

## Adoptive Leave

<b>HR Policy Document Record</b>	
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Notes	New process re claiming adoptive benefit

## **1 INTRODUCTION**

- 1.1 This policy has been written with reference to the Adoptive Leave Acts 1995 and 2005, Adoptive Leave Act 1995 (Extension of Periods of Leave) Order 1996, Adoption (Amendment) Act 2017 and Circular Letter No. 0022/2013 issued by the Department of Education and Skills.
- 1.2 This policy is intended to provide staff with details on their entitlement to paid Adoptive Leave and additional unpaid adoptive leave, the protection of a staff member's rights whilst on Adoptive Leave, the periods of notification for either period of leave and returning to work when the leave has ended.

## **2 ELIGIBILITY AND ENTITLEMENTS**

2.1 Under the current legislation, the Adoptive Leave Acts 1995 and 2005 cover the entitlements for all adopting mothers and sole male adopters, and adopting fathers where the mother has died. Whilst the Marriage Equality Act 2015 and Adoption (Amendment) Act 2017 allow for same-sex couples who are in a Civil Partnership/Marriage to adopt, there is no legislation in place to allow for one of two adopting fathers or one of two adopting mothers to apply for Adoptive Leave or for an adoptive mother/father where the other adoptive mother/father has died. However in line with best practice and equality legislation this policy will encompass the following arrangements:

- a) A sole adopting parent of any gender;
- b) Two adopting parents of any gender\*.
- c) Where an adopting parent has died before the date of placement, the other adopting parent can avail of this leave.

*\* In circumstances where both adopting parents are employed by TU Dublin, Adoptive Leave will be granted to each employee in their own right.*

2.2 Staff (including contract staff with 24 weeks or more to remaining in their contracts from the date of commencement of Adoptive Leave), who commence Adoptive Leave are entitled to 24 consecutive weeks paid\* Adoptive Leave. Staff who on commencement of Adoptive Leave have less than 24 weeks to remaining in their contract will be granted paid Adoptive Leave until the expiry date of their contract.

**\* Hourly-Paid staff are not entitled to paid Adoptive Leave. This does not affect their statutory right to Adoptive Leave. Refer to Section 8.**

2.3 Staff on Adoptive Leave are also entitled to 16 weeks additional unpaid Adoptive Leave commencing immediately after the paid Adoptive Leave. Staff who on commencement of additional unpaid Adoptive Leave have less than 16 weeks to remaining in their contract will be granted this leave until the expiry date of their contract.

## **3 PROCEDURE**

### **Paid Adoptive Leave**

3.1 To enable the University support adoptive parents in their plans, early discussion on an informal basis with relevant line managers is strongly encouraged. This also helps with workflow planning and will facilitate a smooth and stress-free processing of the upcoming leave request.

- 3.2 Notification of your intention to take Adoptive Leave, should be submitted in writing to Leave and Benefits/Human Resources on the relevant campus through your line manager at least 4 weeks before the date on which you intend to commence your Adoptive Leave, and should state the date on which you intend to commence it.
- 3.3 In the case of a domestic adoption, you must provide the University with written details of the expected date of the placement. A **Certificate of Placement** must be supplied as soon as is reasonably practicable after that date. This form will be viewed by HR only, and upon confirmation of receipt of this document, it will be noted and confidentially shredded. Particulars of the placement should be also provided as soon as is reasonably practicable, but not later than 4 weeks after the date of placement.
- 3.4 In the case of a foreign adoption, you must provide a copy of the statement of the Declaration of Suitability before the commencement of Adoptive Leave. This form will be viewed by HR only, and upon confirmation of receipt of this document, it will be noted and confidentially shredded. Particulars of the placement should also be provided as soon as is reasonably practicable, but not later than 4 weeks after the date of placement. In the case of overseas adoptions, some or all of the Adoptive Leave can be taken before the placement date, i.e. where the parent(s) have to travel overseas to complete the adoption.
- 3.5 Following receipt of your application for Adoptive Leave, you will receive written confirmation from Leave and Benefits/Human Resources of the exact dates of your Adoptive Leave.
- 3.6 All staff who qualify for paid Adoptive Leave and are paying **PRSI contributions Class A, should make a claim to the Department of Employment Affairs and Social Protection to receive Adoptive Benefit**. The [application form](#) and an [Information Leaflet SW 37](#) are available from the Department of Employment Affairs & Social Protection. TU Dublin will deduct the value of the Adoptive Benefit payment from your salary.
- 3.7 **If you are not eligible for paid Adoptive Leave and are paying PRSI contributions Class A, you should apply for Adoptive Benefit directly to the relevant government department (Form AB 1).**
- 3.8 In certain circumstances, the Irish Research Council may provide a top-up to the state benefit or cover the full amount of a Fellow's salary for up to 24 weeks. The Fellow should liaise through their line manager with the Directorate of Research, Innovation and Enterprise Services for TU Dublin, Grangegorman or the appropriate Senior Manager in TU Dublin, Blanchardstown or TU Dublin, Tallaght on this matter. Leave and Benefits/Human Resources will provide administrative support if required.
- 3.9 Notice of your intention to resume work should be submitted in writing to Leave and Benefits/Human Resources, through your line manager at least 4 weeks before you are due to resume. This is an essential requirement, and also helps to facilitate finalising any deputy arrangements, which may be made to cover the absence.

