

Adoption, Foster to Adopt and Surrogacy Leave Policy and Procedure

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This policy will be reviewed periodically to ensure compliance with changes in employment law and equality and diversity legislation. In the event that this policy or procedure is not compliant, the relevant legislation shall prevail.

Changes to this policy will be subject to consultation and agreement with the University's recognised Trade Unions before implementation

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1. INTRODUCTION

Brunel University London is fully committed to equality of opportunity in employment for all our employees and to developing working practices and employment policies that support a positive work life balance. In particular, this policy demonstrates a commitment by the University to enable employees to manage their work and family life during the first year of a child's life or following their adoption.

The Adoption/Foster to Adopt/Surrogacy Leave policy and procedure (collectively referred to as Adoption Leave) is intended to support employees who are:

- newly matched with a child for adoption by an approved adoption agency or an appropriate statutory body via an Adoption Order; or
- intended parents of a child born through a surrogacy agreement and who will be subject to a Parental Order; or
- prospective adopters who are fostering a child under the “Fostering for Adoption” scheme.

The Adoption Leave policy **does not apply** in circumstances where an employee:

- adopts a family member or stepchild; or
- becomes a special guardian (via a Court Order); or
- is a kinship carer (i.e. where a child lives with a relative or friend who isn't their parent. This is usually an informal arrangement); or
- arranges a private adoption.

Entitlements and arrangements for Adoption Leave can be complex and so employees are encouraged to speak to a member of the Human Resources department for guidance.

A 'Glossary of Terms' has been made available in [Appendix A](#).

2. SCOPE

This policy and procedure applies to all eligible employees of the University, including married couples, couples in a civil partnership, same sex partners and single people who adopt and applies to placements for children up to 18 years old.

3. GENERAL PRINCIPLES

The following general principles apply:

- To qualify for Adoption Leave and Adoption Pay, employees must meet the separate requirements for each as outlined in this policy and procedure.
- Adoption Leave can start on any day of the week. Only one period of leave will be available irrespective of whether more than one child is placed for adoption at the same time.

- Adoption Leave (and if eligible, pay) is available to one member of a couple where a couple jointly adopts. The other partner may be eligible to paid paternity/partner leave. Refer to the University's [Paternity/Partner Leave Policy and Procedure](#) for information.
- Employees are entitled to take up to 52 weeks' Adoption Leave, combining both paid and unpaid Adoption Leave, regardless of their length of service with the University.
- Employees can choose to stay on Adoption Leave for the whole 52 weeks or end it early. If they end it early, they can choose to share the remaining weeks leave with their partner by opting for Shared Parental Leave. Refer to the University's [Shared Parental Leave Policy and Procedure](#) for more information.
- If an employee is a surrogate and meets the eligibility requirements in the University's Maternity Leave Policy, then as the "birth mother" they will be entitled to Maternity Leave (and possibly pay) and should follow the procedure outlined in the University's [Maternity Leave Policy and Procedure](#).

4. ENTITLEMENT AND ELIGIBILITY TO TAKE ADOPTION LEAVE

Employees are entitled to take up to 52 weeks Adoption Leave, regardless of their length of service with the University or hours worked.

Employees are entitled to take two forms of Adoption Leave: Ordinary Adoption Leave and Additional Adoption Leave.

Ordinary Adoption Leave – lasts for 26 weeks and may be taken:

- When a child starts living with the employee or up to 14 days before the placement date (UK adoptions).
- When an employee has been matched with a child by a UK adoption agency.
- When the child arrives in the UK or within 28 days of this date (overseas adoption);
- The day the child's born or the day after (if a surrogate has been used to have the child).

Additional Adoption Leave – also lasts for 26 weeks' and, if taken, must begin the day after Ordinary Adoption Leave ends.

To be eligible to take Adoption Leave, the employee must notify the University, **in writing**, of the following:

In cases of UK Adoption (including Fostering to Adopt):

Within 7 days of being notified of being newly matched with a child:

- how much leave they wish to take;
- when they would like their leave to start;
- the 'date of placement' – the date the child is being placed with the employee.

