

G1098 Family and domestic leave schemes

1 Scope

London Underground's (LU) Standard on Work-Life Balance highlights the point that employees are entitled to family leave which covers the categories of leave available to employees beyond their annual leave entitlement for a variety of reasons relating to family and domestic commitments, including maternity leave, paternity leave, adoption leave, parental leave, time off for dependants, death or illness of a near relative, funeral leave, moving house and domestic leave.

2 Background

These guidelines ensure that LU meets its legal obligations regarding allowing employees time off where required in order to meet family and caring responsibilities.

3 Maternity leave scheme

LU aims to ensure that women receive the best possible treatment during their pregnancy and following the birth of their baby. Employees are entitled to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave regardless of their length of service. A minimum of two weeks must be taken after the baby is born. Employees with at least 26 weeks' service by the 'qualifying week' i.e. by the end of the 15th week before the expected week of childbirth (EWC) are entitled to 26 weeks' statutory maternity pay and occupational maternity pay.

Up to 11 weeks of maternity leave can be taken before the expected week of childbirth. Up to 52 weeks of maternity leave can be taken from the beginning of the week in which the child is born, assuming maternity leave started in the EWC.

All benefits are retained, with the exception of the effects on pay noted above. In all cases the employee has the right to return to the same job after ordinary maternity leave, and the same or similar job after additional maternity leave.

Pension

An employee can find out how taking maternity leave impacts upon their pension by contacting the TfL Pensions Office.

Shared Parental Leave

Eligible employees on Maternity Leave or in receipt of Statutory Maternity Pay or Maternity Allowance may be able to “opt” into the shared parental leave scheme. Please refer to the shared parental leave provisions of this document at page 9.

4 Ordinary paternity leave scheme

Ordinary Paternity Leave (OPL) gives eligible employees the option to take paid time off work to care for their child or support the child's mother / primary adopter following the birth or adoption of a child.

Eligibility for OPL

To be eligible for OPL, with full pay, an employee must:

- be the child's father or the husband, partner or civil partner of the child's mother (in the case of a birth child) or be named on the adoption matching certificate (in the case of a child placed for adoption);
- have, or expect to have, responsibility for the child's upbringing;
- be taking the time off to care for the child or to support the child's mother / primary adopter.

Eligible employees are entitled to take one continuous period of OPL of either 1 full week or 2 full weeks (*N:B. Employees on FMR contracts of employment are entitled to take up to 3 full weeks, as per the terms of their contract*) which can start from any day of the week. Only one period of leave is available irrespective of whether more than one child is born as the result of the same pregnancy / placed for adoption.

OPL must be completed within 56 days of the actual date of birth or placement (or within 56 days of the expected date of birth where the child is born early).

Paternity Pay

During a period of OPL, employees will be entitled to receive their full contractual salary (inclusive of statutory paternity pay).

Notification requirements

Employees must notify their manager of their intention to take OPL at least 15 weeks before the baby is due or, in the case of adoption, no later than

7 days after being notified of being matched with a child. The Ordinary Paternity Leave and Pay Application Form must be used for this purpose. The employee should also provide a copy of the birth / matching certificate to their manager as soon as it is available.

Should an employee wish to change the start date of their OPL, or cancel their leave altogether, they must advise their manager of this in writing at least 28 days before the new start date, or the existing start date where this is earlier, or as soon as reasonably possible thereafter.

HR Services will respond in writing within 28 days of receipt of the application form, confirming the relevant start and end dates for OPL.

Additional Paternity Leave and Pay

If the employee's expected week of childbirth is before 5 April 2015, or if the date of placement of the child is before 5 April 2015, the employee may be entitled to Additional Paternity Leave and Pay. The employee should contact HRS for further information and guidance.

5 ADOPTION LEAVE

The provision of adoption leave allows employees who have 'primary carer' responsibility full adoption leave and pay (providing they meet the criteria), and their spouse or partner (secondary carer) adoption support (paternity leave and pay) providing they meet the criteria. The couple must choose which partner takes adoption leave and evidence of this must be provided e.g. confirmation letter from the partner's employer.

