# EDINBURGH NAPIER UNIVERSITY

# ADOPTION POLICY

1. **Introduction**

This policy provides information regarding the University’s adoption provisions and explains the entitlements as an employee. It takes into account the Work and Families Act 2006 and the Shared Parental Leave Regulations 2014 which applies to parents of babies who are due or adopters of children who are placed for adoption on or after 5 April 2015 may be relevant**,** further details can be found in the University’s [Shared Parental Leave Policy](http://staff.napier.ac.uk/services/hr/Documents/Policies/Shared%20Parental%20Leave%20policy.doc).

* 1. Adoption Leave and Adoption Pay are available to employees who are adopting a child or children or have a child through a surrogacy arrangement. It will be available to:
* Individuals who adopt
* One member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave and pay) and the other (regardless of gender) may take Paternity Leaveand Shared Parental Leave.
* Where both the employee and their partner are employees at the University, leave may be allocated wholly to the principal carer or shared between them, if they both wish to share the role of principal carer
* The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to Paternity Leave and Shared Parental Leave.
  1. Human Resources will confirm which provisions and payments the employee is entitled to.
  2. A flexible and supportive approach will be taken to accommodate any request from an employee who wishes to return on different terms to those prior to adoption leave. Any request for flexible working should be made in line with the Flexible Working policy.
  3. The University’s Equality and Diversity Statement states that recruitment, training and promotion opportunities will be open to all staff on a fair and equitable basis. The University will monitor the use of the Adoption policy to ensure that it is applied fairly and to ensure that employees are not unreasonably denied access to suitable opportunities.

**2. Eligibility**

2.1 To qualify for adoption leave, the employee must:

* Notify the University of when they want to take their adoption leave no more than seven days after they have been matched with a child
* Be newly matched with a child to be placed with them by an adoption agency (adoption and paternity leave are available whether a child is adopted from within the UK or from overseas)

2.2 To qualify for adoption pay, the employee must:

* Have worked continuously for the University for 26 weeks ending with the week in which they are notified of being matched with a child for adoption. The week in question starts on a Sunday and ends on a Saturday
* In the case of surrogacy, you must have worked continuously for your employer for at least 26 weeks by the 15th week before the baby’s due. All other conditions for qualifying for pay and leave are the same as aadoptive parents.

If you are genetically related to the child (i.e. the egg or sperm donor), you can choose to get paternity leave and pay instead. You cannot get both.

2.3 Adoption leave and pay is not available in circumstances where:

* You arrange a private adoption
* Become a special guardian or kinship carer
* Adopt a family member or a step child

**3. Time Off For Attending Meetings**

* + 1. Before the date of placement, a maximum of six days paid leave for attending meetings, conducting assessments and home visits is available to employees.

* 1. Where both the employee and their partner are employees at the University, this time off for attending meetings may be allocated wholly to one employee or shared between them. Where the time is allocated wholly to one employee but their partner wishes to accompany them to appointments, home visits etc, their partner will be allowed paid time off for up to a maximum of three appointments subject to the operational requirements of the school/service.

**4. Length Of Adoption Leave**

4.1 All eligible employees are entitled to a maximum of 52 weeks’ adoption leave.

Adoption leave is a single continuous period and is made up of 26 weeks' Ordinary Adoption Leave (AOL) and 26 weeks' Additional Adoption Leave (AAL).

4.2 The contract of employment continues during this period and they will continue to receive all contractual benefits except normal salary. Information concerning adoption and pension scheme contributions is detailed in [on](https://staffworkplace.napier.ac.uk/Services/hr/tradeunionconsultationmeetings/Shared%20Documents/Policies%20Currently%20in%20Consultation/Maternty%20policy%20updated%20April%202015%20track%20changes.docx#Appendix_B) the relevant pension website. For academic staff this is [Scottish Teachers Pension Scheme](http://2015.sppa.gov.uk/scheme/teachers) (<http://2015.sppa.gov.uk/scheme/teachers>) and for Professional Service staff this [Lothian Pension Fund](http://www.lpf.org.uk/lpf1/info/3/current_members) (<http://www.lpf.org.uk/lpf1/info/3/current_members>)

**5. Leave Dates**

5.1 The employee can choose to start their leave:

* 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 placement
* Adoption leave can start on any day of the week

5.2 Only one period of leave will be 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, the employee will be able to continue adoption leave for up to **eight** weeks after the end of the placement.

