

Adoption leave & pay scheme- teaching staff

The Board of Trustees, CEO and Strategic team are committed to safeguarding and promoting the welfare of children and young people and requires all staff and volunteers to demonstrate this commitment in every aspect of their work.

This policy was created and ratified by the Trust Board in:	November 2025
The policy owner is:	HR Manager
This policy is:	Trust Wide Policy (standard)
This policy is to be published on the:	Intranet (for internal use)
This policy is based on:	NCC
This policy will be reviewed by the Trust Board in: (unless earlier review is recommended by the Trust)	November 2028
Policy Version:	V2
Signed by the Chair of the Board of Trustees:	John Smith

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We, the Trust Board, have adopted this scheme.

1. Introduction and scope

- 1.1 The scheme outlined in this document covers:
 - the adoption leave and pay benefits available through statute for teachers taking adoption leave
 - locally agreed provisions for occupational adoption pay
- 1.2 Trusts must comply with the statutory scheme.
There is no nationally agreed occupational scheme
- 1.3 This scheme also covers those employees who are local authority foster parents who have been approved as prospective adopters (foster-to-adopt scheme) and are notified that a child is to be placed with them.
- 1.4 The Headteacher/Line Manager will ensure that employees are made aware of the provisions of this scheme and that they are applied in a consistent manner.

2. Equalities and support

- 2.1 The Headteacher/Line Manager will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.
- 2.2 Through the implementation of this scheme, the Trust will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.
- 2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Trust understands the employee may require extra support in relation to the application of this policy. Where reasonable adjustments are necessary and can be accommodated, the Headteacher will support these.

3. Entitlement

3.1 Time off for adoption appointments

Details on entitlement to time off for adoptive parents to attend adoption appointments are detailed in the Leave and Time Off Policy under *Other Compassionate leave – Adoption related appointments*.

Where a couple are adopting jointly, only one of them is entitled to take paid time off, the other person can take unpaid time off. In these cases, the individual taking the paid time off entitlement will be the adopter and will be the individual taking adoption leave and pay after the placement.

3.2 Leave

The chosen adoptive parent or the parent eligible for adoption leave is automatically entitled to a period of 26 weeks ordinary adoption leave and 26 weeks additional adoption leave regardless of how many hours worked per week, where the appropriate notice has been given and the eligibility criteria are satisfied. This means adoption leave can be taken for a total period of up to 52 weeks.

A teacher's period of adoption leave is unaffected by the placement of more than one child as part of the same arrangement.

3.3 Pay

Statutory Adoption Pay (SAP)

There are two weekly rates of SAP:

- The higher rate is 9/10 of the employee's average weekly earnings and is payable for the first six weeks of the period for which SAP is due.
- The lower rate is a set rate payable for the remaining 33 weeks of the adoption pay period or 9/10 of the employee's average weekly earnings where this is less than the SAP rate. [Current rates can be found on gov.uk](#)

SAP is subject to pension, tax and NI contributions.

A further 13 weeks "additional" unpaid adoption leave can be taken.

If all the conditions for SAP are met the teacher will be entitled to the higher rate of SAP for the first six weeks, followed by the lower rate or 90% of the employee's average weekly earnings (where this is less) for the remaining 33 weeks.

For SAP purposes, the average weekly earnings will determine whether the teacher is entitled to receive SAP. The payroll team will calculate average weekly earnings but broadly they are an average of the gross earnings paid in the 8 weeks before the end of the matching week.

Occupational Adoption Pay (OAP)

There is no provision for OAP in the national conditions of service for teachers. Where TUPE applies, staff may be entitled to OAP, seek advice from HR

4. Adopting within the UK

4.1 Eligibility

Eligibility for adoption leave and SAP will be based on the date the employee is matched with a child. This date must be confirmed by the matching certificate, which will be issued by the adoption agency.

Where a couple is adopting, they will be able to choose which of them will take adoption leave. Their partner will be eligible to take paternity leave, providing they

meet the eligibility criteria for paternity leave. Where an individual adopts, they will be the parent eligible for adoption leave.

4.2 Leave

To be eligible for adoption leave a teacher must: -

- be the child's adopter
- have notified the adoption agency that they are in agreement both with the child being placed with them and with the date of placement.

4.3 Pay

Statutory Adoption Pay (SAP)

To be eligible for SAP a teacher must:

- earn on average at least the lower earnings limit for National Insurance
- have worked for current employer continuously for at least 26 weeks by the week the teacher was matched with the child

4.4 Commencement of adoption leave

The earliest date on which adoption leave can begin will be 14 days before the expected date of placement.

The adoption leave start date can be varied by giving at least 21 days' notice of the new date where this is reasonably practicable. However, leave must not start any later than the date the child is placed with you.

4.5 Notification

Teachers are encouraged to informally notify their Headteacher/Line Manager that they intend to take adoption leave as soon as they are approved for adoption, although it is recognised that a date of commencement of leave is unlikely to be known at this stage.

The adoption agency will issue a matching certificate which must be passed to their employer within 7 days of its issue, at which time they must confirm that they intend to take adoption leave. This can be done by completing *Adoption leave and pay form for teaching staff, located in the HR Handbook under payroll forms*. Wherever possible, the teacher should also inform the employer at this time of the date on which they expect to commence their leave, based on the anticipated date of placement.

