



# Adoption Leave

**Approved by: Trust Board**

**Last reviewed: July 2024**

**Next review due: July 2025**

# ADOPTION LEAVE

## 1. Scope and Objective

This policy applies to all employees. It has been subject to consultation with Trade Unions. It does not form part of anybody's contract of employment and may be varied.

This policy sets out the entitlements of employees in respect of adoption leave and adoption pay under both statutory and occupational schemes.

## 2. Entitlement to adoption leave

Irrespective of length of service, employees are entitled to take up to 52 weeks of adoption leave, consisting of 26 weeks' ordinary adoption leave, plus 26 weeks of additional adoption leave immediately following ordinary adoption leave.

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement ends during the adoption leave period, the adopter can continue adoption leave for up to eight weeks after the end of the placement.

## 3. Commencing adoption leave

Employees can choose to start leave:

- from the date of the child's placement (whether this is earlier or later than expected)  
or
- from a fixed date which can be up to 14 days before the expected date of placement or
- for adoptions from overseas, the adoption leave period may begin on the date the child enters Great Britain.

Leave can start on any day of the week.

## 4. Introductory appointments

If you are eligible for adoption leave, you have the right to paid time off work for up to five adoption appointments after they have been matched with a child.

You are entitled to take up to 6.5 hours for each appointment. This time includes travel to and from the appointment.

You are required to show your line manager or Headteacher an appointment card or other evidence of the appointment.

## 5. Statutory Adoption Pay (SAP)

If you have been continuously employed for at least 26 weeks ending with the week in which you are notified of having been matched with a child, you are entitled to 39 weeks' Statutory Adoption Pay (SAP). The first six weeks is payable at 90% of your average weekly earnings and the next 33 weeks of payment at the current rate of SAP (or 90% of your average weekly earnings if this figure is less than the statutory rate).

- Adopting a child from overseas - the requirements are the same if adopting from overseas, except you must have been continuously employed for at least 26 weeks at the start of the week when the pay will begin.
- In surrogacy arrangements - the requirements are the same, except you must have been continuously employed for at least 26 weeks up to any day in the 15th week before the baby is due.

## Teachers

The Conditions of Service for Teachers (Burgundy Book) provides for statutory adoption pay only.

## Non-Teaching Staff

In addition to the provisions under the statutory adoption scheme, support staff employees with one year or more continuous service will be eligible to receive occupational adoption pay as follows:

Occupational adoption pay equivalent to 12 weeks at half pay, paid between the 7<sup>th</sup> and 18<sup>th</sup> week of ordinary adoption leave, provided the employee agrees to return for at least 3 months to the same employer, or a new employer following a TUPE in the same post.

The combined statutory adoption pay, and occupation adoption pay will not exceed the normal contractual earnings for a week.

### 6. Notice of intention to take adoption leave

You are required to inform us of your intention to take adoption leave within 7 days of being notified by an adoption agency that they have been matched with a child for adoption within the UK.

- adopting a child from overseas – notice must be given no later than 28 days after the date official notification is received.
- in surrogacy arrangements - at least 15 weeks before the due date, you must tell us when the baby is due and when they want to start leave.

You need to tell your line manager or Headteacher in writing:

- when the child is expected to be placed with you/when the baby is due
- when you want your adoption leave to commence.

You can change your mind about the date on which they want your leave to start providing you tell us at least 28 days in advance (unless this is not reasonably practicable).

### 7. Proof of adoption

You must provide your line manager or Headteacher with documentary evidence from the adoption agency as evidence of entitlement to Statutory Adoption Pay (SAP). You can also ask for this as evidence of entitlement for adoption leave. You should ask the adoption agency for this documentary evidence, which may be provided in the form of a matching certificate which includes basic information on matching and expected placement dates.

- adopting a child from overseas – in addition to above you will need to provide the relevant UK authority's 'official notification' confirming that you are allowed to adopt, and evidence of the date the child arrived in the UK, for example a plane ticket
- in surrogacy arrangements – proof is not required for SAP and leave; however, we may ask you for a written statement that confirms you intend to apply for a parental order in the 6 months after the baby's birth and that you expect the order to be granted (for example because you do not have any convictions involving children, and the birth mother or father agree to the arrangement)
- If you are fostering to adopt, you must provide us with evidence of a placement (for example, a letter from the adoption agency).

### 8. Return to work after adoption leave

If you intend to return to work at the end of the full period of adoption leave, you do not have to give any further notification to us.

Should you wish to return to work before the end of the adoption leave period, you must give us 28 days' notice of the date you intend to return.

You have the right to resume working in the same job if returning to work from ordinary adoption leave. If you

return to work after a period of additional adoption leave, you are entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

If you do not return to work by the end of the adoption leave this will be treated as an unauthorised absence, unless you are sick and produce a current medical certificate before the end of the adoption leave period.

If you decide during adoption leave that you do not wish to return to work, you should provide a written resignation to your line manager as soon as possible and in accordance with the terms of your contract of employment.

## **9. Reasonable contact**

Whilst on adoption leave, we would like to keep you up to date with what is going on at work and give you the opportunity to contact us if needed. This is known as 'reasonable contact' and simply formalises effective communication practices between line managers/Headteacher and employees on adoption leave. Employees should agree with line managers/Headteacher before commencing adoption Leave, the level of contact which will be maintained during the period of leave.