**6. Notice Requirements**

6.1 The employee will be required to inform their Line Manager and Human Resources of their intention to take adoption leave within **seven** days of being notified by the adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable.

6.2 They will need to advise:

* The “date of placement” - when the child is placed with them, and
* When they want their adoption leave to start
* How much leave you intend to take

6.3 If you use a surrogate to have a baby, tell your line manager the due date and when you want to start your leave at least 15 weeks before the expected week of birth. This should be in writing.

**7. Documentary Evidence**

7.1 Proof of Adoption

The employee will be required to give their Line Manager relevant documentary evidence, normally:

* Your name and address and that of the agency
* The match date e.g. the matching certificate from the adoption agency
* The date of the placement e.g. a letter from the agency

Overseas adoptions

* The relevant UK authority’s “official notification” confirming you are allowed to adopt (overseas adoptions only)
* The estimated date the child arrives in the UK – within 28 days of getting the notification
* The actual date the child arrived in the UK .e.g. plane ticket (overseas adoption)
* How much leave you want to take and your start date – giving 28 days notice

Where alternative documentary evidence is provided the case will be discussed on an individual basis with the HR Client Partner.

7.2 Proof of Surrogacy

You will be asked to provide a written statement “statutory declaration” to confirm that you have applied for or will apply for a parental order in the six months after the child’s birth. You must sign this in the presence of a legal professional.

**8. Change of Leave Dates**

8.1 The employee may change their mind about the date on which they want the leave to start, and must inform their Line Manager at least 28 days in advance

8.2 Upon receipt of the notification, the Line Manager will then notify Human Resources of the employee’s intention to take adoption leave. The University will respond in writing within 28 days of receiving their request, informing them of the date when their leave will end, normally 52 weeks from the start of adoption leave.

**9. Adoption Pay**

9.1 During their adoption leave, eligible employees will be entitled to either University Adoption Pay (UAP) or Statutory Adoption Pay (SAP), depending on their length of service.

9.2 To qualify for SAP a person must be an employee of the University and be earning at least the lower earnings limit to qualify. The employee must notify the University of when they want to receive SAP at least 28 days before the date they want it to begin, or as soon as reasonably practicable.

9.3 The earliest that statutory adoption pay can begin is 14 days before the expected date of placement of the child and the latest it can start is on the date of placement itself. Pay and leave can start on any pre-determined date between these two dates. SAP can start on any day of the week in accordance with the start date of adoption leave. University adoption pay will be adjusted to take account of any pay increases.

**10. University Adoption Pay (UAP)**

10.1 If the employee has at least one year’s continuous service by the date their child is matched, they are entitled to receive UAP. This will be:

* 13 weeks’ leave at full pay, less appropriate statutory deductions
* a further 26 weeks’ paid leave at the Flat Rate of SAP, or 90% of their average weekly earnings which ever is the lesser. The flat rate is subject to review every April (see below for further details)
* any further period of leave (i.e. remaining AAL), up to a maximum period of a further 13 weeks will be unpaid

10.2 Payment of University adoption pay is conditional upon the employee returning to work for a minimum period of three months. See section 19.