In cases of Overseas Adoption:

Within 28 days of receiving each of the following information:

- the date of their 'Official Notification' and the expected date the child arrives in the UK.
- the actual date the child arrives in the UK.
- how much leave they would like to take and the start date which can be either on the date the date the child enters the UK or on a fixed date no later than 28 days after the child enters the UK.

Where a surrogate is used that is subject to a Parental Order:

At least 15 weeks before the baby is due:

- When the baby is due; and
- When they would like their Adoption Leave to start.

If an employee experiences any difficulty in notifying the University inside the stated timeframe, they should contact Human Resources for advice. **The University reserves the right to refuse Adoption Pay if due notice is not given.**

Please refer to section 6 for the notification procedure.

5. ENTITLEMENT AND ELIGIBILITY TO ADOPTION PAY

In order to receive Adoption Pay, employees must follow the notification procedure (see section 6).

Adoption Pay (whether Statutory Adoption Pay or our enhanced University Adoption Pay) is payable for a **maximum of 39 weeks**. The remaining 13 weeks that can be taken during Adoption Leave is unpaid.

5.1 Statutory Adoption Pay (SAP)

An employee will be entitled to SAP, whether or not they intend to return to work, if they:

- have given due notice to their Manager and Human Resources (see section 4);
- have at least 26 weeks' continuous service with the University up to any day in the week they were matched with the child (or if they are the intended parent through surrogacy, they must have 26 weeks' continuous service by the end of the 15th week before the expected week of childbirth);
- earn average weekly earnings at or above the Lower Earnings Limit for National Insurance contributions¹ (or if pay is variable, average pay over the eight weeks up to and including the end of the 15th week before the expected week of childbirth. Weeks where no work was carried out will be ignored for the purposes of this calculation, and earlier weeks used instead). See section 6 for details.

5.2 University Adoption Pay (UAP)

The University operates its own Adoption Pay Scheme (UAP), which is more generous than SAP. An employee will be entitled to UAP if they:

- have given due notice to their Manager and Human Resources (see section 4);

¹Please refer to www.gov.uk for the Lower Earnings Limit

- have at least one years' continuous service with the University up to any day in the week they were matched with the child (or if they are the intended parent through surrogacy, they must have at least one years' continuous service by the end of the 15th week before the expected week of childbirth);
- return to work (50% or more is expected) for a period of at least three months following Adoption Leave;
- provide proof of the adoption or surrogacy (see section 6 for details).

With the exception of an employee who works on a fixed term contract which expires during their Adoption Leave, if an employee fails to return to work or leaves the University before the end of three months, the employee must reimburse the University the UAP, excluding SAP (after PAYE deductions) that have been received and the University reserves the rights to reclaim this sum directly from the employee.

If an employee is unsure about returning to work after their period of Adoption Leave, they may defer taking their UAP until their return to work. Employees will need to notify Human Resources should they decide to defer their UAP.

UAP contains the SAP elements (SAP is not an additional payment).

A breakdown of UAP that may be paid to an eligible employee is as follows:

- Weeks 1 – 18: full contractual rate of pay (or if pay is variable, average pay over the eight weeks up to and including the end of the 15th week before being matched with the child², or before the baby is due in a surrogacy arrangement).
- Weeks 19– 39: 21 weeks at the standard rate of SMP or 90% of average weekly earnings, whichever is the lesser amount.

All other remaining leave periods will be unpaid.

A summary of SAP and UAP payments is provided in [Appendix B](#).

A flowchart to help employees understand their adoption entitlements is provided in [Appendix C](#).

Human Resources will issue employees with an individual summary of their Adoption Pay entitlement once written notification of Adoption Leave has been received.

Adoption Pay is paid into the employee's bank account on the same day that they would normally receive their salary and will be subject to the usual deductions for tax, national insurance and pension contributions.

5.3 Non-eligibility for SAP or UAP

An employee with less than 26 weeks' continuous service with the University up to any day in the week they were matched with the child (or by the end the 15th week before the expected week of childbirth) will not entitled to SAP (or UAP), however, they may be entitled to financial support in relation to their adoption payment.

To claim financial support, an employee will need to obtain an SAP1 form from the Payroll team which explains the reason why they are not entitled to SAP. The employee should then contact

their adoption agency to find out if they can get any help or alternatively contact the Department for Work and Pensions.

