

Guidance on Adoption Entitlements Policy

1. Introduction

- 1.1 This guide outlines the statutory rights which apply to all employees and contractual rights which apply to teachers and support staff working in schools in relation to adoption pay and leave.
- 1.2 It covers only the leave and pay rights where a child is matched and placed for adoption within the UK. The scheme will differ slightly where a child is being adopted from overseas for practical reasons. Further guidance on the rights in cases of inter-country adoptions should be obtained from HoS People.
- 1.3 There are a number of things an employee needs to know about their rights and obligations at work when they first become an adoptive parent. The main areas of interest covered in this booklet are:
 - > **Adoption Leave Entitlements**
 - > **Adoption Pay Entitlements**
 - > **Returning to Work**
 - > **Annual Leave**
 - > **Pension Implications**

2. Scope

- 2.1 For the primary adopters of children matched for adoption on or after 5 April 2015, the rights to adoption leave and pay mirror maternity leave and pay. Adopters also have the same criteria for entitlements to Shared Parental Leave and Pay. Some of the notification requirements will be different, for example, the relevant dates will be linked to the time of the match and the relationship is evidenced by providing details of the adoption agency.
- 2.2 The rights to adoption leave and pay allow an eligible employee who is adopting a child to take time off when a child is placed with them for adoption. An eligible employee is entitled to 26 weeks' ordinary adoption leave and a further 26 weeks' additional adoption leave, running from the end of ordinary adoption leave. During the period of ordinary adoption leave the employee may also be entitled to Statutory Adoption Pay and Occupational Adoption Pay (see Section 5 for further information about pay).
- 2.3 Paternity leave and pay and Maternity Support Leave may be available to the partner of an individual who adopts, or the other member of a couple who are adopting jointly. Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's child. Please refer to the attached Glossary of Terms at Appendix 1 for definitions used in this policy.

3. Advice

- 3.1 If an employee requires any further information regarding their adoption rights, they should either ask you as their Academy Head or HoS People on 01986835670. If they have access to the internet, they can check their statutory rights through the government's own web resource at www.gov.uk

4.0 Statutory Adoption Leave

4.1 For matches on or after 5 April 2015

There is no longer a continuous service requirement for eligibility to Statutory Adoption Leave.

Where a couple is adopting jointly, the couple may choose which one of them takes adoption leave and which takes paternity* leave.

- 4.2 Employees will be entitled to a total of 26 weeks' ordinary adoption leave, followed immediately by 26 weeks' additional adoption leave. Employees may choose to start their 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 (and no later than expected date of placement).**

- 4.3 Leave can start on any day of the week. Only one period of leave will be 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 will be able to continue adoption leave for up to eight weeks after the end of the placement.

- 4.4 * Paternity leave can be taken by a spouse, civil partner or other partner of either sex of the child's mother.

5.0 Statutory Adoption Pay

- 5.1 During their adoption leave, most adopters will be entitled to Statutory Adoption Pay (SAP).

- 5.3 From 5 April 2015, the first six weeks will be paid at 90% of the employee's average gross weekly earnings, bringing it into line with Statutory Maternity Pay. The remainder will be paid at the standard rate set by the Government. For further information, see the Directgov website.

- 5.4 Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP. Additional financial support may be available through Universal Credit or Tax Credits. Further information is available from the local Jobcentre Plus office or Social Security office.

6.0 Occupational Adoption Pay

6.1 For employees who have completed not less than 1 year's continuous local government service, the occupational adoption provisions at the commencement of adoption leave will apply as follows:

6.2 For Teachers:

- > **For the first 4 weeks of absence, they are entitled to full pay (SAP offset)**
- > **2 weeks at 9/10ths (90%) of a week's pay (SAP offset)**
- > **12 weeks' half pay plus any entitlement to SAP (not exceeding normal full pay)**
- > **21 weeks' Statutory Adoption Pay**

6.3 They are required to return to work for 13 weeks (or pro rata equivalent if they reduce their working hours on their return to work) at the end of their leave to receive - and not have to repay - Occupational Adoption Pay (SAP is non-refundable). The employee may choose to have the Occupational Adoption Pay paid as it falls, or held until they return.

6.4 For Support Staff:

- > **For the first 4 weeks of absence, they are entitled to 9/10ths (90%) of a week's pay (SAP offset)**
- > **9 weeks at half pay, as well as the standard rate of SAP, provided that the two added together do not exceed normal pay.**
- > **26 weeks' Statutory Adoption Pay**

6.5 If they do not intend to return to work, payments during weeks 5 to 39 will be entitlement to standard rate of SAP only.

