



Royal Air Force New Parent Pack

Supporting your Staff during their Surrogacy Journey and Leave

A Guide for Line Managers

V1.0
Jul 26

The contents of this booklet are intended to simplify the procedure and entitlements of adoption leave for surrogacy arrangements and are for guidance only.

The following guidelines do not overrule policy in any way.

Please contact Air-People-PFSpt-ParentWillbg@mod.gov.uk for amendments or updates.

Who can take adoption leave for surrogacy?

The Armed Forces' Occupational Adoption Leave Scheme (AFOALS) is given to recognise the birth of a child (or children) via a surrogate and is available to Service personnel having a child on their own, or one member of a couple having a child together. Only one intended parent of a couple is eligible for Adoption Leave/Adoption Pay. The other intended parent may be eligible for Paternity Leave and Pay.

The provisions of the AFOALS apply only to surrogacy arrangements legally recognised in the United Kingdom. Intended parents should fully familiarise themselves with the information provided on the [gov.uk](https://www.gov.uk) website.

Eligibility – UK Surrogacy Arrangements

To qualify for adoption leave under the AFOALS for a UK surrogacy arrangement they must:

- Enter into a surrogacy arranged by means deemed legal under UK Law.
- Be the intended parent(s) and intend to apply for a Parental or Adoption Order making them the legal parent(s) of the child being born via a surrogate.
- Notify their Commanding Officer/Line Manager in writing of when they wish to take Adoption Leave (using [Digital JPA Form R008 - Application for Adoption Leave for Surrogacy](#) or [JPA Form R008](#)). The surrogates MATB1 certificate can be used as supporting evidence when completing the application. This should be no more than the 15th week before the Expected Week of Childbirth (EWC) or as soon as reasonably practical.

Please Note: A service person will not be eligible for adoption leave and pay if they enter into a private (paid for) surrogacy arrangement.

Eligibility – Overseas Surrogacy arrangements

To qualify for adoption leave under the AFOALS when a child is born via an overseas surrogate an intended parent must:

- Have entered into a legally binding "Commercial Surrogate Agreement", with an authorised authority/agent within the country that the surrogacy will take place, and that the country is approved by the UK Government as being an Overseas Surrogacy enabler.
- Be the child's primary intended parent. This is the person who is taking adoption leave.

- Have received official notification from the relevant UK authority confirming the Surrogacy agreement has been approved by the UK court system and that it is prepared to either issue a certificate of entry for the child or that a parental order has either been applied for or issued
- Notify their Commanding Officer/Line Manager in writing of when they wish to take Adoption Leave (using [Digital JPA Form R008 - Application for Adoption Leave for Surrogacy](#) or [JPA Form R008](#)). The surrogates MATB1 or equivalent medical certificate can be used as supporting evidence when completing the application. This should be no more than the 15th week before the Expected Week of Childbirth (EWC) or as soon as reasonably practical.

Please Note: Intended parents must also note and understand that the Foreign, Commonwealth and Development Office (FCDO) cannot intervene in private/commercial disputes or local legal processes related to overseas surrogacy. Routine consular support remains limited to general assistance as permitted by local law. SP must secure their own legal / immigration advice and contingency plans.

How Long is the surrogacy Process?



There is no fixed timescale for intended parents and a surrogacy arrangement. The timescales are determined by the surrogate matching process and how long it takes for a successful pregnancy. A surrogacy journey could be seamless, but it could also take a long time.

What is the process?



Exact processes may vary with a surrogacy journey for intended parents. Overseas surrogacy arrangements will also vary depending on the country. Commercial (paid) for surrogacy is not legal in the UK. Individuals entering into a surrogacy arrangement to have a child should be encouraged to familiarise themselves with the legal processes on the [gov.uk](https://www.gov.uk) website before embarking on their surrogacy journey.

Joining a Surrogacy Organisation



Anyone considering having a child via surrogate are encouraged to join an established surrogacy organisation. There are 4 main organisations in the UK and they are listed on the [gov.uk](https://www.gov.uk) website. The organisations support both intended parents and surrogates through their surrogacy journey.

Surrogate organisations can help to match intended parents with surrogates and vice versa, carry out all the necessary checks such as DBS, and support through the whole surrogacy process including long time post birth support.

Parental Orders



Following the birth of the child(ren), a Parental Order needs to be applied for. This transfers the legal parenthood to the intended parents. It's important that individuals entering into a surrogacy arrangement check that they meet the conditions of a parental order before going ahead with their surrogate.