6. NOTIFICATION PROCEDURE

6.1 Notifying Manager and Human Resources

For the purposes of planning, an employee is encouraged to have an early informal discussion with their Manager regarding their intention to take Adoption Leave. The employee should inform their Manager that they have been approved as an adoptee as soon as they have been officially notified, even though they may not have been matched for adoption at this point.

To qualify for Adoption Leave and Pay, the employee will also need to tell the University formally that they wish to take Adoption Leave by completing the 'Notice of Intention to Take Adoption Leave' CHIME form and submitting this to their Manager and Human Resources **within the timeframe set out in section 4 above.**

28 days' written notice will need to be provided before the intended start date of Adoption Leave unless this is not reasonably practicable, in which case the employee should contact Human Resources for advice.

In completing the form, the employee will need to provide the following information:

- The date on which the child is expected to be placed with the employee; or
- In the case of an overseas adoption, the date the child is expected to enter the UK; or
- When the baby who is the subject of the surrogate agreement is due to be born, **and**
- When they would like their Adoption Leave to start.

Adoption leave can start:

- When a child starts living with the employee or up to 14 days before the placement date (UK adoptions).
- When an employee has been matched with a child by a UK adoption agency.
- When the child arrives in the UK or within 28 days of this date (overseas adoption);
- The day the child's born or the day after (if a surrogate has been used to have the child).

The employee should also provide the following documentation to their Manager and Human Resources so that Adoption Leave and Pay entitlements can be confirmed:

- A 'Matching Certificate' which the employee should receive from the adoption agency ; or
- If it is an overseas Adoption, the 'Official Notification' which confirms that the certificate of Eligibility to Adopt has been granted and evidence of the date in which the child entered the UK (for example, a plane ticket), or
- A copy of the MATB1 certificate issued to the surrogate mother*

*Where the baby is the subject of a 'Parental Order' following a surrogacy arrangement, in addition to providing a copy of the MATB1 certificate issued to the surrogate mother, the employee will also need to provide the University with **a copy of the 'Parental Order' within 6 months of the baby's birth.** The University retains the right to reclaim any payment made, and to be compensated for leave taken, if the member of staff does not provide a copy of the 'Parental Order' within 6 months of Leave and Pay commencing.

Human Resources will write to the employee confirming their leave and pay arrangements **no later than 28 days** of receiving their 'Notice of Intention to take Adoption Leave' form.

Refer to **Appendix D** for notification process.

6.2 Changing Adoption Leave Start Date

If an employee wants to change their Adoption Leave start date once it has been notified, they should give their Manager and Human Resources **at least 28 days written notice** before their original start date or the new start date - whichever is earlier, or if this is not possible, as soon as reasonably practicable.

7. IF A PLACEMENT IS NOT MADE OR ENDS EARLY

If an employee has started Adoption Leave and then the placement is not made, or if the child returns to the adoption agency, or if the child passes away, the Adoption Leave will normally finish eight weeks later (or at the end of the Statutory Adoption Leave period if this is earlier).

If the employee is in receipt of SAP, this will also end eight weeks after the adoption finishes (or at the end of the Statutory Adoption Pay period if this is earlier). However, if the employee has not started their Adoption Leave when they find out that a child is not going to be placed with them, then they cannot take any leave or pay.

An employee will be required to inform their Manager and Human Resources of their change in circumstances as soon as it occurs.

The University understands that these may be difficult circumstances for the employee and would like to remind employees that it provides free access to a 24 hour, independent counselling and advice service. The helpline is run by Carefirst. Carefirst can be contacted by telephone on 0808 168 2143 or visiting www.carefirst-lifestyle.co.uk. 'Brunel' should be quoted as the username and 'employee' for the password.

8. SUPPORT DURING ADOPTION PROCESS

8.1 Pre-Adoption Checklist

Prior to the commencement of Adoption Leave employees and Managers are encouraged to use the ['Pre-Adoption Leave Checklist'](#) as this will serve as a reminder for both the employee and Manager and to help ensure that all necessary steps are taken prior to and during Adoption Leave.

8.2 Time Off to Attend Adoption Appointments

Employees who are adopting a child are entitled to take time off to attend adoption 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 secondary adopter will be entitled to take unpaid time off for up to two appointments.