6.6 They are required to return to work (technically to 'the Trust employment' meaning that school-based support staff can return to another school within the Trust or to the Trust without having to repay their OAP) for a minimum of 3 months to secure entitlement to Occupational Adoption Pay (9 weeks half pay). If they do not, then the half pay entitlement must be repaid (SAP is non-refundable). They may choose to have the 9 weeks' half pay paid as it falls due, or held until they return.

7.0 Shared Parental Leave and Pay

7.1 If the primary adopter chooses to curtail his/her right to adoption leave early, after the initial period of 2 weeks that must be taken, both parents may be eligible for up to 50 weeks' shared parental leave and up to 37 weeks' pay.

8.0 Notice of intention to take adoption leave

8.1 Employees must inform their line manager in writing and the HoS People of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Adopters will need to confirm:

- > **the date on which the child is expected to be placed with them**
- > **the date on which they want their adoption leave to start**

8.2 Employees will be able to change their mind about the date on which they want their leave to start, providing they tell their line manager and the HoS People at least 28 days in advance (unless this is not reasonably practicable). They will have to tell their line manager and the HoS People the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

8.3 The HoS People will respond to employees' notification of their leave plans within 28 days.

9.0 Matching Certificate

9.1 Employees will have to, on request, give their line manager and the HoS People a matching certificate' from their adoption agency as evidence of their entitlement to SAP. This certificate will also serve as proof of entitlement to adoption leave. Employees should ask their adoption agency for a matching certificate, which will include basic information on matching and expected placement dates.

10.0 Contractual benefits

10.1 Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary, throughout their 26 week ordinary adoption leave period and any period of shared parental leave. Most adopters will be entitled to SAP during this period.

10.2 During additional adoption leave, the employment contract continues and some contractual benefits and obligations remain in force, for example, compensation in the event of redundancy and notice periods.

11.0 Contact during adoption leave

11.1 Shortly before an employee's adoption leave starts, you should discuss the arrangements for him/her to keep in touch during his/her leave, should he/she wish to do so. The Trust will also reserves the right, in any event, to maintain reasonable contact with the employee from time to time during adoption leave. This may be to discuss plans for return to work, to discuss any special arrangements to be made, training to be given to ease the return to work, or simply to update the employee on developments at work during his/her absence.

11.2 In order to ensure that the employee is kept updated on developments within the workplace, it is advisable that either you, or a designated representative, ensure that the employee is forwarded by post the following: Copies of any team meeting notes, job vacancies, redundancy proposals, SOR related issues, and/or general information on a regular basis.

12.0 Keeping-in-touch (KIT) days

12.1 Keeping-in-touch (KIT) days allows an individual to work for up to 10 days (pro-rated for part-timers) during their adoption leave, without the loss of statutory adoption leave. Both parties must be in agreement on any such work and the dates must be mutually agreed.

12.2 KIT days do not have to be consecutive and can be used for work activities, training or any other activity, such as a staff meeting, that enables the employee to keep in touch with the workplace. Working for part of a day will count as one whole day of the 10 days.

12.3 Whilst payment for KIT days (in addition to SAP) is discretionary, the Trust has adopted the following policy of payment, which is:

$$> \text{((No. of hours) x (Hourly rate))} - \text{daily rate of SMP (worked as weekly rate/7)} = \text{payment for KIT day}$$

13.0 Return to work after adoption leave

13.1 Employees who intend to return to work at the end of their full adoption leave entitlement will not have to give any further notification, although it is often helpful to do so.

13.2 Employees who want to return to work before the end of their adoption leave period must give the Trust and the Schools' HR Processing Team 8 weeks' notice (for support staff) or 28 days' notice (for teachers) of the date they intend to return.

13.3 There is no absolute right to return to work on different terms as the right to return after adoption leave relates to the position held before the leave began. If employees feel they may like to change their hours (or other conditions), they should discuss the matter with their line manager in the first instance. It may take some time to consider/implement changes; therefore, it would be helpful if employees could raise the matter with their line manager as soon as possible.

13.4 Returning on a different basis (e.g. part-time from full-time) will affect some contractual entitlements such as annual leave, pension provisions, etc, depending on the change being made, normally pro-rata to the new hours being worked.

13.5 There are also conditions that employees must satisfy if they take Shared Parental Leave. Key elements are set out below.