Time off for surrogacy appointments



An intended parent is entitled to paid time off to accompany their surrogate to up to 2 pre-natal appointments once they have told you that they are having a child via a surrogacy arrangement. This includes time spent travelling to the appointment. There is no entitlement to travel and subsistence.

The time off is to be logged as Surrogacy Ante Natal Appointment on JPA. All they need to do is apply by submitting a Request for Absence via JPA (selecting 'Surrogacy Ante Natal Appointment' from the Absence Type drop down box) or by using [JPAR001](#) and sending it to their HR Centre or Unit HR once you have authorised it. Although permission should be granted for such requests

whenever possible, there may be occasions when for Service or operational reasons permission cannot be granted. There is no entitlement to travel and subsistence when taking this leave.

Did you know? – If an individual is having a child via surrogate as a couple, the other intended parent is also entitled to 2 days off to attend ante natal appointments with the surrogate. If they are serving this leave is paid and is booked by submitting a Request for Absence via JPA (Surrogacy Ante Natal Appointment) or by using the form [JPAR001](#) (Application for Leave or other Absence Type).

If the other intended parent works for another company their company policy will say if the time is either unpaid or paid.

It is the Line Manager's discretion as to whether additional time is given to facilitate travelling time, e.g. where the unit is remote from any meeting venues. It is likely that an intended parent will require additional time away from the workplace for appointments, especially whilst undergoing a matching process to find a surrogate. Line Managers should consider granting special paid leave if they deem it appropriate.

What do I need to know about Pay and Leave?

Key dates

The first thing that you need to be aware of is that there are a few key dates from which all leave and pay are calculated from.



Expected Week of Childbirth (EWC) – The first piece of information you are going to need is what the surrogate's EWC is. It begins on the Sunday before the baby's due date and ends on the Saturday after. If the due date is on a Sunday, the EWC begins on the same day.

Qualifying Week – The surrogate's qualifying week is the week that an intended parent should apply for adoption leave by, where possible. On a calendar count back 15 weeks from the first day of the EWC and that is the qualifying week.

The date a SP intends to start adoption leave – An intended parent might not know when this is yet, but it will become a key date as all the calculations for the end of leave and pay are taken from this date. The options for when an intended parent can start adoption leave are explained on the following pages.

Did you know adoption leave and pay are separate entitlements?



You will find it easier to get your head around if you think of leave and pay as separate entitlements. Adoption leave for surrogacy is a day one entitlement for employees, but there are qualifying criteria to be entitled to pay.

Adoption leave



It doesn't matter how long an intended parent has been serving, they can take up to 52 weeks of adoption leave.

Those 52 weeks are broken down into 2 periods:

- Ordinary Adoption Leave (OAL) is weeks 1 – 26 inclusive.

- Additional Adoption Leave (AAL) is weeks 27 – 52 inclusive.

The names don't really mean anything in terms of leave. Nothing changes in their time off entitlement. The difference is down to the legal protection afforded to returning to their old job which changes slightly at the 26-week point. Up to 26 weeks they can return to their old job. After 26 weeks the service will endeavour to meet the service persons employment and geographical preferences.

Adoption pay

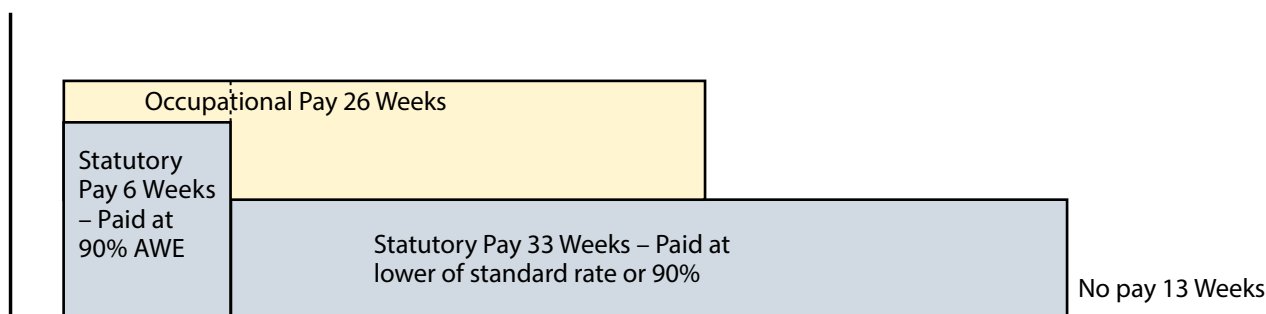


Adoption pay is more complex than leave and depends on a number of factors including how long an intended parent has been serving, their commitment type and their intentions on completing a return of service at the end of their leave period.

The information below is based on straight forward circumstances. If there is a more complex situation or they require further clarification [JSP 760: Tri-Service Leave Regulations](#) should be referred to as well as having a discussion with the HR Centre or Unit HR.

There are 2 parts to adoption pay, the bit that the Government pays which is called Statutory Adoption Pay, and the bit that the RAF pays, which is called Occupational Adoption Pay.

- **Statutory Adoption Pay (SAP)** – This is the Government allowance that is paid for the first 39 weeks of adoption leave. If an intended parent qualifies for SAP it will be paid through their pay and is subject to their normal tax and National Insurance deductions.
 - The first six weeks of SAP will be paid at 90% of their average weekly earnings (including Recruitment and Retention Pay (RRP)) before tax.
 - The remaining 33 weeks will be paid at the lower of either the standard rate of SAP or 90% of their average weekly earnings.



Average Weekly Earnings are calculated in accordance with the Government's [employer's guidance](#). The current rate of SAP is published [here](#).

- **Occupational pay** – This is the RAF pay which is paid for the first 26 weeks of adoption leave. Occupational pay tops up the SAP to their normal pay rate. Entitlement to occupational pay is explained in the table below. So, in terms of money received, what is seen in the bank is the same, but it is made up of SAP and occupational pay.
- **No pay** – Weeks 40-52 (inclusive) are unpaid.

What are the pay entitlements for Intended Parents?



We mentioned earlier that not everyone is entitled to SAP or occupational pay. It all depends on how long an intended parent has been serving. Whether they are adopting from the UK or overseas also has slightly different qualifying criteria as well.

If, having read the info below, there is still uncertainty around entitlement, an intended parent should contact their HR Centre or Unit HR.

Statutory Adoption Pay

Qualifying criteria for SAP – UK adoptions.



- An intended parent must have served for a continuous period of at least 26 weeks by the 15th week before the baby is due.
- They must have average earnings at least equal to the Lower Earnings Limit.

In addition, they must provide documentary evidence to show that they are having a child through a legally recognised surrogacy arrangement. This is usually the surrogates MATB1 certificate or overseas equivalent and should be accompanied by the self-declaration found in [JSP 760 Chapter 26](#).

Remember: Surrogacy isn't legally recognised in several countries and commercial surrogacy (paid for) is not permitted by law in the UK. The entitlement to leave and pay could be affected if personnel do not follow the guidance on the [gov.uk](#) website.

Occupational Pay



We mentioned earlier that not everyone is entitled to SAP or occupational pay. It all depends on length of service and what the intention is with regards completing a return of service. The table below explains what the pay entitlement is in different scenarios of length of service. If there is any uncertainty of any entitlement, an intended parent should contact their HR Centre or Unit HR.

Return of Service



If paid occupational pay during adoption leave, an intended parent is expected to complete a Return of Service of one week for every week of occupational pay. If they don't complete it, they will have to pay back the occupational pay element.

When can adoption leave start?



An intended parent should notify of their intention to take adoption leave at least 15 weeks prior to the baby's expected week of childbirth (EWC). If this

Occupational Pay

Length of Service	Pay Entitlement
Less than 26 weeks continuous service by the qualifying week and still serving into the Qualifying Week.	An intended parent will not be entitled to occupational pay; nor will they be entitled to statutory pay. Depending on their individual circumstances they may be entitled to other state benefits.
26 weeks or more, but less than a year's continuous service by the Qualifying Week and still serving into the Qualifying Week.	An intended parent will be eligible for 39 weeks of statutory pay if they earn on average £123 per week. They will not be entitled to occupational pay.
One year's continuous service by the baby's due date and still serving when the baby is due and have stated your intention complete your Return of Service following adoption leave.	An intended parent will be entitled to 39 weeks of statutory pay and 26 weeks of occupational pay.
One year's continuous service by the baby's due date, and still serving when the baby is due, and are not returning to duty after your leave having exercised an option point or PVRd (i.e. will not complete a return of service).	An intended parent will be entitled to 39 weeks of statutory pay. They will not be entitled to occupational pay.

is not possible, they should give notice as soon as is reasonably practicable.

Adoption leave can start on any day of the week if having a child using a surrogate. Adoption leave will start either on the day the baby is born or the day after. Babies don't always arrive when they are supposed to, intended parents should contact their HR Centre or Unit HR staff to advise them of confirmed adoption leave start dates once the baby is born.

Post adoption leave for surrogacy options:

It is important that you have knowledge of the 2 options available.

