Adoptive and Surrogacy Leave Policy

Contents

Introduction 1
Purpose 1
Scope 1
Policy Statement 2
Adoptive Leave 2
Adoptive Leave Entitlements 2
Pre and Post Adoption Visits by Social Workers 2
Surrogacy Leave 3
Surrogacy Leave Entitlements 3
Pay arrangements for Adoptive and Surrogacy Leave 4
Adoptive - Paid Leave 4
Surrogacy - Paid Leave 4
Adoptive and Surrogacy - Unpaid Leave 4
Adoptive or Surrogacy Leave in Research Funded Areas 5
Adoptive Benefit 5
Replacement of an Employee on Adoptive or Surrogacy Leave 5
Additional Supports 5
Keep in Touch (KIT) Days 5
Teaching Free Period on return from Adoptive or Surrogacy Leave 6
Roles & Responsibilities 6
The Employee 6
The Line Manager 7
DCU People 8
Sanctions 8
Related Documentation 8
Contact 8
Policy Review 9

Introduction

Dublin City University (DCU) is committed to providing an equal, inclusive and diverse environment in which all members of the University community should expect to be able to thrive and be respected and valued for their unique perspectives and contributions. This policy specifies the arrangements in place at DCU for the administration and monitoring of the University's Adoptive & Surrogacy Leave Policy.

Purpose

The purpose of this policy is to provide clarity regarding Adoptive and Surrogacy Leave entitlements for eligible employees of the University, to take leave from work to legally adopt a child or upon the birth of a child via a surrogacy arrangement. This policy is written in accordance with the Adoptive Leave Act 1995, amended by Adoptive Leave Act 2005 and Extension of Periods of Leave Order 2004.

Currently, limited statutory provision exists for surrogacy in Ireland. Therefore, in cases of surrogacy there is no statutory entitlement to leave and there is no social welfare entitlement. In the absence of a current legislative framework governing surrogacy in Ireland, Surrogacy Leave is provided as a non-statutory benefit by DCU. This policy remains subject to review and amendment to ensure alignment with any future legislative enactments.

Employees who are employed on fixed term contracts whose contract is due to expire during a period of Adoptive or Surrogacy leave, their leave and their adoptive or surrogacy leave related pay from the University will end in line with the date of their temporary contract of employment.

Scope

This policy applies to eligible employees of the University, both academic and support, including those employed in its research centres.

This policy covers the nominated person adopting a child or the nominated person having a child via a surrogacy arrangement.

This policy does not cover employees who are surrogate mothers bearing a child on behalf of another person; instead they have statutory rights under the maternity leave policy.

Policy Statement

Adoptive Leave

All employees who qualify under Adoptive Leave Acts 1995–2005 will be granted Adoptive Leave.

A qualified adopter is either:

- The sole adopter, in the case of a parent who is adopting a child on their own;
- The nominated parent in the case of an adopting couple.

Payment of salary (less state Adoptive Benefit) during Adoptive Leave is not a statutory entitlement and is contingent upon compliance with the agreed terms and conditions of this policy.

Adoptive Leave Entitlements

- Eligible employees are entitled to 24 consecutive weeks of statutory paid leave. In addition, employees have the option of availing of up to 16 weeks' unpaid leave immediately following the initial period of paid leave.
- An employee can begin their Adoptive Leave from the date the child is placed with them.
- Adoptive leave and additional unpaid Adoptive leave are not considered as part of any other absence including sick leave or annual leave.
- Annual leave and public holiday entitlements will continue to be accrued during Adoptive Leave. Service will also continue to remain unbroken and increments will continue to apply.
- Annual leave may, on application and with approval from the Head of School/Unit, be taken immediately after Adoptive leave. Where unpaid Adoptive leave is being taken, this must follow immediately after 24 consecutive weeks of statutory paid leave, and annual leave follows unpaid Adoptive leave.
- In the case of an employee who is on probation at the start of their Adoptive Leave, their probationary period will be extended to cover the leave period.
- All employees are entitled to return to their own position at the end of the Adoptive Leave.