#### **Additional Unpaid Adoptive Leave**

- 3.10 Where practicable, you should give notice of your intention to take additional unpaid Adoptive Leave, when you are giving your original notice to take Adoptive Leave, as this will greatly assist the University with regard to deputy arrangements.
- 3.11 If this is not possible, you should give notice to Leave and Benefits/Human Resources, in writing, through your line manager of your intention to take additional unpaid Adoptive Leave at least 4 weeks before the end date of the 24 weeks' Adoptive Leave.

- 3.12 It should be noted that additional unpaid Adoptive Leave does not count as service for superannuation purposes.

#### **4 POSTPONING ADOPTIVE LEAVE**

- 4.1 Adoptive Leave and additional unpaid Adoptive Leave may be postponed if the child needs to be hospitalised. Any requests to postpone Adoptive Leave must be made in writing, through the line manager to Leave and Benefits/Human Resources. The University may agree to postpone the leave and if so, the staff member will return to work on a date agreed by them and the University that is not later than the date on which the leave concerned is due to end. The Adoptive Leave will be postponed with effect from the date agreed by the staff member and the University, and must be taken in one continuous period commencing not later than 7 days after the discharge of the child from hospital.
- 4.2 If the staff member has postponed their Adoptive Leave and becomes ill after they have returned to work, prior to resuming the postponed leave, they will be considered to have started the resumed leave on the first day of the absence because of illness. Alternatively, the staff member may choose to forfeit their right to resumed Adoptive Leave, and have the leave treated as sick leave, by notifying Leave and Benefits/Human Resources accordingly, as soon as possible.
- 4.3 Paid Adoptive Leave cannot be suspended for any other reason than which is stated above.

#### **5 TERMINATING ADOPTIVE LEAVE**

- 5.1 Where the placement of a child with an adopting parent terminates before the expiration of the period of Adoptive Leave or additional unpaid Adoptive Leave (other than as a result of the death of the child), the adopting parent should notify Leave and Benefits/Human Resources in writing not later than 7 days after that date.

#### **6 TERMINATING ADDITIONAL UNPAID ADOPTIVE LEAVE DUE TO SICKNESS**

- 6.1 If you are ill during the additional unpaid Adoptive Leave, you may terminate your additional unpaid leave, and may commence sick leave. This request must be made in writing, through your line manager to Leave and Benefits/Human Resources. The University may agree to terminate the additional unpaid Adoptive Leave and if so, the additional unpaid Adoptive Leave will terminate on a date agreed by you and the University. It must not be earlier than the date of the commencement of your sickness, and not later than the date on which the additional unpaid Adoptive Leave would have ended.
- 6.2 Leave and Benefits/Human Resources will notify you in writing of the decision in relation to the request. Where additional unpaid Adoptive Leave is terminated due to illness, the sick leave will be treated in the same manner as any absence due to sickness. You will not be entitled in the future to the additional unpaid Adoptive Leave, or part of it not taken by you.
- 6.3 Unpaid Adoptive Leave cannot be suspended for any other reason than which is stated above.

#### **7. GENERAL PROVISIONS**

##### **7.1 PUBLIC HOLIDAYS**

- 7.1.1 In the case of eligible academic staff, the following will apply:

Any obligation in respect of public holidays while on Adoptive Leave or additional unpaid Adoptive Leave will be comprehended through days at Easter, Summer and Christmas when there are no lectures/teaching/assessments as per the University's Academic Calendar (i.e. outside of term time).

7.1.2 In the case of eligible professional, management and support staff the following will apply:

Where public holidays fall during the Adoptive Leave or the additional unpaid Adoptive Leave, these days will be added to the end of the leave period.

## **7.2 ANNUAL LEAVE**

7.2.1 In the case of professional, management and support staff, where closure days fall during the adoptive leave period (including additional unpaid Adoptive Leave) these days will be deducted from the staff member's annual leave entitlement in the normal way. Please refer to the University's Annual Leave policy.