The purpose of the appointment is to enable the employee (and his/her partner) to have contact with the child (for example, to bond with him/her before the placement) and for any other purpose connected with the adoption such as to meet with 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 University may ask the employee for proof of the date and time of the appointment and proof 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. SHARED PARENTAL LEAVE

Employees may wish to read this policy in conjunction with the University's Shared Parental Leave Policy which provides employees with more flexibility in how they can share the care of their child in the first year following their adoption. The Shared Parental Leave Policy enables parents to choose to be off work at the same time and/or take it in turns to have periods of leave to look after their child.

10. EMPLOYMENT TERMS AND CONDITIONS DURING ADOPTION LEAVE

During Adoption Leave the following conditions will remain in place:

- A period of Adoption Leave counts as continuous service and an employee's continuous service rights are not affected.
- Employees are entitled to receive any increments and/or cost of living increases, which they would have been due, had they not been on Adoption Leave.
- Employees will continue to benefit from all their contractual terms and conditions – except for salary which will be paid in accordance with an employee's eligibility under Adoption Leave (see section 5).
- Employees will continue to accrue annual leave, including bank holidays whilst on Adoption Leave. However, annual leave cannot be taken during a period of Adoption Leave. Employees are encouraged to take any accrued annual leave in the year in which it was accumulated. Upon returning to work, the Head of Department can approve for the employee to carry forward up to a maximum of 5 days annual leave to the new holiday year.

11. PENSION CONTRIBUTIONS DURING ADOPTION LEAVE

During Adoption Leave employee pension contributions will continue to be made and will be based on actual pay received and not salary payments prior to taking Adoption Leave.

Once Adoption Leave Pay ends, it may have an impact on the pension contributions for both the employee and employer. As rules vary between the Pension Schemes that the University offers, it is advised that you contact Pensions@Brunel.ac.uk for guidance on your personal situation.

12. CONTACT AND KEEPING IN TOUCH DAYS (KIT)

Employees and their Manager are encouraged to maintain reasonable contact during the Adoption Leave period. Shortly before the employee starts Adoption Leave, the Manager should discuss the arrangements for them to keep in touch with the employee during Adoption Leave. Contact may be made, for example, to discuss the employee's plans to return to work, to ensure that they are aware of any possible job opportunities, to discuss any special arrangements to be made or training to be given to ease the employee's return to work or simply to update them on developments at work during their absence.

Employees may agree to work for the University (or attend training) for up to 10 days during Adoption Leave without bringing their period of Adoption Leave to an end or impacting on their right to Adoption Pay. These are known as "Keeping in Touch" or "KIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes and should be recorded on the '[Adoption Leave Keeping in Touch \(KIT\) Days Claim Form](#)'.

The University has no right to require employees to carry out any work and is under no obligation to offer any work during Adoption Leave. Any work undertaken, including the amount of salary paid for any work done on KIT days, will be agreed with the employee in advance.

Any KIT days worked do not extend the period of Adoption Leave. If a KIT day occurs during a week when employees are receiving SAP, this will be effectively 'topped up' so that they receive full pay for the day in question.

Employees may, with the agreement of the University, use KIT days to work part of a week during Adoption Leave. The use of KIT days can be used to affect an employee's gradual return to work towards the end of a long period of Adoption Leave or to trial a possible flexible working pattern.

13. RETURNING TO WORK

13.1 Return to Work Interview Checklist

The University recognises that returning to work following a period of Adoption Leave is a transition and can be a challenging time. As with all change, effective preparation will help the employee, the Manager and the wider University to benefit from a smooth transition with a positive outcome for all.

The '[Return to Work Interview Checklist](#)' form provides a useful tool for Managers to assist employees in making a successful transition back into work. This should be used on the employees' return or during keeping in touch days in the lead up to their return to work.

Two follow up meetings, which can take place during an employee's one-to-one meeting, should also take place at 3 and 6 months intervals after the employee's return to work to discuss any previous issues raised and to identify if any further support is required

13.2 Changing Return Date

Unless notified otherwise, it will be assumed that an employee's return to work date from a period of Adoption Leave is as originally stated and confirmed by Human Resources in writing. However, if an employee wishes to change their intended return to work date for any reason, they must provide **at least 8 weeks' notice, in writing**, of their new intended date of return to their Manager and to Human Resources. Human Resources will write to the employee within 28

days to confirm the new return date. (Note the return to work date is the date after Adoption Leave ends and does not include annual leave which the employee intends to take after this date.)

