



Adoption Leave Policy Support Staff

Reviewed By	Victoria Gavin- Director of Business Operations
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Document Control	
Title	Adoption Leave Policy for Support Staff
Date	March 2024
Supersedes	All previous policies
Amendments	Reviewed to ensure compliance with current employment guidance and regulations
Related Policies/Guidance	Employment Rights Act 1996, Employment Relations Act 1999, Employment Act 2002, Work and Families Act 2006, other “family friendly” policies, Attendance Management Policy, Equality Act and Equalities guidance
Review	Every 2 years
Date adopted	

Equality Statement: - Under the public sector equality duty (PSED), all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take-into-account equality considerations when policies are being developed, adopted, and implemented.

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1. Introduction

- 1.1 This policy applies to all support staff (“employees”) employed in maintained schools and those to whom the National Joint Council for Local Government Services (the “Green Book”) Conditions of Service apply. This includes support staff employed in academies and free schools who were subject to transfer under TUPE Regulations unless alternative terms and conditions have since been agreed. It may also be adopted for use in schools such as academies and free schools where the conditions of the Green Book are being applied.

2 Eligibility and Obligations

- 2.1 Employees who have been matched with a child are entitled to take adoption leave regardless of length of service or hours worked each week. Benefits will vary depending on service, hours or pay.
- 2.2 This policy is also applicable to employees who are fostering to adopt, or adopting a child following a surrogacy arrangement.
- 2.3 If adopting as a couple, only one partner (the main adopter) can take leave and pay (where eligible). The partner who does not get adoption leave and pay (the secondary adopter) might be able to get paternity leave and pay. Both may also be able to use Shared Parental Leave and Pay.
- 2.4 Where an employee is the partner or nominated carer of the primary adopter they are eligible for five days Adoption Support leave of 5 days with pay at or around the time of placement. (A nominated carer is the person nominated by the primary adopter to assist in the care of the child and to provide support to the primary adopter at or around the time of the placement)
- 2.5 If an employee has been approved to become an adoptive parent by a local authority and are newly matched with a child who is the legal responsibility of the LA, they are entitled to adoption leave, including in circumstances where the child is a family member.
- 2.6 Private adoptions or adoptions of stepchildren or family members (i.e.) if the child is already known to the employee and not newly matched for adoption) do not fall under this policy. Employees are not eligible for adoption leave if they become a special guardian, or if they have a child with the help of a surrogate but are not eligible for a Parental Order. In these circumstances, consideration may be given under the terms of the academy’s Leave of Absence Policy.

2.7 In order to be eligible for **adoption leave**, as well as meeting the above criteria, employees must:

- Continue to be employed (whether or not at work) immediately before the start of the adoption leave
- Notify the academy in writing within 7 days of their notification of being matched with a child, or as soon as reasonably practical of their intention to take adoption leave. In the case of fostering to adopt, employees must notify the academy within 7 days of fostering a child permanently and becoming their legal guardian, of their intention to adopt.
- Notify the academy of the start and end dates of their leave
- Inform the academy of the date of placement for their child

2.8 In order to be eligible for **adoption pay**, including Statutory Adoption Pay (SAP), employees must provide proof of adoption. This proof will need to include the following information:

- The employee's name and address
- The name and address of the adoption agency
- Evidence of the match, which is evidenced from the Matching Certificate
- Confirmation of the date of placement, which can be provided via a letter from the Adoption agency
- The relevant UK authority's 'official notification' confirming that the employee is allowed to adopt (overseas adoptions only)
- Evidence of the date that the child arrived in the UK (overseas adoptions only)

3. Surrogacy Arrangements

3.1 Employees expecting a child through a surrogacy arrangement must provide notice in writing of their intention to take adoption leave at least 15 weeks before the Expected Week of Confinement (EWC). They must also notify the Academy Lead of the following:

- the baby's due date,
- the date in which the leave will begin,
- the length of leave they wish to take and
- the child's actual date of birth once the child has been born

- 3.2 Employees must provide a written statement to confirm that they have or will be applying for a parental order in the 6 months following the birth of the child.
- 3.3 The academy will write to the employee within 28 days of the notification to confirm the start and end dates of adoption leave.
- 3.4 The intended parents in a surrogacy arrangement who intend to apply for a Parental Order are entitled to unpaid time off to accompany the surrogate mother to up to two antenatal appointments.

4. Adoption Appointments

- 4.1 Employees who are eligible to take adoption leave are entitled to take reasonable time off to attend up to five pre-adoption appointments after they have been matched with a child. Each appointment is limited to a period of 6.5 hours. If more than one child is being adopted at the same time, the number of appointments and the amount of time will remain the same. Any time off to attend these appointments will be paid, subject to the employee seeking prior authorisation from the Academy Lead. The Academy Lead may ask for proof of these appointments.
- 4.2 If the employee is not the main adopter (i.e. is not taking adoption leave and pay), they are entitled to take reasonable time off to attend up to two pre-adoption appointments, which would usually be unpaid.

5. Adoption Leave

5.1 Compulsory adoption leave

- 5.1.1 Eligible employees are entitled to take up to 52 weeks Statutory Adoption Leave. Adoption Leave is made up of 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave.
- 5.1.2 The main adopter **must take a minimum of two weeks' adoption leave** following the placement of a child. An employee may not return to work during this time.
- 5.1.3 An employee can choose the start date of their adoption leave subject to the following conditions:
 - Adoption leave may commence up to 14 days before the placement of the child (UK Adoptions)
 - Adoption leave may commence no later than the date of placement for the child (UK adoptions)
 - For overseas adoptions, adoption leave may commence on the day the child arrives in the UK, or within 28 days of this date
 - Adoption leave may commence on the day the child is born and no later than the day after, if a surrogate is used.

- In the case of foster to adopt arrangements, adoption leave can start from 2 weeks before the child is placed with the employee.

5.1.4 Employees must notify the academy within 28 days of the date of placement or UK arrival date for overseas adoptions changes.

5.2 Ordinary adoption leave

5.2.1 Regardless of the length of service or hours of work, employees are entitled to take up to 26 weeks' ordinary adoption leave. Employees have the right to choose when to start their adoption leave as per the conditions outlined above.

5.3 Additional adoption leave

5.3.1 In addition to ordinary adoption leave, all employees have the right to take up to 26 weeks' additional adoption leave, beginning on the day immediately following the day on which ordinary adoption leave ends.

5.3.2 A total of up to 52 weeks adoption leave is therefore available to all eligible employees, however only one adoptive parent is entitled. If both parents are requesting leave for the period of adoption, one may be entitled to paternity leave, or shared parental leave may be considered. These entitlements are detailed in separate policies.

5.4 Contact during adoption leave

5.4.1 The Academy Lead will ensure that arrangements are in place for keeping in touch with the employee during their leave. The amount of contact will be dependent upon the wishes of the employee; however, the academy reserves the right in any event to maintain reasonable contact with the employee from time to time during adoption leave.

5.4.2 Reasonable contact may be to:

- ✓ discuss the employee's plans to return to work;
- ✓ discuss any special arrangements to be made, or training to be given, to ease an employee's return to work; and/or to
- ✓ update the employee on developments at work during their absence.

5.5 Keeping-in-touch (KIT) days

5.5.1 Except during the first two weeks of adoption leave, an employee can agree to work, or to attend training, for up to ten days during either ordinary adoption leave or additional adoption leave without bringing the period of adoption leave to an end and without loss of a week's Occupational Adoption Pay (OAP) or Statutory Adoption Pay (SAP). These are known as 'keeping-in-touch' (KIT) days. Any work carried out on a day constitutes a full day's work for these purposes. An employee will be paid for any work undertaken and this will usually be at their normal daily rate of pay.

