



**THE LEARNING PARTNERSHIP**

## **Adoption Pay and Leave Policy**

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<b>Next review date:</b>	1 June 2024
<b>Approval needed by:</b>	<b>Finance and Staffing Committee</b>

### **Scope**

This policy is applicable to all employees of The Learning Partnership including teaching and support staff.

### **Aims**

To set out the rights and responsibilities of employees who are adopting a child, have recently had a child placed with them for adoption, are the intended parents in a surrogacy arrangement where they are eligible and intend to apply for a parental order or are a foster parent approved as a prospective adopter ("Foster to Adopt"). It gives details of the arrangements and entitlements where the expected week of placement (or expected week of birth in surrogacy arrangements) begins on or after the 5 April 2015.

### **Policy Statement**

The Trust recognises that employees may have questions or concerns relating to their Adoption rights. It is the Trust's policy to encourage open discussions with employees to ensure that questions can be answered as quickly as possible.

The Trust will ensure that employees are afforded their full statutory adoption rights.

### **Principles**

When an employee requires time off following the adoption of a child in order to care for the child or to support the child's primary carer, the School/Academy will apply this policy in a fair and consistent manner.

## **PROCEDURE**

### **Adoption Leave entitlement**

An employee, who adopts a child through an approved adoption agency or, in the case of adopting from overseas, has received “official notification of adoption” in respect of that child, is entitled to take a period of Adoption Leave.

N.B. Official notification in relation to a child being adopted from overseas, is written notification issued by or on behalf of the “relevant domestic authority” who issues a certificate to the overseas authority concerned with the child’s adoption, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The employee is entitled to up to 26 weeks Ordinary Adoption Leave and up to 26 weeks Additional Adoption Leave regardless of the number of hours worked or length of service. Additional Adoption Leave begins on the day after Ordinary Adoption Leave ends.

Adoption Leave can start on the day the child is placed for adoption or 14 days earlier in the case of a child being adopted within the UK, or in the case of a child being adopted from overseas the day the child enters Great Britain or on a chosen date no later than 28 days after.

Parents, who will become the legal parents of a child under a surrogacy arrangement, are entitled to take statutory adoption leave if the child's expected week of birth begins on or after 5 April 2015 and they are eligible and intent to apply (or have applied) for a Parental Order.

Local authority foster parents who are also prospective adopters ("foster to adopt") are entitled to take ordinary adoption leave in relation to children matched for adoption on or after 5 April 2015. Under these circumstances, eligible prospective adopters may take leave and pay from up to 2 weeks before the child is placed with the family. The leave and pay must be taken within 52 weeks of this placement.

### **Surrogacy arrangements**

An employee using a surrogate to have a baby, should confirm the due date and that he/she would like to start leave at least 15 weeks before the expected week of birth in writing.

The employee must also provide a written statement (‘statutory declaration’) to confirm that he/she has applied or will apply for a parental order in the 6 months after the child’s birth. This must be signed in the presence of a legal professional. Please see [www.gov.uk](http://www.gov.uk) for more details.

Where a Parental Order application is refused by the court, the employee’s entitlement to adoption leave will end 8 weeks later or at the end of the adoption leave, whichever is earlier.

Employees are advised to discuss their situation with the head teacher/manager at the earliest appropriate opportunity due to the relatively unusual and potentially varied nature of surrogacy arrangements and how this may impact on adoption pay and leave.

### **Adoption pay entitlement**

Employees who take Adoption Leave will also qualify for Statutory Adoption Pay (SAP) providing that they have 26 weeks’ service calculated at the week in which notification of matching was given by the adoption agency and that their average weekly earnings in the 8 weeks ending with the week that the match was notified are not less than the lower earnings limits for NI contributions.

**SAP** is paid as follows:

- 6 weeks 90% of a week's pay offset against payments made by way of SAP (or adoption allowance for employees not eligible for SAP).
- 33 weeks at the rate set by the government for the relevant tax year or 90% of the employee's average weekly earnings, whichever is lower.
- Followed by 13 weeks' unpaid leave.