If the employee is not the primary carer of the child, he/she will be entitled to paternity leave (see section 4 above).

5.1 Entitlement to Adoption Leave

Adoption Leave

All employees will be entitled to take 26 weeks of Ordinary Adoption Leave (OAL) and 26 weeks of Additional Adoption Leave (AAL) to be taken at the end of OAL, provided they have been newly matched with a child for adoption by an approved adoption agency (adoption leave and pay is not available where a child is not newly matched for adoption, for example when a step parent is adopting a partner's child or children already in residence).

Adoption leave is also available to employees who are placed for adoption or to employees fostering a child under the "Fostering for Adoption" Scheme run by Local Authorities.

For employees who enter into surrogacy arrangements in relation to babies due on or after 5 April 2015, where the intended parents meet the criteria to apply for a Parental Order under the Human Fertilisation and Embryology Act 2008 and they intend to apply for an Order or have applied for one, they may be eligible for statutory adoption leave and pay and shared parental leave, subject to meeting the qualifying criteria (see below).

Pay Scheme

Where employees have been continuously employed by LU for 26 weeks leading into the week in which they are notified of being matched with a child for adoption, Occupational Adoption Pay (OAP) is payable at a rate equivalent to 100% of contractual salary inclusive of Statutory Adoption Pay (SAP) for the first 26 weeks. The following 13 weeks will be paid at SAP only, with the remaining 13 weeks of AAL being unpaid.

OAP is based on contractual salary at the date of commencement of OAL. Where applicable this includes shift allowance and overtime averaged over the previous 26 weeks. Back pay resulting from a consolidated base pay award which includes this date is also payable.

NB: For FMR employees with 26 weeks' service entering into adoption arrangements, the primary 'adopter' will be entitled to occupational pay inclusive of statutory adoption pay (SAP) of 34 weeks' contractual salary followed by 5 weeks of SAP and 13 weeks of unpaid statutory adoption leave.

6 Statutory Adoption Leave and Pay

Some employees may meet the qualifying period for statutory adoption leave and pay but have not been continuously employed by LU for 26 weeks leading into the week in which they are notified of being matched with a child for adoption. These employees will be entitled to statutory adoption leave and pay as outlined below.

SAP is paid for the first 6 weeks at a rate equivalent to 90% of average weekly earnings, with no upper limit. The remaining 33 weeks will be paid at whichever is the lower of either £139.18 per week or 90% of average weekly earnings. This is with effect from 5 April 2015. The average weekly earnings is a fixed government rate which is reviewed every year.

The remaining 13 weeks of AAL is unpaid.

Adoption leave in surrogacy cases

In surrogacy cases, for children due to be born to a surrogate mother **on or after 5 April 2015**, the qualifying criteria for OAL are that:

- The employee is one of the child's parental order parents. A "parental order parent" means a person who, at the date of the child's birth, has applied or intends to apply **within six months**, for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008, and expects to be granted the order, or a person who has already been granted such an order.
- The employee has elected to be Parental Order Parent A (see Parental Parent Order A in surrogacy cases below).

The employee must notify LU by the end of the 15th week before the expected week of childbirth (EWC) that they intend to take OAL, and specify the EWC. LU may request a parental statutory declaration, which is a statutory declaration that the employee fulfils the criteria for a "parental order parent" and the employee will need to provide the parental statutory declaration within 14 days of LU's request. The employee will need to provide LU with the parental statutory declaration in order to be eligible for occupational adoption pay.

AAL in surrogacy cases

For children due to be born to a surrogate mother on or after 5 April 2015, the qualifying criteria for AAL are that:

- The employee elected to be Parental Order A.
- The employee took OAL in respect of the child.
- The employee's OAL did not end prematurely because the employee failed to apply for a parental order or the application for a parental order was not granted and any time limit for appeal or further application has passed, or if the child has died.

Parental Order A in surrogacy cases

"Parental Order Parent A" means the parent who has elected (with the agreement of the other parent) to be Parental Order Parent A and therefore qualify for adoption leave. The partner of Parental Order A may qualify for paternity leave, subject to the eligibility requirements.

Overseas Adoption

To qualify for Statutory Overseas Adoption Leave the employee must: