

University of Limerick

Surrogacy Leave Procedure

Document no. CX040.1

1 Introduction

1.1 Purpose

This procedure outlines the University of Limerick's approach to surrogacy leave, ensuring appropriate support for employees who become parents through surrogacy arrangements. It reflects the university's commitment to equality, diversity, and inclusion by providing entitlements equivalent to those available under maternity and adoptive leave. The procedure is subject to ongoing updates in line with institutional practices and national legislative developments.

1.2 Scope

1.2.1 To whom does the procedure apply?

This procedure applies to all eligible employees of the University of Limerick who are the nominated intending or commissioning parent in a surrogacy arrangement. In cases where both intending/commissioning parents are employed by the University or within the wider public sector, only one may avail of the surrogacy leave and they must nominate which parent will take surrogacy leave. The other parent may be eligible to apply for alternative forms of leave, such as parental leave or paternity leave, subject to individual circumstances and statutory entitlements.

This procedure does not apply to employees who are acting as surrogate mothers - that is, those carrying a child on behalf of another person or couple under a surrogacy arrangement.

1.2.2 In what situations does the procedure apply?

This procedure applies when an employee is the intending or nominated commissioning parent in a surrogacy arrangement and wishes to avail of surrogacy leave. Eligible employees are entitled to 24 weeks of paid surrogacy leave.

Fixed-term employees are also entitled to 24 weeks of paid surrogacy leave, provided the leave period falls within the duration of their employment contract. Where the contract end date occurs before the completion of the 24-week period, the employee is entitled to paid surrogacy leave up to the date of contract termination.

1.2.3 Who is responsible for ensuring that the procedure is implemented and monitored?

The Human Resources Division is responsible for the implementation and monitoring of this procedure, with Heads of Department/Schools/ line managers playing a key procedural role.

1.3 Definitions

- **Nominated Parent:** The intending or commissioning parents may nominate which one of them will avail of surrogacy leave under this procedure.

- **Surrogacy:** An agreement in which a person (the surrogate) carries and gives birth to a child on behalf of intending or commissioning parents and relinquishes parental rights and responsibilities following the birth.

- **Intending/Commissioning Parents:** Individuals who arrange for the conception of a child using donor gametes, embryos, and/or a surrogate, with the intention of assuming parental responsibility from birth. For the purpose of this procedure, the intending or commissioning parent is the individual employed by the University who intends to become the legal parent of the child born through surrogacy.

1.4 Entitlements to Leave

1.4.1 There is currently no statutory entitlement to surrogacy leave in Ireland. However, the University of Limerick provides surrogacy leave provisions that reflect those available for adoptive or maternity leave, subject to policy update and national legislative developments.

1.4.2 The nominated intending/commissioning parent is entitled to 24 weeks of paid surrogacy leave. This entitlement applies irrespective of whether the surrogacy results in a single or multiple birth (e.g. twins or triplets). Surrogacy leave may commence on the date of the child's birth or the date on which the child is placed in the care of the commissioning parent, whichever is applicable.

1.4.3 The intending/commissioning parent may avail of a further 16 weeks' additional unpaid surrogacy leave immediately following the 24 weeks' paid surrogacy leave. Public holidays and annual leave do not accrue during periods of additional unpaid surrogacy leave. All rights associated with employment, such as reckonable service (except annual leave, remuneration and superannuation benefits), will be preserved during absence from work on additional surrogacy leave.

1.4.4 As surrogacy leave is not a statutory entitlement, certain statutory benefits do not apply during this period. Specifically, annual leave and public holidays do not accrue during either the 24 weeks of paid surrogacy leave, or any additional unpaid surrogacy leave.

2 Context

2.1 Legal and Regulatory Context

2.1.1 Guardianship of Infants Act 1964 (as amended)

This policy aligns with the Guardianship of Infants Act 1964 (as amended) and relevant employment regulations.

2.1.2 **Health (Assisted Human Reproduction) Act 2024**
Surrogacy in Ireland is governed by the Health (Assisted Human Reproduction) Act 2024, which was passed by both Houses of the Oireachtas in June 2024 and is awaiting formal commencement. This legislation introduces a comprehensive regulatory framework for assisted human reproduction, including both domestic and international surrogacy arrangements. It establishes legal parentage through a court-issued parental order and is overseen by the Assisted Human Reproduction Regulatory Authority (AHRRA).

2.1.3 At present in Ireland in cases of surrogacy there is no statutory entitlement to leave and there is no social welfare entitlement.

2.2 Human Rights, Equality, Diversity and Inclusion

This procedure supports the university's equality, diversity, and inclusion framework.