An employee who is not entitled to Statutory Adoption Pay may be able to claim other benefits.

In order to receive Occupational Adoption Pay (OAP) employees must have completed at least one year's continuous service prior to the start of the week in which they were notified of the match.

**OAP** is paid as follows:

- 6 weeks 90% of a week's pay offset against payments made by way of SAP (or adoption allowance for employees not eligible for SAP).
- An employee who declares in writing that they intend to return to work will, for the subsequent 12 weeks' absence receive half a week's pay plus SAP, where eligible. Alternatively, the equivalent amount (i.e. 6 weeks' pay) may be paid in any other mutually agreed distribution.
- The 12 weeks half pay shall be made on the understanding that the employee will return to Trust employment for a period of at least three months. In the event of them not doing so, they shall refund the monies paid. Any ordinary parental leave or unpaid leave taken within this period will not be counted towards the three months.
- Followed by up to 21 weeks' lower rate SAP.
- Followed by 13 weeks' unpaid leave.

No combination of payments will exceed normal full pay.

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

## **Notification requirements**

### **Adoption within the UK**

In order to take Adoption Leave and qualify for Statutory Adoption Pay, the employee must give the head teacher/manager written notification of their intention to take Adoption Leave no later than 7 days after they receive the official notification of a match with the child from the adoption agency.

The notification should be in writing and detail:

- The date the child is expected to be placed with them for adoption.
- The date that they intend to start their Adoption leave. Preferably the employee should give 28 days' notice of the date that their Adoption leave will start, wherever possible. However, due to the nature of notifications and adoptions the employee must give as much notice as is reasonably possible in the circumstances if this is less than 28 days. Leave can start on any day of the week. The employee must also submit their original adoption matching certificate which will be supplied by the adoption agency. If the employee changes their mind about the start date they must give 28 days' notice of their new intended start date wherever possible.

### **Adoption from overseas**

In order to take Adoption Leave and qualify for Statutory Adoption Pay, the employee must give the head teacher/manager written notification of their intention to take Adoption Leave no later than 28 days after they receive the official notification or the date on which they complete 26 weeks continuous service (whichever is later). The notification should be in writing and detail:

- The date the official notice was received;
- The date the child is expected to enter Great Britain.

At least 28 days prior to the chosen date to begin Adoption Leave they must provide in writing:

- Notice of the date they wish to start their Adoption Leave;
- Declaration that they have chosen to receive Statutory Adoption Pay and not Statutory Paternity Pay; and
- A copy of the official notification.

Within 28 days of the child's entry into Great Britain the employee must:

- Inform the head teacher/manager of the date entry; and
- Provide evidence of this by way of a plane ticket or copy of entry clearance documents.

Should the employee wish to change the date, i.e. they wish to bring forward or postpone their Adoption Leave; they may do so by advising the head teacher/manager in writing at least 28 days before the new start date.

Failure on the employee's part to comply with the above notification requirements may lead to the loss of their rights relating to paternity leave Statutory Adoption Occupational and Statutory Adoption Pay or Paternity Leave (see paternity leave policy) Pay.

Within 28 days the employee will receive written confirmation of their Adoption Leave and of the end date if the full 52 weeks' entitlement is taken.

#### **Time off to attend adoption appointments**

Employees who are adopting a child are entitled to take time off to attend adoption appointments. An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments. Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments. The other can elect to take unpaid time off to attend up to two adoption appointments.

The purpose of the appointment is to enable the employee [and his/her partner] to have contact with the child (for example, to bond with him/her before the placement) and for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).

The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.

Employees will be asked to provide the head teacher/manager with proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

Where an employee is eligible for and elects to take paid time off to attend adoption appointments, he/she will not be able to take paternity leave in relation to the adoption of that child. It is therefore likely that the person who takes paid time off work to attend adoption appointments will also take adoption leave and pay.

#### **Multiple adoptions**

Leave entitlement and payment remain the same regardless of the number of children being adopted.