5.5.2 The academy cannot require an employee to carry out any work, and the employee has no right to undertake any work during their adoption leave. Any work undertaken is entirely a matter for mutual agreement between the academy and employee. Any KIT days worked **do not** extend the period of adoption leave. Once the ten KIT days have been utilised the employee will lose a week's SAP for any week in which they agree to work for the academy.

5.6 Multiple Adoptions

5.6.1 There is no entitlement to additional leave or pay if more than one child is part of the same adoption arrangement. Where more than one child is placed with an employee as part of the same placement (e.g. twins or siblings of different ages), the employee will be entitled to only one period of adoption leave.

5.6.2 If another child is placed with the employee soon after the placement of the first child (i.e. a new placement under a separate matching certificate), provided that the employee satisfies the qualifying conditions, they will be entitled to another period of adoption leave. In these circumstances, the adoption leave relating to the second child will supersede the first period of leave. For example, if the second period of leave begins one month after the first period, the first period will end after one month and the employee will be entitled to a further 52 weeks' adoption leave from that point.

5.6.3 If the employee qualifies for statutory adoption pay in relation to both children, the adoption pay relating to the first child is not brought to an end by entitlement to adoption pay relating to the second child. The employee will be entitled to two payments during any weeks where the two periods of adoption pay entitlement overlap.

6. Adoption Pay

Adoption pay may be made up of the following elements subject to entitlement. Please also refer to Appendix 3 (flow chart).

6.1 Statutory Adoption Pay (SAP)

6.1.1 SAP is a statutory entitlement for those employees whose average weekly earnings over an eight-week period up to the matching week are not less than the lower earnings limit for National Insurance Contributions *and* who have completed 26 weeks' continuous service with the employer by the week they are matched with the child. In the case of surrogacy, employees must have at least 26 weeks continuous service by the 15th week before the baby is due.

6.1.2 SAP is paid by the academy and if eligible, forms part of the Occupational Adoption Pay (OAP).

6.1.3 SAP is treated as income and is therefore subject to deductions for Income Tax, National Insurance, and pensions (where applicable). Payment of SAP is **not** conditional on the employee returning to work.

6.1.4 Entitlement to SAP will remain for 8 weeks if the placement is disrupted after it started or if the child dies.

6.1.5 Employees are not entitled to SAP if either of the following apply during the period in which they are being paid SMP:

- ✓ they start working for another employer after the placement of a child;;
- ✓ They are taken into legal custody.

6.1.6 It is the employee's responsibility to notify the academy if either of the above events occur in the period in which they are being paid SAP. Any overpayment of SAP will be reclaimed by the academy.

6.2 Occupational Adoption Pay (OAP)

6.2.1 OAP is paid to employees who have completed at least one year's continuous service by the matching week.

Occupational adoption pay is paid as follows for staff with over one year's continuous local government service at the matching week:

- a) First six weeks' absence: 9/10ths of a week's pay, offset against any payments made by way of SAP;
- b) Next 12 weeks' absence: half pay without deductions for SAP except by the extent to which combined OAP pay and SAP exceeds full pay;
- c) Next 21 weeks' absence: SAP entitlement only;
- d) Any remaining period of absence will be without pay.

6.2.2 For the purpose of this scheme, a week's pay is treated as the amount payable to the employee under the contract of employment. If there are significant variations in the employee's salary, the average salary over the 12 weeks preceding the date of absence will be treated as a week's salary.

6.2.3 OAP is subject to an employee returning to work for a period of 13 weeks following adoption leave. If the employee does not return to work for the required period, they are required to refund the OAP received after the first 6 weeks of the adoption leave. SAP is not refundable, even if the employee does not return to work.

6.2.4 If the employee is unsure whether they will be returning to work following adoption leave, they can request that the academy's payroll provider withhold the refundable OAP element of adoption pay. If the employee subsequently returns to work for the qualifying period, they will receive the OAP due to them.

6.2.4 Where the academy agrees, a full-time employee may return to work on a part-time basis for a period that equates to 13 weeks' full-time service. Similarly, where the academy agrees, a part-time employee may return to work on a different part-time basis for a period that equates to 13 weeks' part-time service relating to their previous contract. The above requirement is subject to a maximum period of 26 weeks.