Pre and Post Adoption Visits by Social Workers

- An employee is entitled to time off work for pre-adoption and post-adoption visits by social workers/ health board officials, without loss of pay.
- The employee must give two weeks written notice, with evidence of appointments, to DCU People & the Head of School / Unit before the appointment.

Surrogacy Leave

Surrogacy is where a surrogate mother agrees to become pregnant and carry a baby to term on behalf of another couple or individual. When the child is born, the surrogate mother relinquishes care of the child and all rights of parentage and parental responsibility to the intending parents. The intended parents or parent of the child (the adults who will raise the child) are known as the *commissioning couple* or the *commissioning person* or the *intending parents* or the *intending parent*.

The intending or commissioning parents can choose who will avail of the surrogacy leave (i.e. who will be the *nominated parent* for the purpose of this leave).

Surrogacy Leave Entitlements

- In a surrogacy arrangement, eligible employees who are the nominated parent are entitled to 24 consecutive weeks of paid leave. In addition, employees have the option of availing of up to 16 weeks' unpaid leave immediately following the initial period of paid leave.
- An employee will begin their Surrogacy Leave on the date of birth of the child.
- Surrogacy leave is not considered as part of any other absence including sick leave or annual leave.
- As Surrogacy Leave is not a statutory entitlement, some statutory entitlements will not be applicable during this leave such as the accruing of annual leave and public holidays. A period of surrogacy leave is non-pensionable.
- Service will continue to remain unbroken and increments will continue to apply.
- Annual leave may, on application and with approval from the Head of School / Unit, be taken immediately after Surrogacy Leave. Where unpaid Surrogacy Leave is being taken, this must follow immediately after 24 consecutive weeks of statutory paid leave, and annual leave follows unpaid Surrogacy Leave.
- In the case of an employee who is on probation at the start of their Surrogacy Leave, their probationary period will be extended to cover the leave period.
- All employees are entitled to return to their own position at the end of the Surrogacy Leave. If returning to the original role is not reasonably practicable, you will be offered an alternative role with terms that are not less favourable.

In the event that a nominated parent avails of surrogacy leave and subsequently undertakes an adoption process in respect of the child for whom surrogacy leave was already taken, while they may be entitled to avail of statutory adoptive leave, they will not be eligible to receive any voluntary benefits already received under surrogacy leave from the University (including payments) in respect of any period of adoptive leave.

Pay Arrangements for Adoptive and Surrogacy Leave

Adoptive - Paid Leave

- Employees entitled to Adoptive Leave will normally receive full (pro-rata) pay from the University, less State Adoptive Benefit, for the initial 24 week period of the leave. This does not apply where the employee has previously availed of paid Surrogacy leave in respect of the same child.
- A deduction, where appropriate, from salary equivalent to the maximum weekly rate of Adoptive Benefit payable will be automatically applied at source by the University.
- Adoptive Benefit from the Department of Social Protection (DSP) should, therefore, be claimed by an employee who is availing of Adoptive Leave from the University. Information on how to claim Adoptive Benefit is available from https://services.mywelfare.ie and by viewing information under the heading *Parents, Children, Family.*
- If the amount of Adoptive Benefit payable is less than the maximum, or if an employee is not entitled to any Adoptive Benefit, they should notify DCU People immediately, by emailing askdcupeople@dcu.ie, to ensure that any salary adjustments are correct. Changes to the automatic deduction can be made provided the employee furnishes a copy of the DSP's written notice to DCU People of the actual Benefit rate applicable, if any. Deductions, where appropriate, will be made during the 24 week period of Adoptive leave. If the absences are recorded late any arrears due will have to be deducted from salary after the date of notification.
- Adoptive Benefit payment is a taxable income. The DSP will provide Revenue with the details of any Adoptive Benefit payment and Revenue will collect the tax due. For more information on taxation of Adoptive Benefit, please refer to Revenue's Taxation of DSP payments website.