Option 1

Return to work after a period of adoption leave.

It is up to them how much of the 52 weeks of adoption leave they want to take. They need to notify the RAF of the dates they choose using the [Digital JPA Form R008 - Application for Adoption Leave for Surrogacy](#). If the online form cannot be accessed, they should complete the Adoption leave for surrogacy Notice Form [JPA Form R008](#).

Option 2

Exercise a special right to leave the RAF prematurely on the grounds of entering parenthood via surrogacy.

Service personnel choosing this option are strongly advised to seek advice from HR staff so that they know the effects this may have on surrogacy entitlements, pay and pension.

A service person who is a primary intended parent may opt to leave under these special terms at any time up to their return to work but should normally give sufficient notice to allow for discharge procedures.

To elect for Option 2, they should complete the relevant section of [Digital JPA Form R008 - Application for Adoption Leave for Surrogacy](#) or complete the Adoption leave for surrogacy Notice Form [JPA Form R008](#).

Applying for Adoption Leave and Changes to plans

Applying for Adoption Leave for surrogacy



A service person should apply for leave by completing [Digital JPA Form R008 - Application for Adoption Leave for Surrogacy](#) where possible or complete [JPA Form R008](#) and send it to their Commanding Officer/Line Manager for counter signature.

They must provide documentary evidence that they are having a child via a legally recognised surrogacy arrangement. The surrogates MATB1 certificate and the self-declaration in [JSP 760 Chapter 26](#) can be used as evidence that they are the intended parent(s) of a child being born via a surrogate.

What happens if the baby is born early?



If the baby arrives early, an intended parent's adoption leave should start the day they are born or the day after. A service person can change their intended start date by notifying their Commanding Officer/ Line Manager and Unit HR of the new date. This must be done as soon as reasonably possible. HR staff may ask intended parents to fill another application form in.

What notice is needed to change leave plans after adoption leave starts?



If an intended parent chooses to return to work earlier than their booked leave or extend their leave within the 52-week allocation, a minimum of 56 days' notice must be given by emailing their HR Centre or Unit HR or by completing Part C of [JPA Form R008](#).

Deferral of, or recall from, adoption leave



It is recognised that adoption leave for intended parents affords the same time off as personnel taking maternity leave or adopting a child. For this reason, the deferral of, or the recall from, adoption leave will only be considered if required for operational reasons in a major emergency. If deferral or recall is being considered, careful consultation will be needed between you, the individual and Career Management before a decision is taken. If a service person has to be recalled from adoption leave for operational reasons, they must be given a minimum of 4 weeks' notice, and the outstanding balance of leave is to be granted as soon as reasonably practicable thereafter. All adoption leave should be taken within 18 months of the birth of the child.

What Plans need to put in place before the start of adoption leave?

Keeping In Touch (KIT) Plan



The Service is allowed to have reasonable contact with a service person whilst they are on adoption leave for surrogacy. It is the responsibility of the service person to put in place a Keeping in Touch (KIT) Plan with you before they go on leave. Between you, you should schedule time to discuss the plan and how they would like to keep in touch with you, and you with them.

You should also discuss any opportunities for using KIT days (suggestions below). It is ok if they don't know what to do with them right away but cover them in the discussion as you may know of opportunities coming up that they may not be aware of. You may also want to take the opportunity get a date in the diary that falls towards the end of their adoption leave to discuss their return to work.

Note – there is a planner at the end of the service person's 'Managing your Surrogacy Journey and Leave' booklet for writing a KIT plan down. You should keep a copy and ensure it is passed on to your replacement if you are assigned during their leave period.

Keeping In Touch (KIT) Days



KIT days are designed to enable a service person on adoption leave for surrogacy to keep up to date with new developments in the workplace and undertake training without bringing to an end their adoption leave.

An intended parent gets 10 KIT days, and it is up to them how many they want to use.

KIT days are reckonable service and, if they are not in receipt of occupational pay, they will be paid a full day's pay, even if they are keeping in touch for part of a day. KIT days do not have to be a full day's work, uniform does not have to be worn and they do not have to be taken at the workplace.

Examples of KIT days include:

- Office briefings.
- Service briefings such as Armed Forces Pension Society.
- Branch/Trade conferences.
- Meetings with career managers or line managers.
- Courses.
- Discussing a return to work plan with their line manager.
- Representative sport.

- Conducting personal service-related admin.
- Researching new posts/units prior to assignment.
- Attend work for a few hours whilst the child has a trial day at nursery or school.

This is not an exclusive list; any activity that a service person wishes to undertake as part of their personal or professional development, or which support their transition back to work should be encouraged.