6.2.5 The 13-week period (or part-time equivalent) starts from the date the employee actually returns to work or the date during the academy holiday on which the employee has notified the academy in writing that they are available to work, provided they actually return to duty on the first day after the period of closure.

6.3 Pensions

6.3.1 If the employee is a member of the Local Government Pension Scheme (LGPS), contributions will continue to be deducted while they are in receipt of Adoption pay and the academy will continue to pay the employer's contribution based on the employee's normal full pay. Employer contributions will continue during periods of unpaid Adoption Leave. Further advice is available from the LGPS.

6.4 Salary Sacrifice

6.4.1 Employees who have sacrificed salary in return for specified benefits may wish to review the arrangements in advance of their adoption leave. Advice should be sought from the academy's payroll or benefit provider at the earliest opportunity.

7. Returning to Work

7.1 Returning after Ordinary Adoption Leave (OAL)

7.1.1 After ordinary adoption leave, the employee is entitled to return to the job in which they were employed under their original contract of employment.

7.2 Returning after Additional Adoption Leave (AAL)

7.2.1 After additional adoption leave, an employee is entitled to return to either the job that they left, or a suitable alternative job, if their original job is no longer available, on terms and conditions no less favourable than those which would have been applicable to them had they not been absent. ('Job', for this purpose, means the nature of the work that they are employed to do and the capacity and place in which they are so employed.).

7.2.2 Where it is not practicable by reasons of redundancy for the employer to permit the employee to return to work in their job as defined in the above paragraph, the employee is entitled to be offered a suitable alternative vacancy, where one exists, provided that the work to be done in that post is suitable to them and appropriate to the circumstances, and that the capacity and place in which they are to be employed and their terms and conditions of employment are not substantially less favourable to them than if they had been able to return to the job in which they were originally employed.

7.3 Notice Requirements

7.3.1 Before beginning adoption leave, an employee should be notified of the date of their expected return to work. The employee is not required to give any further notice of their intentions to return on this date. However, if an employee wishes to return early from adoption leave they **must** give 28 days' notice. Where this notice is not given, the employer **may** postpone the return for up to eight weeks from the date when the employee informs the employer of the early return or up to the expected date of return, whichever is sooner.

7.3.2 If the employee does not return on the specified date, their absence may be recorded as unauthorised.

7.3.3 Where an employee is unable to return to work at the end of their period of adoption leave due to sickness, the conditions of the sick pay scheme and the academy's attendance policy will apply.

7.3.4 If an employee does not intend on returning to work following a period of Adoption Leave, the usual Support Staff notice periods as set out in the Green Book and/or the employee's contract of employment will apply.

7.4 Flexible Working

7.4.1 Employees have the right to request a variation to their contract so that they can work more flexibly and thereby balance their childcare responsibilities with work commitments.

7.4.2 There is no automatic right to return to work following adoption leave on an adjusted working pattern, however careful consideration will be given on receipt of a request in accordance with the academy's Flexible Working policy.

7.5 Continuous Service

- 7.5.1 Adoption leave is regarded as continuous service and does not constitute a break in service even when unpaid.
- 7.5.2 During the time that an employee is receiving adoption pay, National Insurance, Income Tax and pension contributions (where applicable) will be deducted from the gross pay.