#### **Subsequent adoptions**

Where it is possible that an employee may be matched to a second child during the initial Adoption Leave period (for example a sibling), employees should contact the head teacher/manager at the earliest appropriate opportunity. In such cases details of the individual circumstances will need to be considered in order to understand the implications for both adoption leave and pay.

### **Contract of employment during Adoption Leave**

During the period of Ordinary and Additional Adoption Leave the employee's contract of employment continues and they are entitled to receive all contractual benefits, except salary. All benefits in kind will also continue.

### **Annual leave (applicable to support staff only)**

#### **Full year support staff**

Employees will continue to accrue contractual annual leave as per their contract of employment during Ordinary and Additional Adoption Leave including entitlement to bank holidays, which will be accrued pro rata to contracted hours.

Employees should take their full annual leave entitlement before Adoption Leave commences provided that:

- They intend to return to work;
- They are aware that if they do not return to work they will have to repay any leave they were not entitled to take;
- The leave is operationally convenient and agreed by the head teacher/manager; and
- If they subsequently decide not to return to work, then the date used to calculate leave entitlement is their last day of employment.

Employees are encouraged to take any outstanding leave prior to commencing Adoption Leave, all holidays must be taken in the year it is earned and therefore if the holiday year is due to end during Adoption Leave, the employee should take the full years leave before commencing Adoption Leave.

A discretionary 5 days' leave may be carried over to the following leave year. Where the employee is unable to take their leave before commencing Adoption Leave exceptions may be made to carry over policies to allow them to carry the remaining period of leave into the next leave year.

#### **Part year support staff**

You will continue to accrue and be entitled to contractual annual leave as per your contract of employment during your maternity/adoption leave including entitlement to bank holidays, which will be accrued pro rata to your contracted hours. The accrued leave during a period of maternity/adoption can be given as time off in term time or pay in lieu. This will need to be agreed with your headteacher/manager.

N.B. Your annual salary incorporates the payment of your annual leave and public holiday entitlement, and so you will receive a proportion of your holiday entitlement in your maternity/adoption pay. This will need to be taken into account when taking your holiday entitlement during term time or pay in lieu, i.e. any leave already paid will need to be offset against pay in lieu, otherwise you will receive more than your entitlement.

### **Termination of adoption placement**

Should the child's placement be terminated during Adoption Leave, the employee will continue to be entitled to Adoption Leave for up to 8 weeks after the placement ends. The employee should in this case give 8 weeks' notice of their return to work. In cases where no notice of the termination of the placement is given this will effectively mean the employee should notify the head teacher/manager of their early return on the day the placement ends.

### **Keeping in Touch (KIT) Days**

By agreement with the head teacher/manager, employees can undertake up to 10 days paid work/training, during their ordinary or additional Adoption Leave, without bringing their leave to an end and without loss of a week's SAP.

KIT days are optional and can only be taken in agreement with the head teacher/manager. Working part of a day will count as a full KIT day, and does not extend the Statutory Adoption Pay period. Payment will effectively "top up" the individual's payment so that full pay is received for the day's work, i.e. the employee will not be able to earn more than a normal day's work.

### **Contact during Adoption Leave**

The head teacher/manager and employee should maintain regular agreed contact during Adoption Leave for the purposes of discussing issues such as returning to work or flexible working arrangements. It is recommended that arrangements should be made prior to the leave commencing as to the frequency of this contact and this discussion is documented.

The employee should be informed of important information such as, developments at work, changes in structures, promotion opportunities. In addition, the employees should also ensure that they keep themselves informed as appropriate.

### **Returning to Work After Adoption Leave**

Unless the employee notifies the head teacher/manager otherwise their return to work date will be:

- The first working day after the end of their 52 weeks Additional Adoption Leave.

If they wish to return earlier than this date then they must give the school/academy 8 weeks' notice of the date in which they wish to return, failure to give the correct notice may result in their return to work date being postponed until the correct notice is served.

If the employee decides not to return to work following Adoption Leave the required notice period as detailed in their contract of employment should be given. Should notice not be received and they fail to return to work following Adoption Leave (without notifying the head teacher/manager if an absence reason, e.g. sickness) they will be treated as having unauthorised absence and this will be addressed under the Attendance Management Policy and Procedure.