How to claim a KIT Day



Digital JPA R003 - Request for Payment of Kit Days is to be used where possible. If there is no access to the online form **JPAR003** should be completed. All that is needed is details of the KIT Day and for it to be signed by them, their Chain of Command or the organiser of the event. It is then emailed to the relevant HR Centre or Unit HR. KIT days can be submitted as a single form for each day or all of them on one form.

Appraisal Reports



The RAF is committed to ensuring that Service personnel are not discriminated against, or treated any less favourably, as a result of having a child using a surrogate. As a period of adoption leave can mean that the service person is out of the work environment for up to 52 weeks, an appraisal report is to be provided for any service person commencing adoption leave. This will be done by either deferring or bringing forward their Appraisal Report; this is to ensure that any reporting gaps are kept to a minimum, and that any promotion board held in their absence will have the most recent possible report to consider. Further details are in **JSP 757**.

Service Families Accommodation (SFA)



If Married/Registered in a civil partnership and their Personal Status Category (PStat) reflects this on JPA they will be able to apply for SFA at any point.

If they are single, they will be entitled to SFA 3 months prior to the birth of their child. A change of P Stat is not required at this point but should be amended after the child is born. This is done by requesting the update via the **HR Hub** or by emailing **JPAN001** to their HR Centre or Unit HR.

Applications for SFA are made using the **e1132 form** (for security reasons it does not work on the Internet). More information is available through Pinnacle at www.pinnacleservicefamilies.co.uk.

What do I need to know about returning to work after adoption leave?

Returning to work after adoption leave for surrogacy



This can be an apprehensive time; it can be hard to leave a child in childcare, colleagues and line management may have moved on, or they may have general concerns with settling back into RAF life. It is your responsibility as their line manager to discuss a returning to work plan. This may include a graduated return to work using KIT days whilst they are still on adoption leave or annual leave. If they have returned to work, you may also be able to agree a flexible working pattern.

Flexible working arrangements



Flexible working arrangements allow an individual to have a degree of freedom when attempting to balance their work and personal life. While flexible working is not a right, all service personnel are entitled to request a flexible working arrangement so they may better balance the demands of personal life and their Service commitments.

Flexible working does not just mean variable start and finish times; there are a number of options available. The booklet [Flexible Working and You](#) outlines everything you need to know.

Screening from operational deployment



A primary intended parent who takes adoption leave for having a child via a surrogacy arrangement is screened for a period of 18 months post birth of the child unless they notify their Career Manager that they are willing to deploy sooner.

Reactivating MODNET Devices



It is not mandatory for service personnel to log into their MODNET whilst on adoption leave. However, access to accounts could be affected if left dormant for 60 days or more. You may need to assist a service person in accessing their MODNET before their return to work should there be any issues with logging on.

Neonatal Care Leave and Pay



Individuals may be entitled to up to 12 weeks of Neonatal care leave and pay should their baby be admitted for Neonatal care up to 28 days old and have a continuous stay in hospital for 7 days or longer. Eligible serving parents will have statutory

pay topped up to their full rate of pay whilst on Neonatal leave. Neonatal leave should be taken once statutory adoption leave has ended.

Parental Leave



This is a government provision so available to all parents. It allows additional leave to care for a child by, for example, spending more time with the child during the early years, to settle a child into new childcare arrangements or to accompany a child during a stay in hospital. Parental Leave allows each parent of each child to take 18 weeks unpaid leave. Parental Leave can be taken up to the child's 18th birthday. Parental Leave is unpaid and, therefore, is non-reckonable service.

Don't forget – The RAF Parenting Team are here to answer any questions you may have about how you can support personnel whilst on Adoption Leave or assigned to a new area before their return to work. They can be contacted by email at Air-People-PFSpt-ParentWillbg@mod.gov.uk.

Keeping In Touch Plan

Keeping in touch during Adoption Leave is a Service person's choice, this form is intended to be used by a Service person and a Line Manager to agree a KIT Plan during Adoption Leave for Surrogacy. This plan is intended as a guide and a framework for discussion. It should be passed on to a Line Manager replacement if they are posted during a Service person's Adoption Leave.

Service Person's Details

Name	
Service No	

Address(es) during Adoption Leave	Address 1	Address 2
Landline		
Email		
Mobile		

During Adoption Leave I would like to be contacted:				
	Phone	Email	Text	Notes
2 Weekly				
Monthly				
Other				<i>Please specify</i>

KIT Day Plan

	Date	Place	JPA Form R003 Auth and sent to Unit HR
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