- 13.6 If the adoption leave and shared parental leave amount to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.
- 13.7 If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of adoption leave and shared parental leave do not exceed 26 weeks.
- 13.8 If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of adoption leave and shared parental leave do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.
- 13.9 Adopters who decide during their period of adoption leave that they will not be returning to work should give the notice required under their contract. If sickness prevents an adopter's return, the absence will be covered by the sickness scheme in the normal way, such as notifying you as their line manager.
- 13.10 For shared parental leave if employees wish to return to work earlier than the expected return date, they may provide at least 8 weeks' written notice to vary the leave and the date of early return. This will count as one of the employee's 3 notifications.

14.0 Protection from detriment and dismissal

- 14.1 Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Employees who believe they have been treated unfairly should use the grievance procedure.

15.0 Annual Leave (if entitled)

- 15.1 Employees will accrue annual leave throughout the adoption leave period, if they are entitled to this. Employees who return to work on a part-time basis will have leave accrued pro-rata from the effective date in the changed contract.
- 15.2 It is normally advised that individuals take annual leave pro-rata for the year before adoption leave starts, but this should be agreed with you in advance. As far as possible, leave should be taken in the current leave year and if employees are taking additional adoption leave, employees may take holiday during that period, as long as it is arranged with you. Leave which cannot be taken may be carried forward into the subsequent leave year at the Academy Head's discretion.

15.3 Subject to your approval, annual leave can sometimes be taken in the first weeks back at work; effectively, extending the adoption leave period. However, any such period of annual leave will be subject to operational requirements.

16.0 Public Holidays during Adoption Leave

16.1 Employees who are placed with a child will be entitled to take paid leave for the bank holidays which fall during their adoption leave.

17.0 Pension

17.1 During any period of paid adoption leave (including any period when only Statutory Adoption Pay is paid), and during any unpaid adoption leave during the 26 week Ordinary Adoption Leave period, and during any period of unpaid statutory paternity leave, the employee must continue to pay pension contributions on the actual pay, if any, being received. Benefits will continue to accrue as if the employee were working normally on full pay.

17.2 If the employee has the right to return to work, he/she may choose to pay contributions for any period of unpaid adoption leave beyond the 26 weeks Ordinary Adoption Leave period so that the period of absence will count in full for pension purposes. The contributions will be calculated on the rate of pay (or reduced pay) the employee was entitled to receive immediately before they commenced the period of unpaid adoption leave.

17.3 If the employee chooses to pay the contributions, he/she will be given the opportunity to pay at the end of the period of unpaid leave. Repayments are usually made over the same period as the length of the missing service e.g. unpaid adoption leave of six months would mean recovery of the pension contributions over the following six months. Instalments are subject to agreement between the employee and the Finance and HR Manager.

17.4 If, before going on adoption leave, the employee was paying additional contributions to increase his/her membership, these remain payable. Contributions are calculated on the rate of pay the employee would have received if they were not on adoption leave. The additional membership continues to accrue in full.

17.5 For employees who do not pay contributions, the period does not count as service for pension purposes; for those who do pay contributions for the period of nil pay, it will count as service for pension purposes.

17.6 The contributions payable during the nil pay period are subject to the pensions regulations. These are currently based on pay entitlement immediately before going into nil pay, which will be Statutory Adoption Pay. If an employee elects to make contributions, but decides to leave work, an account will be sent for the contributions due.

18.0 Flexible Working

- 18.1 An employee may wish to return to work on fewer hours than he/she worked before taking adoption leave or on a job share or term time working basis. There is no absolute right to return to work on different terms, as the right to return after adoption leave relates to the position held before the leave began (see also Section 13 Return to work after adoption leave). However, if an employee is considering a change of working hours (or other conditions), it should be discussed with you in the first instance.
- 18.2 Returning on a different basis, e.g. part-time from full-time, will affect some of entitlements such as annual leave, pension provisions, etc, depending on the change being made, normally pro-rata to the new hours being worked.

19.0 Redundancy

- 19.1 Adoption leave counts as continuous service for redundancy purposes and does not adversely affect an employee's right to redundancy.

20.0 Pre-Adoption Care

- 20.1 This is an estimate of the amount of time an employee would be expected to take by the adoption agency in preparation for the adoption:
- > **Preparation course – 4 days + 1 day follow up approximately 3 months later.**
 - > **Assessments with the Social Workers – 6-8 half days.**
 - > **Meeting with the adoption panel – ½ day.**
 - > **Meeting with the Performance Panel – ½ day.**
 - > **Introduction to the child – 1-2 weeks, depending on the age of the child (older children may need longer).**
- 20.2 The school should grant time off with pay for (a) to (d) above, up to a maximum of 10 days. In respect of (e), the employee will be expected to use annual leave for this purpose, or take time outside of term time, if practical. If this is not feasible, consideration should be given to paid or unpaid leave at the school's discretion. Schools should ensure that requests for this leave will be granted, as the timing is dependent upon the adoption agency.

