

## **Adoption Policy**

**Document Date:** January 2022

**Purpose:** To set out the employment rights of staff to statutory adoption leave and pay. It is applicable if you are adopting a child, fostering a child permanently and becoming their legal parent or having a child through surrogacy. This document should be read in conjunction with the Shared Parental Leave Policy.

**Audience:** Permanent staff

### **1. Introduction**

1.1 This policy sets out the rights of employees to statutory adoption leave and pay and provides details regarding RHSU's enhanced pay for eligible employees.

1.2 It should be read in conjunction with the Shared Parental Leave Policy.

1.3 The following definitions are used throughout this policy:

- "Ordinary Adoption Leave" is the first 26 weeks of adoption leave.
- "Additional Adoption Leave" is the last 26 weeks of adoption leave.

### **2. The law**

2.1 Adoption pay and leave is the right to take paid time off to adopt a child (up to the age of 18) or have a child through a surrogacy arrangement.

2.2 All employees, regardless of length of service, have the right to take up to 26 weeks' Ordinary Adoption Leave and a further 26 weeks' Additional Adoption Leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks' Adoption Leave.

### **3. Eligibility to Statutory Adoption Pay (SAP)**

3.1 To be eligible for Statutory Adoption Pay you must:

- i. have been continuously employed by us for at least 26 weeks ending with the week in which you are notified of having been matched with a child or by the end of the 15<sup>th</sup> week before the expected week of childbirth if you are using a surrogate
- ii. earn at least £120 per week, before tax, for at least 8 weeks before the week you're matched with a child
- iii. provide us with the correct notice
- iv. give proof that you're adopting, or fostering to adopt or using a surrogate.

3.2 Statutory Adoption Pay will be payable for up to 39 weeks, with the first 6 weeks payable at 90% of your average weekly earnings. The remaining 33 weeks are payable at a rate set by the Government for the relevant tax year or 90% of your average weekly earnings (whichever is lower). It is treated as earnings and is therefore subject to tax and national insurance deductions. It is also paid on the same date as your usual monthly salary.

3.3 Statutory Adoption Pay starts when you take your adoption leave.

#### **4. Enhanced adoption pay**

4.1 In recognition of the value we place on family-friendly policies, we offer enhanced adoption pay to anyone who meets the following qualifying and eligibility criteria:

- i. Where you are entitled to SAP and have worked continuously for RHSU for at least 52 weeks at the time of being matched with a child (and receiving a matching certificate) or by the end of the 15<sup>th</sup> week before the expected week of childbirth if you are using a surrogate.
- ii. You provide a written undertaking to return to your post for at least three months following the conclusion of your adoption leave.

4.2 Where the above criteria is met your adoption pay will be enhanced to the following:

- i. Your first 12 weeks of ordinary adoption leave at full pay.
- ii. Your next 27 weeks will be payable at the statutory rate set by the government for the relevant tax year, or at 90% of your average weekly earnings (whichever is lower).
- iii. Your remaining 13 weeks (if you choose to take them) will be unpaid.

#### **5. Timing of Adoption Leave**

5.1 Your adoption leave can start:

- Up to 14 days before the date the child starts living with you (UK adoptions)
- When the child arrives in the UK or within 28 days of this date (overseas adoptions).
- The day the child is born or the day after (if you've used a surrogate to have a child).

5.2 You must tell us within 28 days if the date of placement (or UK arrival date for overseas adoptions) changes.

#### **6. Procedure - Adoption**

6.1 You must notify the HR team in writing that you are adopting within seven days of being notified of a match. You must also confirm when the child is expected to be placed with you and when you wish your adoption leave to commence.

6.2 To ensure compliance with Statutory Adoption Pay requirements you must forward proof of adoption to the HR team 28 days before you wish the adoption leave to commence. The proof must show:

- i. Your name and address and that of the agency
- ii. The match date – for example the matching certificate
- iii. The date of placement – for example a letter from the agency
- iv. The relevant UK authority's 'official notification' confirming you're allowed to adopt (overseas adoptions only)
- v. The date the child arrived in the UK – for example a plane ticket (overseas adoptions only)

6.3 Where a couple adopt jointly, only one of you is entitled to take adoption leave and the couple can choose which. This does not affect your right to Shared Parental Leave (see separate policy).

6.4 RHSU will formally respond in writing to your notification of your leave plans within 28 days, confirming the date on which you are expected to return to work if you take your full 52-week entitlement to adoption leave.

#### **7. Procedure – Surrogacy**

7.1 If you use a surrogate to have a baby, you must tell the HR team the due date and when you want to start your leave at least 15 weeks before the expected week of birth.

7.2 You will also need to provide a statutory declaration to confirm that you have applied or will apply for a parental order in the 6 months after the child's birth.

## **8. Time Off**

8.1 Once you, as the main or secondary adopter, have provided us with your matching certificate you will be entitled to paid time off for up to five appointments with the purpose of having contact with the child or for any other purpose connected with the adoption.

8.2 You should endeavour to give your line manager as much notice as possible for the appointments and, wherever possible, try to arrange them as near to the start or end of the working day.

## **9. Terms and conditions**

9.1 During ordinary adoption leave and additional adoption leave, all terms and conditions as set out in your contract of employment, except normal pay, will continue.

9.2 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 you will remain in the life assurance scheme. You are also entitled to continue to receive your normal pension contributions during the 39 week SAP period. RHSU's contributions will be based on your normal pay (i.e. the pay you would be receiving if you were at work). However, your contributions must be calculated on the basis of the actual pay you are receiving, rather than your normal pay.

9.3 Reduced contributions on your part may reduce the amount of pension you ultimately receive, therefore you may top up your contributions to their previous level. You would need to speak to the Head of Finance to arrange this in advance of your adoption leave.

## **10. Annual Leave**

10.1 You will continue to accrue statutory and contractual holiday entitlement during the 26 weeks' ordinary adoption leave and the 26 weeks' additional adoption leave period.

10.2 You will be advised before you start ordinary adoption leave whether or not you have any outstanding holiday entitlement. You are encouraged to take any outstanding holiday due to you before the commencement of adoption leave. RHSU may, on a discretionary basis, agree that you may carry the leave over and take it on return to work after adoption leave. This will depend on the number of days to be carried over and the operational requirements.

10.3 You cannot take paid leave during your adoption leave and then resume your adoption leave but you can end your adoption leave early, if you give the correct notice, and take the time off as paid annual leave.

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

11.1 We reserve the right to maintain reasonable contact with you during adoption leave. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or to update you on developments at work during your absence.

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

- 12.1 You may, by agreement with your line manager, undertake up to 10 days' work under your contract of employment during adoption leave without bringing your adoption leave period to an end or losing your SAP.
- 12.2 'Keeping in touch' days may be worked at any time during adoption leave. The type of work undertaken is a matter between you and your line manager. We will pay you the equivalent of your normal pro rata salary for each 'keeping in touch' day.
- 12.3 Once you have agreed the dates for any KIT days, it is the line manager's responsibility to notify the HR team for payroll purposes.

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

- 13.1 You may take your full period of adoption leave entitlement and return to work at the end of this period. Alternatively, you may return to work at any time during ordinary adoption leave or additional adoption leave, provided that you give at least eight weeks' notice in writing of the date on which you intend to return.
- 13.2 You have the right to resume working in the same job if returning to work from ordinary adoption leave. If your return to work after a period of additional adoption leave, you 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.
- 13.3 Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless you are sick and able to produce a fit note before the end of the adoption leave period.
- 13.4 If you decide that you do not wish to return to work, you should give written notice of resignation to the organisation as soon as possible and in accordance with the terms of your contract of employment.