If the employee wishes to return before the full period of adoption/surrogacy leave has elapsed, they must give at least eight weeks' notice in writing to the School of the date on which they intend to return, this should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk).

If the employee does not give eight weeks' notice of their intention to return to work, the

School is entitled to postpone the employee's return to work until the eight weeks' notice has elapsed from the time notice was given (or the date the employee attempted to return if no notice was given), or until the date on which the employee is otherwise due to return, whichever is the sooner.

On return from Occupational paid leave, employee's with 52 weeks' service at the time the leave was agreed will receive an additional 8 weeks full pay payable over 8 months (i.e. one additional week's full pay per month).

The employee has the right to resume working in the same job if returning to work from ordinary adoption/surrogacy leave. If the employee returns to work after a period of additional adoption/surrogacy leave, they are 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.

Failure to return to work by the end of adoption/surrogacy 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/surrogacy leave period.

If the employee decides during adoption/surrogacy leave that they do not wish to return to work, they should give written notice of resignation to the School as soon as possible and in accordance with the terms of their contract of employment, this should be sent to the employee's line manager and the HR Recruitment and Operations Team: [HR-Operations@soas.ac.uk](mailto:HR-Operations@soas.ac.uk).

#### **14. Flexible working**

An employee who wishes to vary their working pattern on returning from adoption/surrogacy leave may request flexible working. The School will consider, and where possible accommodate, all requests. Please refer to the Flexible working Policy for more information.

#### **15. Fractional and casual employees**

Fractional and hourly paid employees have the same entitlements as are outlined in this policy.

For those employees eligible for Occupational Adoption Pay, payments will be based on a calculation of the pay they would have received, had they not been on leave during the 39 week period that Occupational Adoption Pay is payable. The calculation will be based on the schedule of hours provided by the employing department/directorate.

Fractional or hourly paid employees have the same rights as other staff to return to the same work that they were performing prior to taking leave, provided that the work is still available.

#### **16. Probation**

If an employee commences adoption/surrogacy leave before satisfactorily completing their probationary period, probation will continue after their return to work in order that the full probationary period can be completed.



## **17. Pension**

If an employee is a member of one of the School's pension schemes, pension contributions will continue to be deducted during the paid period of leave (subject to scheme rules in force at the time of adoption pay).

Contributions will be made on pay received.

Full pensionable service will accrue.

During unpaid adoption/surrogacy leave, employees are not required to pay contributions, although an employee may wish to continue contributions in order to avoid a break in pensionable service. The period where no contributions are made will not count towards final pensionable service.

Death in service benefit will continue during the period of unpaid leave.

If the employee does not return to work after a period of adoption/surrogacy leave, they will be treated as leaving the scheme on the last day contributions were paid.

Should the employee elect to pay the employee contributions during the period of unpaid leave, the School will pay the employer contributions.

Employees are encouraged to contact the Payroll and Pensions Manager if they are considering making contributions during the unpaid period. Contributions during the unpaid period must be arranged in advance.

## **18. Annual Leave Entitlement**

Annual leave continues to accrue at the contractual rate during the paid adoption period i.e. 39 weeks. Bank holidays and closure days are also accrued during this period.

During the 13 weeks unpaid period, employees will accrue leave at the Working Time Regulations rate (*pro rata* if they work part-time or take less than 13 weeks additional unpaid leave).

It may be advantageous for the employee to take most of their annual leave entitlement in one of the following ways:

- Take their accrued leave at the end of the adoption/surrogacy leave period but before returning to work. The employee will therefore return to their contractual salary before actually returning to work. If the employee intends to do this they must agree it with their line manager and HR at least 8 weeks before the end of their adoption/surrogacy leave period;
- Elect to be paid for all or part of this leave on return to work.

## **19. Transfer of adoption/surrogacy leave (shared parental leave)**

Shared parental leave enables adopters to commit to ending their adoption/surrogacy leave and pay at a future date, and to share the untaken balance of leave and pay as shared

parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

Employees can refer to the School's policy on shared parental leave.

The adopter or intended parent and their partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.