If the employee wishes to return to work on a different working pattern to that which they left, please refer to the Flexible Working Policy and Procedure.

### **Returning after Ordinary Adoption Leave**

The employee will be entitled to return to the same job on the same terms and conditions as if they had not been absent.

### **Returning after Additional Adoption Leave**

The employee will be entitled to return to the same job on the same terms and conditions unless this is not practicable; in these circumstances they will be entitled to be offered a suitable alternative. The employee will be advised of the procedure and the support available.

### **Shared parental leave**

Shared Parental Leave enables the parents to share the leave to care for a child or children. The employee must take the two weeks immediately following the adoption of the child or children, however all other leave can be shared between the parents, subject to meeting specific eligibility criteria.

Further information about Shared Parental Leave can be obtained from the Shared Parental Leave Policy and Procedure.

### **Ordinary parental leave**

Following a period of Adoption Leave the employee may request a period of ordinary parental leave, details of which can be found in the Parental Leave Policy.

Any ordinary parental leave or unpaid leave taken will not be counted towards the three months the employee is required to return if they have been in receipt of 12 weeks half pay.

### **Right to apply to work flexibly**

The employee may wish to apply to return to work under a different work pattern. The head teacher/manager will consider each request on its merits in accordance with the Flexible Working Policy and Procedure.

You may be required to attend meetings to discuss your application and it is recommended that should you wish to apply for a different work pattern that your application is received approximately 10 weeks in advance of your return to work.

### **Pensions**

#### **Support Staff**

Employees on Adoption Leave who are in the pension scheme whilst on OAP or AAP will continue to make contributions in the normal way. There may then follow a period of leave without pay and employees may opt to pay contributions in respect of this period upon their return. Employees must elect to do this within 30 days of their return. To get a quotation and apply, please use the following link [Local Government Pension Scheme \(LGPS\)](#).

If employees do not opt to pay their contributions retrospectively your pension record will show a break in service.

Pension contributions will continue to be made during the period when the employee is receiving SAP but not during any period of unpaid additional Adoption Leave.

#### **Teaching Staff**

If an employee is a member of the Teachers' Pension Scheme, or who would have qualified to join the Scheme during their absence, the employee is urged to contact Teachers' Pension to obtain advice on their pension position during their Adoption Leave.

### **Redundancy or reorganisation during adoption leave**

All employees on Adoption Leave will be contacted in the event of a redundancy or restructuring situation where there may be a loss of jobs and the head teacher/manager will ensure that they are kept up to date and consulted throughout the process.

### **Pay rises during adoption leave**

Any pay rises that take effect during the employee's Adoption Leave will be factored into their pay upon their return to work and back dated as appropriate.

Any increase in salary that takes effect between the beginning of the qualifying period and the end of the Adoption Leave will result in the higher rate of SAP being recalculated to take the rise into account, and any difference being paid.



### **Childcare vouchers**

Adoption pay is calculated on the employees 'average weekly earnings' during the 8 weeks prior to notification of placement. For the purpose of calculating adoption pay the employee's lower salary (after childcare vouchers have been deducted) will be used. By remaining on the voucher scheme throughout this period adoption pay will be reduced.

If the employee remains in the scheme throughout this time period, their adoption pay will be reduced but they will be entitled to receive childcare vouchers throughout their leave for up to 52 weeks.

To ensure that your adoption pay is not reduced, the employee should consider whether to leave the childcare voucher scheme during this time.

### **EQUALITY**

The Learning Partnership will ensure that, when implementing the Adoption Procedure, no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the procedure may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

All employees have the right not to be subject to detriment irrespective of hours of work or service and have the right to demand a written statement of reasons for dismissal if dismissed.

### **Monitoring**

Data relating to the operation of this policy will be collated and monitored regularly to ensure that the policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

### **Review**

The policy will be reviewed in the light of operating experience and/or changes in legislation.