13.3 Returning to Existing Job Role

Employees who take Ordinary Adoption Leave are entitled to return to the same job that they were in before they went on leave, on terms and conditions that are no less favourable than those that would have applied had they not been absent.

Employees who have stated that their intention is to return to work after Additional Adoption Leave will normally be re-employed in their previous post, but if there are exceptional reasons why this is not possible they will be employed on similar work and on terms and conditions no less favourable than if they had not been absent.

13.4 Flexible Working Request

If an employee wants to change their hours or other working arrangements on return from Adoption Leave they should make a request under the university's Flexible Working Policy. It is helpful if such requests are made as early as possible.

If a Flexible Working request is not yet finalised on an employee's expected return date to work, the employee will be required to return to work on their current terms and conditions until such time that the request is concluded.

14. LEAVING THE UNIVERSITY

Should an employee choose not to return to work after Adoption Leave, they will need to give written notice of resignation to the University as soon as possible and in accordance with the terms/notice period in their contract of employment.

If an employee does not return to work after Adoption Leave or if they leave within 3 months of their return to work after Adoption Leave, the University has the right to recover any payment made in excess of SAP. This provision shall not apply to employees on a fixed term contract that expires either before their return to work or within a period of 3 months from return to work.

15. SICKNESS AT THE END OF ADOPTION LEAVE PERIOD

Should an employee be ill and unable to return to work at the end of a period of Adoption Leave, the normal contractual arrangements and reporting procedures for sickness absence will apply.