21.0 Adoption Checklist

- 21.1 In order to ensure that you address all the issues prior to, during and after the employee's adoption leave period, it is advisable that you meet with the employee to ensure completion of the Manager's Adoption checklist, as detailed at Appendix 3. Please be reminded that the employer is required to notify the employee of any changes to the employee's contract of employment requiring formal consultation at the time of the event i.e. restructure, redundancy, SOR etc. In this instance, please contact HoS People for assistance with this process.

Appendix 1

Glossary

OAL - Ordinary Adoption Leave

Statutory entitlement for employees who are adopting or for one member of a couple who are adopting jointly (the second member of the couple may be eligible for Statutory Paternity entitlements). During this period employees may be eligible for SAP.

AAL - Additional Adoption Leave

Statutory entitlement for employees who are adopting or for one member of a couple who are adopting jointly (the second member of the couple may be eligible for Statutory Paternity entitlements). During this period employees will not be eligible for payments.

SPL – Shared Parental Leave

Statutory entitlement for eligible employees, enabling available leave to be shared flexibly between partners.

SAP - Statutory Adoption Pay

This is adoption pay due to the employee from the Department of Work & Pensions, paid by the school using normal payment methods (via SCC) at the current standard rate per week (contact the HoS People to be sure of the current rate) or 90% of normal weekly earnings whichever is lower.

OAP – Occupational Adoption Pay

This is the adoption pay from the school due to the employee under their contract of employment.

ShPP – Shared Parental Pay

This encompasses both statutory and occupational rates of pay.

LEL - Lower Earnings Limit

This is the limit below which National Insurance is not due.

Qualifying Week

The qualifying week is the week beginning with the Sunday that the adopter receives notification of having been matched with the child and ends on the following Saturday.

Qualifying Period

The qualifying period is the period of time from the beginning of the 26 week period before the qualifying week to the end of the qualifying week.

**Notification Period**

The notification period is the period of time, which begins on the date the adopter receives notification of having been matched with the child and for the following seven days.

Appendix 2

Flowchart of Adoption Leave – Overview

*When the employee tells you
That they are
intending to adopt:*

Ensure written notification of intention to take adoption leave is received no later than 7 days after the date on which notification of match with the child was provided by the Adoption Agency.

Your employee should notify you of the planned dates for adoption leave using form AP3 (available with this guidance document or from HoS People).

HR will write to your employee within 28 days confirming entitlements to adoption leave/pay and the return to work date.

Discuss and agree arrangements for keeping in touch with your employee during adoption leave. You may also want to discuss initial plans for returning to work, such as part-time hours.

*Before the employee
goes on adoption leave*

Your employee may contact you to bring their return to work date forward – they must give at least 8 weeks' notice (28 days for teachers) to you of the new date. Please contact HoS People immediately confirming any changes.

Your employee may contact you to say that they have decided not to return to work. Ask them to send a resignation letter and commence the usual leaver process.

*Before the employee
returns to work*

If your employee has not contacted you four weeks prior to their scheduled return date, get in touch to discuss their return to work plans.

Ensure that any changes to contractual arrangements have been made and issued to the employee, e.g. where an employee has decided to return on part-time hours.

On returning to work

Undertake a return to work induction with your employee, using the Manager's Adoption Checklist.

Appendix 3

Manager's Adoption* Checklist

The following checklist is designed to ensure that a consistent approach is taken to supporting an employee before, during and after the adoption leave period and to ensure that a structured return to the workplace is completed. Whilst it is not the manager's responsibility to perform each of the tasks listed, it is their responsibility to ensure that the member of staff is sufficiently guided and supported during this time. This checklist should be retained by the manager until the employee returns to work.

