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## **ADOPTION LEAVE POLICY**

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### **1. INTRODUCTION**

- 1.1 This document sets out ELHAP's provision for adoption leave and pay, and associated procedures. The document sets out an individual's statutory entitlement to adoption leave and pay.

### **2. SCOPE**

- 2.1 This document is applicable to all ELHAP employees on permanent, fixed-term or sessional contracts.

### **3. ELIGIBILITY/NOTIFICATION**

- 3.1 Statutory adoption leave is available to:
- individuals who adopt
  - one member of a couple where a couple adopt jointly (the couple may choose which partner will take adoption leave)

where they are an employee who has been continuously employed for 26 weeks leading into the week in which they are notified of being matched with a child for adoption (a child for the purposes of this policy is up to the age of 18 years old).

(NB: The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to paternity leave - see the ELHAP Paternity Leave Policy).

- 3.2 Adoption leave and pay is not available to employees in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children or where a child is adopted by existing foster parents.
- 3.3 It is the responsibility of the employee to advise his/her line manager, as soon as possible that they have been matched and placed with a child for adoption within the UK and that they wish to claim statutory adoption leave. Overseas adoptions will also be covered by this scheme, although different arrangements may apply for practical reasons, and these will be discussed with the employee. (See also 4.2 re statutory notification requirements.)
- 3.4 As soon as a manager is aware of an employee's intention to take adoption leave he/she must advise the ELHAP Administrator so that the necessary action can be taken.

#### 4. STATUTORY ADOPTION LEAVE

- 4.1 An individual with at least 26 weeks continuous service leading into the week in which they are notified of being matched with a child for adoption will be entitled to take up to 26 weeks paid ordinary adoption leave immediately followed by up to 26 weeks unpaid additional adoption leave (bringing the total leave allowance up to 52 weeks).
- 4.2 An employee must notify ELHAP of his/her intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable. The employee must tell their line manager:
- when the child is expected to be placed with them
- and*
- when they want their adoption leave to start (but see 4.3)
- and must provide:*
- their 'matching certificate' from their adoption agency.
- 4.3 Adoption leave can start 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. The notified date of the start of adoption leave may be amended provided ELHAP is given at least 28 days notice of the change (or as soon as is reasonably practicable).
- 4.4 ELHAP will confirm in writing, within 28 days of notification of the adoption leave, the employee's adoption leave and pay entitlement and the expected date of return to work if the full entitlement to leave is taken. ELHAP will assume that the full leave entitlement will be taken unless notified otherwise (see 4.5).
- 4.5 An employee has the right to return to work at any time before the end of the adoption leave period provided they give ELHAP 28 days notice of the date they intend to return.
- 4.6 Only one period of adoption leave will be granted irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 4.7 If a child's placement ends during the adoption leave period the adopter will be able to continue adoption leave for up to 8 weeks after the end of the placement.

#### 5. STATUTORY ADOPTION PAY

- 5.1 During adoption leave an employee will be entitled to statutory adoption pay (SAP) provided that s/he:
- has been continuously employed by ELHAP for at least 26 weeks continuing into the week in which they are notified of being matched with a child for adoption;
  - has an average weekly earnings of not less than the lower earnings limit for National Insurance contributions;
  - has provided documentary evidence from the adoption agency of entitlement to SAP by sending in their 'matching certificate'.

Statutory adoption pay can start at any time from 14 days before the expected date of placement and will last for a period of 26 weeks.

5.2 SAP will be paid at a standard rate (currently £106 per week) or 90% of average weekly earnings if this is less than the current standard rate of SAP, for the full 26 weeks.

5.3 Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions (£82 a week from April 2005) do not qualify for SAP.

## **6 ADOPTION LEAVE, SICKNESS ABSENCE AND ANNUAL LEAVE**

6.1 Adoption leave will not be treated as sickness absence and will not, therefore, be taken into account for the calculation of the period of entitlement to sick pay during absence.

6.2 The period of both paid and unpaid adoption leave, up to a maximum of 52 weeks in total, shall be regarded as service for the purpose of calculating entitlement to leave and shall not affect the annual leave entitlement in the leave year(s) in which the adoption leave falls.

## **7. RETURN TO WORK**

7.1 An employee returning to work after either ordinary or additional adoption leave does not need to give notice of return unless s/he wishes to return early. ELHAP will assume that the full leave entitlement (52 weeks) will be taken unless notified otherwise, and will expect the employee to return to work on the expected return date, as notified to the employee (see paragraphs 4.4. & 4.5).

7.2 If an employee wishes to return before the end of the period of adoption leave s/he is required to give ELHAP 28 days notice before the return date (see 4.5).

7.3 Nothing in these Adoption Leave Regulations shall confer on an employee any right to return to work for a period extending beyond the expiry of a fixed-term contract of employment. In these circumstances the employee will be consulted about the renewal or non-renewal of his/her contract.

## **8. CONTRACT OF EMPLOYMENT**

8.1 During the 26 weeks of ordinary adoption leave, all contractual benefits, except for remuneration, will be maintained.

8.2 During the period of additional adoption leave the contract of employment continues and the employee is entitled to the benefit of the University's implied obligation to him/her of trust and confidence, and s/he is bound by his/her implied obligation to ELHAP of good faith.

8.3 Employees taking adoption leave will be sent a letter setting out their rights, important dates, etc., and reminded of what they need to do at the appropriate time. These Procedures are designed to set out an employee's statutory and contractual rights, and to try and ensure that the employee understands what his/her obligations are. However, it should be noted that ELHAP is entitled, at its discretion, to invoke the disciplinary procedure currently in force if an employee fails without good reason to give the required notice, or to return to work on the expected date.

**Implemented by the ELHAP Board of Trustees  
3<sup>rd</sup> October 2005**