8. Annual Leave

- 8.1 Support Staff are entitled to 5.6 weeks (28 days or pro-rata equivalent for part time employees) statutory annual leave under the Working Time Regulations and they must be allowed to take this leave outside of their adoption leave. Employees may have a contractual entitlement to annual leave that exceeds 28 days, however accrual of annual leave during periods of Adoption Leave only applies to the statutory leave entitlement of 28 days. An employer may not treat any part of the Adoption Leave period as annual leave.
- 8.2 Employees who are employed on all-year-round contracts will be permitted to take their statutory annual leave either within term time or during academy holidays, subject to usual leave authorisation from the Academy Lead.
- 8.3 For term time only employees, the statutory annual leave entitlement can be offset by any period of academy closure that has taken place in the leave year in question, i.e. both before and after the Adoption Leave period. On return from Adoption Leave, an employee must be allowed to take any outstanding leave during term time during that leave year if there are insufficient academy closures to accommodate their leave in that leave year.
- 8.4 Where the return from Adoption Leave is so close to the end of the leave year that there is not enough time for the employee to take their entire annual leave entitlement, an employee must be allowed to carry over any balance of their leave to the following leave year. An employee can be required to take this during the remaining periods of academy closure after the 28 days' annual leave for that leave year has been accommodated.
- 8.5 It is not possible for either the employee or the academy to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year, i.e. in academy closures or in term time. No pay in lieu of days owed is payable.

Further advice

The Academy Lead (or nominee) should seek advice from the central trust team or the trust's HR provider if they have any queries about the content or implementation of this policy.

Notifications of entitlement to pay and leave may be undertaken on behalf of the academy by the academy's payroll provider. The academy will ensure that all relevant documentation is provided in a timely manner to the payroll provider.

Relevant Associated Policies

- Attendance Management Policy
- Leave of Absence Policy

- Flexible Working Policy
- Shared Parental Leave Policy
- Paternity Leave Policy

Appendix 1

Notification of Adoption

Employee Name		
Employment Start Date		
Job Title		
Academy		
I am adopting a child: (Please tick as appropriate)	In the UK	
	From Overseas	
Expected Matching Date:	/ /	
Matching Certificate attached to this notification? If not, when will this be supplied?	YES / NO Date Matching Certificate to be issued:	
Requested adoption leave start date:	/ /	
Do you intend to take the full 52 weeks adoption leave?	YES / NO	
If the answer is NO to the above, your requested adoption leave end date		
Any other information that the academy may need to know regarding your adoption leave request.		

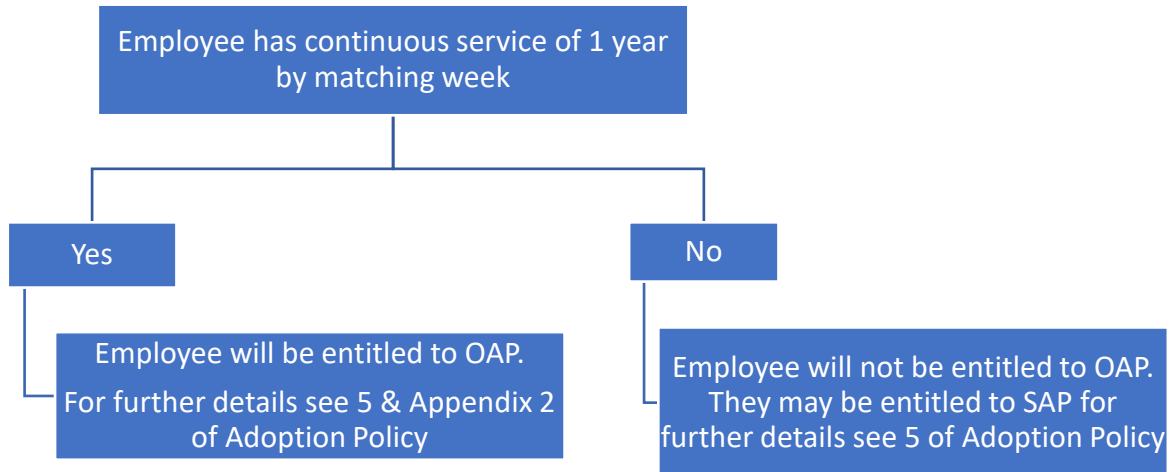
Date:

Signed:

Appendix 2

Flow Chart - Occupational Adoption Pay (OAP) Entitlements

Is the employee entitled to OAP?



Does the employee need to pay back OAP following Adoption Leave?