## **7.3 SICK LEAVE**

7.3.1 Paid sick leave, following Adoptive Leave, may only be allowed where there is an expectation that the staff member intends to return to their position when fit to do so. Such periods of sick leave will be treated in the same manner as any absence from work due to sick leave. Please refer to the University's Sick Leave and Managing Absence policy

## **7.4 PRE-ADOPTION CLASSES AND MEETINGS**

7.4.1 Staff are entitled to time off from work, without loss of pay, to attend any pre-adoption classes and meetings with Social Workers and/or Health Board officials which they are obliged to attend. Evidence of such classes and meetings should be submitted through your line manager to Leave and Benefits/Human Resources, not later than 2 weeks in advance.

## **7.5 ACADEMIC STAFF**

### **7.5.1 Leave in lieu**

The provision for a lecturer to avail of up to 30 days leave in lieu with pay for vacation days that overlapped with Adoptive Leave was removed by the Department of Education & Skills with effect from 1<sup>st</sup> May 2013.

### **7.5.2 Unpaid leave of absence**

At the end of a lecturer's Adoptive Leave, in addition to the option of a maximum of 16 weeks additional unpaid Adoptive Leave, they may choose to take leave of absence, without pay, up to the end of the academic year (31<sup>st</sup> August), subject to the approval of the line manager. Any such request should be made in writing through the line manager to Leave and Benefits/Human Resources.

## **8. FIXED TERM/SPECIFIED PURPOSE WHOLETIME/PRO-RATA CONTRACT STAFF**

8.1 Fixed Term/Specified Purpose Wholetime/Pro-rata contract staff with 24 weeks or more left remaining in their contracts will be allowed paid Adoptive Leave, less any Adoptive Benefit payable.

8.2 Fixed Term/Specified Purpose Wholetime/Pro-rata contract staff with less than 24 weeks remaining in their contracts from the date of commencement of Adoptive Leave, receive paid Adoptive Leave, less any Adoptive Benefit payable, until their contract expires.

8.3 Fixed Term/Specified Purpose Wholetime/Pro-rata contract staff who have less than 24 weeks remaining in their contracts, and who are subsequently re-employed directly thereafter, will be paid for the full 24 weeks

of their Adoptive Leave, less any Adoptive Benefit payable subject to the second contract immediately following the first and there being a period of at least 24 weeks remaining from the date of commencement of Adoptive Leave to the expiry date of the second contract.

## **9. HOURLY-PAID STAFF**

- 9.1 Hourly-Paid staff are not eligible to payment from TU Dublin for Adoptive Leave.
- 9.2 This does not affect their statutory right to Adoptive Leave.
- 9.3 If you are paying PRSI contributions Class A, you should apply for Adoptive Benefit directly to the Department of Employment Affairs & Social Protection ([Form AB 1](#)).

## **10. RETURN TO WORK**

- 10.1 A staff member must give notice in writing to Human Resources of their intention to return to work, **not less than four weeks** before the date before they intend to do so. This notice must be submitted in writing to HR and copied to their relevant line manager. Requests to resume duty earlier than the expected end date of Adoptive Leave will be considered in the first instance by the line manager in consultation with HR.
- 10.2 Staff on permanent/indefinite contracts of employment will return to their substantive post on completion of the period of Adoptive Leave granted.
- 10.3 Staff on fixed term/specified purpose contracts of employment will return on a fixed term/specified purpose basis to work out the duration/purpose of their contract. The regulations in force at the date of resumption will apply to the staffing position of the University.
- 10.4 A staff member on Adoptive Leave who intends to resign from their post shall give TU Dublin notice in accordance with the terms of their contract of employment. Notifications to resign should be submitted in writing to Human Resources and copied to their relevant line manager. It is the responsibility of the staff member to inform the Department of Employment Affairs & Social Protection of their change in circumstances.
- 10.5 If a staff member fails to return to work on the date agreed and no communication is received in advance of this date advising of this absence, it will be assumed that the staff member is not seeking to return to the University and this will be regarded as a formal offer of resignation with effect from the last day of the Adoptive Leave. The effect of such resignation will be given in writing to the staff member by Human Resources.

## **11. BACKFILL ARRANGEMENTS**

- 11.1 Posts vacated by staff taking Adoptive Leave will be backfilled on a specified purpose basis.
- 11.2 Backfill appointments will cease a) when the staff member on Adoptive Leave resumes duty, b) if the staff member on Adoptive Leave is transferred/promoted to another position or c) if the staff member on Adoptive Leave ceases employment with the University.

## 12. QUERIES

Contact: Leave and Benefit Team

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