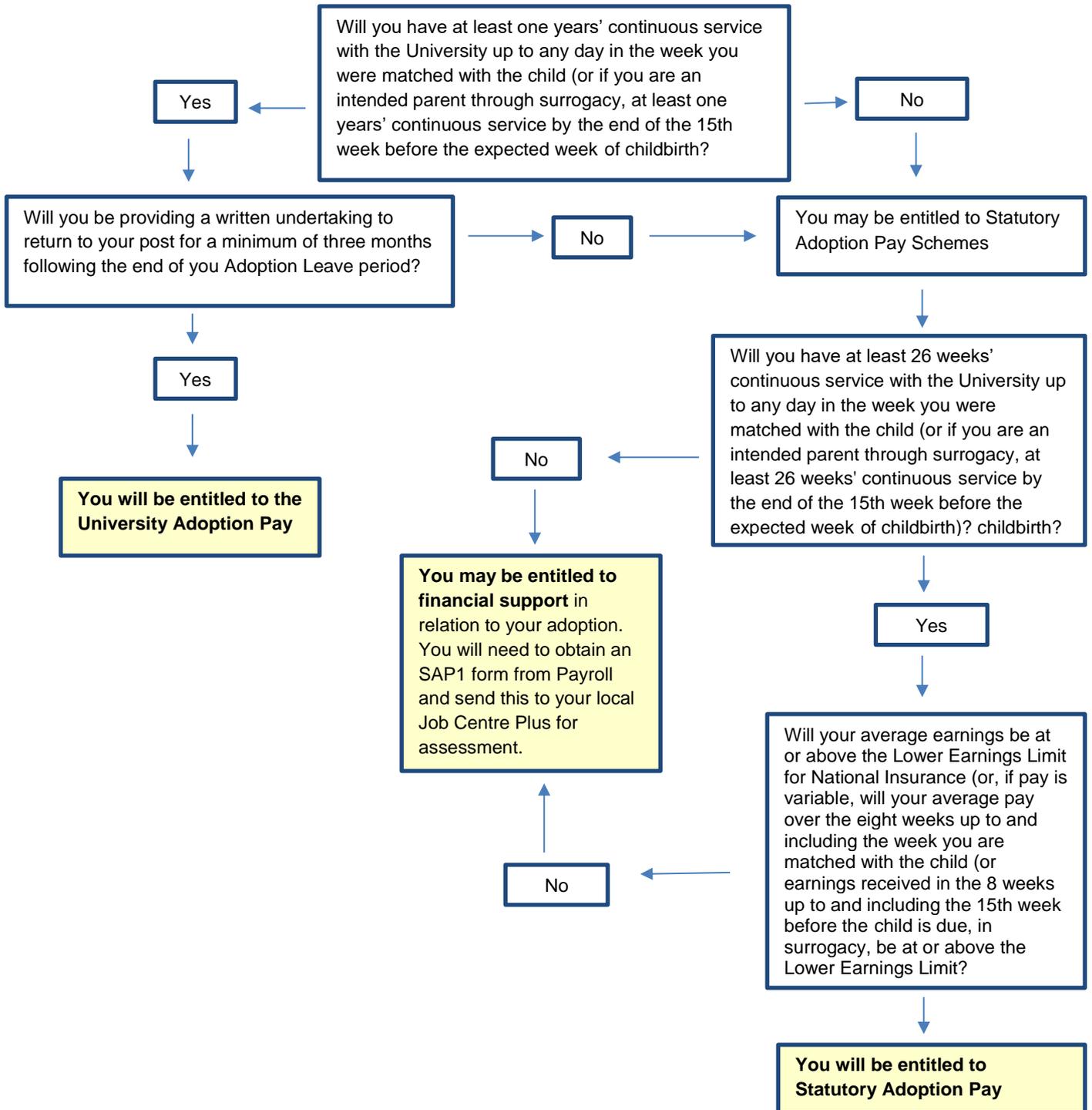
GLOSSARY OF TERMS

Parental Order	A Parental Order must be applied for to become the legal parents of the child – if the intended parents are genetically related to the baby.
Adoption Order	An Adoption Order must be applied for where intended parents are not genetically related to the baby. The intended parents must use a registered adoption agency throughout the surrogacy process.
Intended Parents	The intended parents can apply for a Parental Order 6 weeks' after the child is born, and before the child is 6 months old.
Surrogate mother	Is the legal birth mother of the child they carry – even if they are not genetically related, until they sign a Parental or Adoption Order following the birth of the child, which then transfers their rights to the intended parents.
Fostering for Adoption	Fostering for adoption is used for babies and children who are in local authority care where the plan is likely to be adoption, but who still have a chance of being reunited with their birth family. Children are placed with approved adopters who have been assessed and approved as temporary foster carers for the child.
Adoption agency	Adoption agencies are organisations that work with prospective parents and children to assess, match, arrange and support adoptive placements. There are two kinds of adoption agency in England – local authority adoption agencies and independent/voluntary adoption agencies. The main difference between the two is that local authorities have children in their care, whereas independent/voluntary agencies do not.
'Matched'	A match occurs when a family is selected as the adoptive placement. At this point, the family will be provided additional information about the child so that a decision to proceed with meeting them is a well-informed one. Once the family has had an opportunity to review all of the available information about the child, and are satisfied that the match is a good one for them and for the child, the process of introducing the family to the child begins.
Matching Certificate	This certificate, when completed by the appropriate adoption agency, may be used as evidence for the purposes of Statutory Adoption Leave and Pay. It confirms that the named person(s) has been matched with a child for adoption.
'Placed' or 'Placement'	This is when the child starts living with the employee permanently with the aim of being formally adopted in the future.
'Official Notification'	Official notification means written notification, issued by, or on behalf of the relevant domestic authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming that the adopting individual is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

SUMMARY OF ADOPTION PAY

Week	Statutory Adoption Pay (SAP)	University Adoption Pay (UAP)
1	SAP is paid for up to 39 weeks: 90% of average weekly earnings (before tax) for the first 6 weeks. Followed by statutory weekly pay rate or 90% of average weekly earnings (whichever is lower) for the next 33 weeks.	SAP topped up to make employee's full contractual pay.
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19	Statutory weekly pay rate or a rate equivalent to 90% of average weekly earnings, whichever is lower.	Statutory weekly pay rate or a rate equivalent to 90% of average weekly earnings, whichever is lower.
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40-52	Unpaid leave	Unpaid leave

FLOWCHART: ASSESSING ADOPTION ENTITLEMENT



FLOWCHART: NOTIFICATION AND SUPPORT PROCESS

Responsibility Key

- Employee
- Manager
- Human Resources