10.3 Any pay awards which take effect during the period of adoption leave will be applied as normal.

**11. Statutory Adoption Pay (SAP)**

11.1 If the employee has less than one year, but more than 26 weeks’ continuous service ending with the week in which they are notified of having been matched with the child, they are entitled to receive SAP. This will be:

* 90% of their average weekly earnings for the first six weeks, followed by the lesser of a Flat Rate for the remaining 33 weeks. The flat rate is subject to review every April
* any further period of leave (i.e. remaining additional adoption leave), up to a maximum period of a further 13 weeks will be unpaid

11.2 The employee may work until the day before their child is matched and still retain their right to 39 weeks SAP.

11.3 If the employee does not meet the conditions in 9.2, they can still take unpaid adoption leave. The employee might get income support while on leave.

11.4 For further information regarding the current flat rate and other details about SAP or income support, click on the links below:

<http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Expectingorbringingupchildren/DG_10018736>

**12. Contact During Adoption Leave**

12.1 During the adoption leave period, the Line Manager and the employee on adoption leave are entitled to make reasonable contact from time to time without the leave period coming to an end.

12.2 The frequency of reasonable contact will vary according to individuals and circumstances and will also depend on what has been discussed and agreed between the employee and Line Manger prior to the leave starting. The frequency of the contact will depend on a number of factors such as nature of the work, promotion opportunities or other changes at the workplace, contact can be by telephone, by email, letter or involve the employee making a visit to the workplace, or in other ways. Line managers should discuss and record such arrangements with the employee prior to leave commencing.

**13. Keeping in Touch (KIT)**

13.1 In addition to the reasonable contact detailed above, the introduction of “keeping in touch days” (KIT) allows the employee to work for up to ten days without losing statutory pay for that week or bringing their leave to an end. However, if more than ten days are taken, it will automatically end maternity/ paternity payments. Line Managers will explain KIT days and will discuss the opportunities to use KIT days with the employee prior to leave commencing.

13.2 The employee should agree with their Line Manager the type of work undertaken on a KIT day. This could be a normal activity or a conference, training activity or team meeting.

13.3 The employee is not obliged to do any workor attend any events during adoption leave but if both agree the employee canhave up to ten days’ KIT days during their adoption leave. KIT days are not limited to their usual job. They could be used for conferences, training or team meetings. They can also be used to ease the employee’s return to work. The employee and their Line Manager must both agree that they will work these days and agree the arrangements including what the employee will be doing. The employee is not required to take up KIT days and their Line Manager is not obliged to offer them although it is recommended that the Line Manager should look for opportunities to offer KIT days. The Line Manager cannot demand the employee go into work at any time during their adoption leave period nor can they be penalised for refusing to take up a KIT day.

13.4 Any work done on any day during the adoption pay or leave period will count as a KIT day, up to the ten day maximum, e.g. if someone comes in for a one hour training session it counts as one KIT day.

13.5 The employee making use of a KIT day will receive a normal day’s pay for each KIT day. The Line Manager must complete a KIT Notification Form for HR which states the employee came in for a KIT day. The form **must** be sent to payroll in the month the KIT day was taken so the KIT day can be processed through the HR and payroll system and the employee can be paid accordingly in the next pay day.

13.6 The employee will retain their entitlement to University Adoption Pay, Statutory Adoption Pay and adoption allowance if they choose to complete up to ten KIT days.

### 14. Annual Leave

14.1 The employee on adoption leave retains their entitlement to statutory annual leave throughout ordinary and additional adoption leave.

14.2 Annual leave will accrue at the rate provided under their contract during both Ordinary Adoption Leave and Additional Adoption Leave.

14.3It is not possible for an employee to take annual leave at the same time as adoption leave. It will, though, usually be possible for an employee to use any untaken annual leave either before they start their adoption leave, or once their adoption leave has finished. Although it should be remembered, that if the child is matched earlier the adoption leave must start from that point.

14.4 The Line Manager and the employee should incorporate annual leave arrangements into their planning where it is possible to do so.

### 15. Returning To Work After Adoption Leave

15.1 The employee does not have to tell the University again of their intention to return to work following the end of their full adoption leave period. This date will already have been confirmed in writing by the University on acknowledgement of their original notification (see 6.1).