Surrogacy - Paid Leave

- Employees entitled to Surrogacy Leave will normally receive full (pro-rata) pay from the University for the initial 24 week period of the leave.

Adoptive and Surrogacy - Unpaid Leave

- The additional 16 weeks Adoptive or Surrogacy Leave is unpaid and can only be taken immediately following the 24 week paid leave.
- There is no entitlement to statutory Adoptive Benefit during additional Adoptive Leave.
- Upon return to work the employee should ensure that they have the Application for Adoptive Leave Credits Form signed and stamped by DCU People which will enable the Department of Social Protection to maintain their PRSI records.

Adoptive or Surrogacy Leave in Research Funded Areas

- Adoptive Leave: Research funded employees will receive normal pay less the State Adoptive Benefit. The top-up on the State Adoptive Benefit to full pay may be covered by the Principal Investigator (PI) / Research Programme from the respective external research grant where allowable under the grants terms and conditions.
- Surrogacy Leave: Research funded employees will receive normal pay, as per the provisions of this policy. This may be covered by the Principal Investigator (PI) / Research Programme from the respective external research grant where allowable under the grants terms and conditions.
- In the event that this is an ineligible expense under the research grants terms and conditions and/or there are insufficient resources available to fund the adoptive pay top-up, the PI will submit a proposal to the University seeking funding to cover the arrangement.
- Information submitting a proposal seeking funding to cover the arrangement is available from the Maternity / Adoptive / Surrogacy Leave Toolkit on the DCU People website under the 'Managers' tab.

Adoptive Benefit

- An employee may be entitled to receive a Statutory Benefit for Adoptive Leave.
- To qualify for Statutory Benefit the employee must have paid sufficient Pay Related Social Insurance (PRSI) contributions.
- Information on how to claim Adoptive Benefit is available from the Department of Social Welfare's 'My Welfare' website by viewing information on the 'Parents, Children, Family' tab.

Replacement of an Employee on Adoptive or Surrogacy Leave

- There is no guarantee that the University will be able to replace, in every instance, employees that are on Adoptive or Surrogacy Leave.
- Any case for a temporary replacement will be treated on its own merits and in relation to relevant operational and resourcing considerations for the area.

Additional Supports

The following supports, exclusively provided by the University, are available to employees during and after their adoptive or surrogacy leave.

Keep in Touch (KIT) Days

- Employees on adoptive or surrogacy leave have the option of availing of up to three Keep in Touch (KIT) days during the initial 24 weeks of their leave without affecting their pay.

- The days can be used for any activity which would ordinarily be classed as work under their contract of employment. KIT days are optional and the activities to be undertaken should be agreed in advance between the employee and their line manager.
- Employees will be entitled to apply for paid time off in lieu (on their return from 26 weeks adoptive or surrogacy leave) for any KIT days worked.
- The administration of KIT days will be managed locally between the manager and employee.

Teaching Free Period on return from Adoptive or Surrogacy Leave
Academic employees with teaching commitments may apply for a research exclusive period following their adoptive or surrogacy leave. This is available for one semester and must be availed of within the first 12 months of returning to their post.

The conditions of the Teaching Free Period are as follows:

- The employee must be returning to their academic role following a period of adoptive or surrogacy leave (either the initial paid period up to 24 weeks, or the unpaid period of 16 weeks);
- The teaching-free period is for a maximum of one semester and must be taken in one block;
- The employee will need to discuss and confirm the uptake of this option with the Head of School at least 6 weeks before their return to work date. The discussion should include agreement on specific goals to be achieved in relation to the teaching free period;
- It is recommended that the Head of School and employee meet twice during the no teaching period to discuss progress regarding the successful reintegration of the employee into the workplace; &
- Recording of take up of the No Teaching Period will be held locally.

Roles & Responsibilities

The Employee
- Read this policy and be aware of their entitlements as well as their obligations. Advice and clarification on the details of the policy is available by contacting DCU People directly and/or speaking to the Line Manager.
- Discuss the request for Adoptive or Surrogacy Leave with their Line Manager. Discussions will include how their workload will be managed over their period of leave.