## **10. Keeping in touch days**

You may undertake ten 'Keeping in Touch Days,' (KIT) during adoption leave. This allows you to work under your contract of employment for up to ten days and receive payment as agreed with the Headteacher, without bringing adoption leave to an end. Please note any part of a day will count as one KIT Day.

The KIT days are not limited to your usual job and could be used for training or other events or to ease the return to work.

Any KIT Day must be agreed with the Headteacher. There is no obligation on the us to offer KIT days or on you to complete KIT days offered.

## **11. Holiday entitlement**

Holiday entitlement continues to be accrued at the rate provided under the contract of employment during adoption leave. This entitlement applies to all employees including term-time only workers and teachers.

### **Teachers**

The 'Conditions of Service for School Teachers' makes no reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days per annum under UK law. Periods of closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of adoption leave will have acquired a right to additional annual leave. It is possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

### **Support staff term time only workers**

To calculate the entitlement to annual leave it is necessary to conduct a 'balance of salary' calculation at the start of the adoption leave period and a second calculation at the end of the leave period. This calculation takes into account the start date with the authority and the number of completed weeks of the academic year up to the point adoption leave started. The proportion of completed weeks will then be compared to the salary paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary.

Upon return to work, a second calculation is conducted to identify whether employees are entitled to a payment in respect of annual leave accumulated whilst on adoption leave.

Please note: The date on which adoption leave starts and ends can significantly affect the balance of salary calculation

## **12. Pension plan**

Contributions to the Local Government and Teachers Pension Scheme will automatically continue to be deducted from your actual pay if you are a member of the Scheme on paid adoption leave.

### **Local Government Pension Scheme member only.**

If employees take unpaid adoption leave, they must decide whether to pay pension contributions for this period, and upon their return to work will be given the opportunity to purchase contributions for any period of unpaid adoption leave.

Contributions will be based on the pay they were receiving the day before unpaid leave started. Should you wish to purchase service for periods of unpaid adoption leave, you must contact the LPP Local Government Pension Scheme Administration team on 0300 323 0260 within 30 days of your return to work.

## **13. Dismissal protection**

Where it is not practicable by reason of redundancy for employees to return to work in their job, they shall be entitled to be offered a suitable alternative vacancy where one exists, on a first refusal basis, provided that the work to be done in that post is suitable and appropriate to the circumstances. In addition, the capacity and place in which they are to be employed and their terms and conditions of employment should not be substantially less favourable than if they had been able to return in the job to which they were originally employed.

Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g., a general reorganisation), which would have occurred if they had not been absent, to necessitate a change in the job in which they were employed prior to their absence. The work to be done should be suitable and appropriate to the circumstances and the capacity and place in which they are employed, and the terms and conditions of employment should not be less favourable, than if they had been able to return to the job in which they were originally employed.

The protected period will be 18 months from the placement for adoption.

Headteachers and Governors should seek further advice from their HR Advisers.

## **14. Financial Support for Childcare**

### **14.1 Childcare voucher scheme**

The childcare voucher scheme, which is now closed to new applicants, enables employees to exchange part of their salary for childcare vouchers which are exempt from tax and national insurance. Participation in the childcare scheme will not affect adoption pay and will continue during the adoption leave period.

### **14.2 Government Tax-Free Childcare**

Tax-Free Childcare allows eligible working families to claim 20% of their childcare costs, up to £2,000 per child per year (or £4,000 for a child with a disability), from the Government.

Employees cannot open a Tax-Free Childcare account for a newborn child until 31 days before they return to work. However, they can have Tax-Free Childcare accounts for any older children while on adoption leave with a newborn. They will be able to retain and pay into those accounts during the adoption leave period.

## **15. Flexible Working**

Prior to or upon return from adoption leave, if employees wish to be considered for part-time hours, they must apply in writing under the Flexible Working Policy. Please see Flexible Working Policy.

## **16. Shared Parental Leave**

Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay later.

For more information, please see the Shared Parental Leave Policy (Adoption)

## **17. Paternity leave pay**

Paternity leave is available to the spouse, civil partner or partner of an individual who has adopted a child. Where a couple adopt a child jointly, one may take adoption leave and the other paternity leave. They are entitled to choose for themselves which adoptive parent takes which type of leave.

For more information, please see the Paternity Leave Policy.

#### **18. Pay Review whilst on adoption leave**

Employees are entitled to a pay review whilst on adoption leave in the same way that they would be if they were not on adoption leave.

If following a pay review the employee becomes eligible for a pay rise between the start of the original calculation period and the end of the adoption leave, both the higher and standard rate of SAP and OAP will be recalculated to take account of the employee's pay rise. This means that the employee's SAP and OAP will be recalculated and increased retrospectively. In some cases, they may qualify for SAP or OAP if they did not previously. The employee will be paid a lump sum to make up any difference between SAP or OAP already paid and the amount payable because of the pay rise.

#### **19. No return to work**

If you fail to return to work on the dates agreed with the Trust, you may be subject to disciplinary action in the same way as any other employee who has failed to return to work following a period of absence

#### **20. Job Opportunities whilst on adoption leave**

Whilst on adoption leave you have the same opportunities to access job vacancies, promotion, and development opportunities. Before commencing adoption leave, you should discuss with us how you would like to be notified of any opportunities that arise, that you would not otherwise be aware of from other publicised sources.