*the checklist can also be used for additional paternity leave / shared parental leave

Employee	Date
General Rights and Responsibilities - on Initial Notification of Adoption	
Notify HR - ensure employee has sent correct notification (Form AP3) to HoS People	<input type="checkbox"/>
Ensure employee is in receipt of acknowledgement letter from HoS People (with details of entitlement supplied by Payroll)	<input type="checkbox"/>
Level of contact during Adoption Leave – What has been agreed between employee and employer	
Keeping-in-touch days discussed and employee in agreement with KIT Days (for training, team meetings, etc)	<input type="checkbox"/>
Level of contact agreed during adoption/shared parental leave: <ul style="list-style-type: none"> • Fortnightly • Monthly • Other (please state) 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Type of contact? <ul style="list-style-type: none"> • Phone calls • Home Visits • Emails • Combination 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Contact with whom? Please specify a name:	
Ensure nominated representative appointed to forward copies of internal staff vacancies/ announcements	<input type="checkbox"/>

Any specific wishes/requirements during adoption/shared parental leave? Please specify:	<input type="checkbox"/>
Changes at work (restructure, new opportunities, work process changes) – check changes have been communicated to employee, preferably in person or via the telephone.	<input type="checkbox"/>
Planning a return to work	
<ul style="list-style-type: none"> • Job may have changed • Hours to be worked? Change in contract (e.g. flexible working request / change of hours) • Consider training requirements and incorporate into appraisal/PDR • Arrange visit to school before day one/re-introduction to the team (if appropriate) 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Returning to work – day 1	
Carry out return-to-work meeting	<input type="checkbox"/>
Have a 're-introduction to work' timetable which should cover first few days	<input type="checkbox"/>
<p>Progress reviews (between line manager and employee. To be kept informal. Frequency to be agreed at return to work meeting, but weekly progress meetings are recommended. Need to be clear on required objectives.</p> <p>Week 1</p> <p>Week 2</p> <p>Week 3</p> <p>Week 4</p> <p>Month 2</p> <p>Further regular reviews required? (add details and dates below)</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Form AP3

Notification of Adoption

Please complete and sign this form and forward it to the People as soon as possible once the adoption is approved and before your adoption leave is planned. The HoS People will verify the information as indicated and forward the form to Payroll. You will receive written confirmation of your rights and obligations.

The information you give will be used to assess:

- a) Your adoption entitlements (conferred by Conditions of Service)
- b) Your eligibility to receive Statutory Adoption Pay (SAP)

This form will be accepted as notification:

- a) Of your intended adoption
- b) Of your wishes concerning returning to work after the adoption
- c) Of your wishes concerning the receipt of your half pay entitlements (if applicable)
- d) Of the date of commencement of your adoption leave

This form is NOT acceptable as a resignation from your post; you need to write a separate letter to your line manager if you wish to resign.

Section 1			Departmental verification (where needed)
1.1	Name and Forename(s):		
1.2	Personal Number (from latest payslip)	/	
1.3	Job Title:		
1.4	Department / Place of work:		
Section 2			
2.1	Date you commenced employment with the County Council/Trust	/ /	
2.2	Contracted hours per week:		
2.3	Are you on a fixed term contract?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
2.4	Do you pay contributions into the Local Government Pension Scheme?	Yes <input type="checkbox"/> No <input type="checkbox"/>	

Section 3		
3.1	Is it your intention to return to work following the adoption?	Yes <input type="checkbox"/> No <input type="checkbox"/>
3.2	If YES, How would you like to receive your half pay entitlement, if eligible? (please tick one box):	
	a. Paid as falls due	<input type="checkbox"/>
	b. As a lump sum on return to work	<input type="checkbox"/>
	c. As a lump sum after returned to work for 3 months	<input type="checkbox"/>

This form is NOT acceptable as a resignation of your post.

You need to write a separate letter to your Line Manager in this respect.

Section 4			Departmental verification (where needed)
4.1	Do you have an Adoption Matching Certificate (AMC) or other written evidence that you are adopting?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
4.2	If YES: Enter date of expected adoption from certificate (Attach the certificate securely to this form, or send to Payroll as soon as it is available)	/ /	Attached?
4.3	If NO: Enter your personal estimate of the date of expected adoption?	/ /	
4.4	Give reason certificate is not available:		
Section 5			
5.1	Have you already commenced your adoption leave?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
5.2	If YES: Enter date you commenced adoption leave?	/ /	
5.3	If you could not give notice please explain why:		
5.4	If NO: Enter date you intend to commence adoption leave?	/ /	
5.5	If you are giving less than 7 days' notice, please explain why:		

Signed: (Employee): _____

Name: (Employee): _____

Date: ___/___/___

NB: The Adoption Matching Certificate must be forwarded to Payroll immediately it becomes available. We require written evidence of the adoption prior to the payments being released



Document Control

Changes History

Version	Date	Amended By	Details of Change
V2	25/09/2020	Elizabeth Frere-Smith, Head of Service People	Scheduled review. Corrections to terminology of departments.

Approval

Name	Job Title	Signed	Date
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	22/12/2016
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	22/12/2016
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	26.11.2020

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