- Apply in writing to DCU People at least six weeks before the intended leave. This can be done by emailing askdcupeople@dcu.ie.
- A Certificate of Placement (for domestic adoptions) or Declaration of Suitability (for intercountry adoptions) confirming the adoption must be subsequently forwarded to DCU People within 4 weeks of the child's placement date.
- A medical certificate from a registered medical practitioner in Ireland or abroad must be sent to DCU People to confirm the due date of the child.
- To avail of sixteen weeks' unpaid leave, the employee must notify the Head of School/Unit and DCU People (by email to askdcupeople@dcu.ie) at least four weeks before the paid adoptive or surrogacy leave is due to end. The unpaid additional adoptive or surrogacy leave must be taken immediately following the initial 26 weeks of leave.
- Keep a record of the documentation and paperwork issued in relation to their leave request.
- Submit a claim for State Adoptive Benefit to the Department of Social Protection. This must be done at least 6 weeks before the commencement of the Adoptive Leave. Information on how to claim Adoptive Benefit is available from the Department of Social Welfare's 'My Welfare' website by viewing information on the 'Parents, Children, Family' tab.
- Notify DCU People (e: askdcupeople@dcu.ie) of the return to work date at least four weeks before the actual return date.
- Engage with discussions with their Line Manager regarding their return from leave and to explore any support that may be appropriate. This should be done as soon as practicable but no later than 6 weeks from the date of return to work.
- Time off in lieu of KIT days worked should be applied for and approved locally through the CoreTime system.
- Notify their Manager in writing of the date and time of pre-adoption and post-adoption visits by social workers/ health board officials at least two weeks in advance.
- Access to information on vacancies arising during any period of adoptive or surrogacy leave are available on the normal on-line sources.

The Line Manager

- Familiarise themselves with this policy and be aware of employees' entitlements including the additional supports of KIT / Teaching Free Period in order to provide support to employees.
- Seek advice and support from DCU People on the details of this policy.
- Ensure a discussion takes place with the employee in order to assist them to prepare for taking leave. Discussions will include how the employee's workload may change and will be managed during the leave period.

- Discuss the employee's request for leave with the DCU People Partner. Discussions will include how the employee's absence will be accommodated and the resource plans for covering the absence. Each case will be treated on its own merits with a view to facilitating where possible the replacement of staff on adoptive leave and if financial considerations allow.
- Principal Investigators and Line Managers with responsibility for employees funded under Research Programmes will need to pay particular attention to the Policy Toolkit available on the DCU People webpage.
- Approve KIT days worked through the CoreTime system.
- Request evidence of pre-adoption and post-adoption visits by social workers / health board officials in order to facilitate time off for the employee.
- Upon the employee's return from leave, ensure a discussion takes place with the employee in order to assist them with their return including exploring any support that may be appropriate.

DCU People

- Help ensure that employees are aware of the content of this policy.
- Respond promptly to requests from employees for Adoptive or Surrogacy Leave.
- Process all applications for Adoptive or Surrogacy Leave in a timely manner.
- Issue the employee with an Adoptive or Surrogacy Leave Letter confirming the approval of the leave arrangement.
- Ensure that all documents are sent to the employee with a copy retained by the University.
- Update the employee's leave record and personal file.

Sanctions

If reasonable grounds for believing an employee is not using Adoptive or Surrogacy Leave for the required purpose, e.g. they are working somewhere else whilst receiving payment from the University for Adoptive or Surrogacy Leave, the University may refuse payment of the leave and/or revoke the payment.

The University may take appropriate action in the case of misuse of Adoptive Leave or Surrogacy. This may include formal disciplinary action.

Related Documentation

- Adoptive and Surrogacy Leave Application Process

Contact

Any queries regarding this policy should be directed to e: ask.dcupeople@dcu.ie.

Policy Review

This policy will be reviewed every 3 years or as soon as practicable after there has been a substantial change in any matter to which this policy refers.

Version Control

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End.