3 Procedural Statements

3.1 Principles for Surrogacy Leave

3.1.1 ***Fair Treatment***
Surrogacy leave is granted to ensure fair treatment for employees becoming parents through surrogacy.

3.1.2 ***Alignment with Adoptive Leave***
Surrogacy leave entitlements are aligned with those of adoptive leave.

3.1.3 ***Management of Request for Surrogacy Leave***
Surrogacy leave requests are processed fairly, promptly, confidentially and with sensitivity. No information relating to an employee's surrogacy arrangement will be disclosed beyond those with a direct HR/administrative need to know, without the employee's explicit consent.

4 Procedures for Surrogacy Leave

4.1 Application Process:

4.1.1 Applications for surrogacy leave must be submitted by completing the surrogacy leave application form.

The nominated parent is required to submit the surrogacy leave application as soon as is practicable, but no later than four weeks prior to the expected date of birth of the child(ren).

4.1.2 The following documentation must be submitted as part of the application:

- Written confirmation of the surrogacy arrangement (e.g. legal or medical correspondence). *Where this documentation is not available in English, it must be accompanied by a certified legal translation.*

- Expected date of birth or actual date of birth (in cases of premature birth). *Where this documentation is not available in English, it must be accompanied by a certified legal translation.*
- A signed declaration as outlined on the surrogacy leave application form confirming that the applicant is the nominated individual availing of surrogacy leave
- Any relevant supporting documents demonstrating that the employee is the intended/commissioning parent

4.1.3 Birth Certificate Submission:

A copy of the child's birth certificate is required to be submitted to Human Resources (compandbens@ul.ie) within four weeks following the birth. *Where this documentation is not available in English, it must be accompanied by a certified legal translation.*

4.1.4 Pay During Leave:

Subject to eligibility, surrogacy leave will be paid at the equivalent of full pay (subject to offset of any social welfare payments, if applicable) for a maximum of 24 weeks. Where legislative entitlements are introduced, the procedure will be revised accordingly and therefore entitlements may change before or during surrogacy leave.

4.1.5 Additional Surrogacy (Unpaid) Leave Request:

- Employees wishing to avail of the additional 16 weeks' unpaid surrogacy leave are required to submit an application for additional surrogacy leave via the surrogacy leave application form no later than four weeks prior to the end of the paid surrogacy leave period. All rights associated with employment, such as reckonable service (except remuneration, annual leave and superannuation benefits), will be preserved during absence from work on additional surrogacy leave.
- It is not possible to avail of sick leave during the periods of additional surrogacy unpaid leave.
- It is the responsibility of the employee availing of additional surrogacy unpaid leave to make necessary arrangements to ensure that any voluntary contributions (e.g., health insurance, savings plans, AVCs, etc) normally deducted from salary continue to be paid.
- Under current PRSI rules, an employee availing of additional surrogacy unpaid leave is not earning during the period of leave and is not therefore making PRSI contributions. It is the responsibility of the employee to establish with the Department of Social Protection the effect that unpaid leave may have on any entitlement to social insurance benefits.

4.1.6 Return to Work:

An employee must notify their line manager and Human Resources (compandbens@ul.ie) in writing of their intention to return to work at least 4 weeks prior to returning to work.

4.1.7 Reinstatement:

Upon completion of surrogacy leave, employees are entitled to return to their previous role under the same terms and conditions.

4.1.8 Adoption following Surrogacy Leave:

In circumstances where an intending/commissioning parent has availed of surrogacy leave and subsequently proceeds with a legal adoption process for the same child(ren), they may be entitled to statutory adoptive leave in accordance with national legislation.

As surrogacy leave benefits, including University-paid leave equivalent to full pay (subject to the offset of any applicable social welfare payments) for a maximum of 24 weeks, have already been granted, the employee shall not be entitled to paid adoptive leave in respect of the same child(ren).

4.1.9 Surrogacy Leave Procedure Review:

This Procedure will be reviewed regularly by the Human Resources Division and updated in line with developments in national legislation or public sector guidance regarding surrogacy and family leave entitlements. Where legislative entitlements are introduced, the procedure will be revised accordingly and therefore entitlements may change before or during surrogacy leave.

4.2 Supports

The University of Limerick has an Employee Assistance Programme (EAP) in place to assist staff in dealing with personal issues. This service offers free confidential counselling to staff via an external provider, where a staff member chooses to avail of this service. Full details of the EAP are available on the HR Website.

In addition to the EAP, staff can also seek support from their line manager and the Human Resources department.

HR Support

For matters arising under this procedure please contact compandbens@ul.ie or your HR Business Partner for assistance.

5 Related Documents

Adoptive Leave Procedure
Surrogacy Leave Application Form

6 Document Control

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