**16. Returning To Work Early**

16.1 If the employee wants to return to work before the end of their full adoption leave period, as confirmed by the University before they went on leave, they must give their Line Manager and Human Resources at least **eight weeks** notice of the date on which they now want to return.

16.2 If they do not give at least eight weeks notice the University may postpone their return until the eight weeks correct notice period has been given. However, this cannot be later than the end of their adoption leave period.

**17. Returning To Work Later Than Previously Notified**

17.1 An employee who has notified the University that they wish to return to work before the end of their adoption leave, as set out in section 6.1, is entitled to change their mind. However, in these circumstances they should give their employer notice of this new, later date of return at least **eight weeks** before the earlier previously notified date.

**18. Rights When Returning To Work**

18.1 An employee is normally entitled to return to work, from Ordinary Adoption Leave or Additional Adoption Leave, to the same position they held before commencing leave and on the same terms of employment.

18.2 However, from time to time there are situations that make this not reasonably practicable in which case we may seek to give the employee another suitable and appropriate job, where one is available, on terms and conditions that are not less favourable.

18.3 If they wish to vary their working hours on their return from adoption leave, the employee has the right to make such a request under the University’s Flexible Working policy. Details can be found on the HR intranet.

**19. Resignation Following Adoption Leave**

19.1 If the employee does not intend to return to work following their adoption leave, they must give their notice in writing as required by their contract of employment.

19.2 The employee will be required to pay back any University Adoption Pay over and above the statutory adoption pay provisions which they may have received during their adoption leave period.

**20. Transfer of Adoption Leave**

20.1Shared parental leave is available in relation to adoption placements taking place on or after 5 April 2015. Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave with their partner.

20.2 Shared parental leave must be taken in blocks of at least one week. Individuals can request to take shared parental leave in one continuous block (in which case the university is required to accept the request as long as the individual meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (which is subject to the University's agreement).

20.3 To be able to take shared parental leave, an employee and his/her partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the partner who has been in receipt of adoption leave and pay to curtail their adoption leave.

20.4 Employees can refer to the Shared Parental Leave policy, where they will find full details of the eligibility requirements, as well as instructions as to how the adoption leave can be curtailed. The policy also sets out the notice periods with which employees must comply and what evidence they must provide to the university. It also contains more details on employees' entitlement to shared parental pay.

20.5 Both parents should ensure that they are each liaising with their own employer when making requests for shared parental leave.

**21. Contractual Benefits**

21.1 During their adoption leave, the employee is entitled to the benefits of all their normal terms and conditions with the exception of salary. Information concerning adoption and pension scheme contributions is detailed in [on](https://staffworkplace.napier.ac.uk/Services/hr/tradeunionconsultationmeetings/Shared%20Documents/Policies%20Currently%20in%20Consultation/Maternty%20policy%20updated%20April%202015%20track%20changes.docx#Appendix_B) the relevant pension website. For academic staff this is [Scottish Teachers Pension Scheme](http://2015.sppa.gov.uk/scheme/teachers) (<http://2015.sppa.gov.uk/scheme/teachers>) and for Professional Service staff this [Lothian Pension Fund](http://www.lpf.org.uk/lpf1/info/3/current_members) (<http://www.lpf.org.uk/lpf1/info/3/current_members>)

21.2 Adoption leave counts towards their period of continuous employment for the purposes of entitlement to other statutory employment rights that would normally apply.

**22. Meeting Prior To Adoption Leave Commencing**

22.1 Line Managers should arrange to carry out a meeting prior to adoption leave commencing to discuss where the employee is in relation to their agreed objectives. When the employee returns a PDR review should take place within one month of return to discuss and assess any training requirements, agree new objectives and discuss any University wide/school service objectives.

**23. Other Relevant Policies**

* Flexible Working Policy
* Maternity Policy
* Paternity Policy
* Shared Parental Leave Policy
* Unpaid Parental Leave Policy