The adoptive parent must give at least 28 days' notice of when they wish their adoption pay to start, unless this is not reasonably practicable. Where due notice cannot be given pay will begin on the date the child is placed for adoption.

The Headteacher/Line Manager must respond to the employee's notification of leave plans within 28 days of that notification. This response should set out the expected date of return in the event of the full statutory leave entitlement being taken. Failure

to do this can have implications for the employer in the same way as with maternity leave cases.

5. Adopting from abroad

An employee who adopts a child from overseas can be eligible for adoption leave and pay if they meet the relevant criteria.

5.1 Eligibility

The employee will have fulfilled all of the following criteria to be eligible:

5.2 Leave

- received official notification from the relevant UK authority of their eligibility to adopt a child from abroad
- is the child's adopter or if jointly adopted be the person who has chosen to take the adoption leave
- have notified their Headteacher/Line Manager that they wish to take adoption leave

5.3 Pay

Statutory Adoption Pay (SAP)

The employee will have fulfilled all of the following criteria to be eligible:

- worked for their current employer continuously for at least 26 weeks by the time the official notification is received or by the time adoption leave is due to begin, whichever is later,
- earn on average at least the lower earnings limit for national insurance,
- is the child's adopter, or if jointly adopting, the person who has chosen to take adoption leave.

5.4 Commencement of adoption leave

The earliest date on which an adoptive parent may begin their leave will be 14 days before the expected date of placement or within 28 days of when the child arrives in the UK.

An adopter may vary the date on which they intend to commence their adoption leave by giving at least 21 days' notice of the amended date where this is reasonably practicable.

5.5 Notification

Employees adopting a child from overseas must give notice in three stages that they intend to take adoption leave.

First Stage

The employee must inform their Headteacher/Line Manager of the date on which they received Official Notification from the relevant UK authority.

Official Notification is written notification issued on or behalf of the relevant domestic authority that the authority is either prepared to issue a certificate to the overseas authority dealing with the adoption of the child that the adopters are classed as eligible or the notification has already been issued.

Where 26 continuous weeks service has been completed, they must give this information within 28 days of receiving the notification.

If 26 weeks continuous service is not yet complete, once this is complete the employee then has 28 days to notify their current employer of the Official Notification.

It is likely that on Official Notification the employee will know roughly the date the child is expected to enter the UK.

Second Stage

In all cases the employee must give at least 28 days' notice of the actual date they want to take the adoption leave (and SAP if they qualify). This notification can be given using *Adoption leave and pay form - teaching staff* If an employee wishes to change this date at least 21 days' notice should be given.

Third Stage

Employees must notify their Headteacher/Line Manager of the date the child has entered the UK. This must be done within 28 days of the child entering the UK.

If the child does not then enter the UK the employee should inform their Headteacher/Line Manager as soon as is reasonably practicable.

6. Provisions applicable to both UK and abroad adoptions

6.1 Keeping in Touch (KIT) days

KIT days are a statutory entitlement where the individual may work for up to 10 days during their adoption leave without the loss of SAP for that week, or their adoption leave being terminated.

The teacher and Headteacher/Line Manager must be in agreement of any such work – teachers cannot be required to attend a KIT Day, nor are teachers entitled to a KIT Day if there is no practicable reason for them to attend the workplace.

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

Employees who attend a KIT Day will claim for the actual hours that they have worked on each KIT Day taken, up to a maximum of the employee's normal pay for a day's work. KIT day payments will be paid at the employee's normal hourly rate, SAP is not affected.

Completion of *Keeping in touch (KIT) days claim form, located in the HR Handbook, under Payroll forms, is required.*

KIT days in schools are funded from the schools' budget

6.2 Returning to work

The teacher is expected to return to work at the end of the period of adoption leave on the date notified by the employer. A teacher wishing to return before the end of the adoption leave period is required to give at least 21 days' notice of the date on which they intend to return.

Employers have the right to postpone a teacher's return only to ensure that the required notice period is given. However, it should be noted that this postponement should not extend the return date beyond the end of the full adoption leave period.

If after starting a period of adoption leave:

- (i) notification that placement of the child will not go ahead is received, or
- (ii) the child dies or is returned to the adoption agency,

the teacher will be entitled to continue adoption leave for a period of up to eight weeks after the week in which the change occurred. However, there is no extension of additional adoption leave if there is less than eight weeks remaining of the total period.

In the event of a change to the adoption leave period, the teacher must still give at least 21 days' notice of early return to work. The employer may postpone the return to work date where insufficient notice of early return is given provided the required notice of end of adoption leave date was given to the teacher.

When returning to work at the end of the adoption leave, the teacher will come back to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have applied had they not been absent. However, in the event of this position being no longer available through reason of redundancy the teacher will be entitled to be offered alternative employment where available in accordance with the terms and conditions of the Redundancy and Restructure policy

The teacher may wish to return to work part-time or adjust their working hours on their return from adoption leave. Although there is no automatic right to do this, they do have the right to request it. Further information can be found in the *Flexible working policy*. Should they wish to return to work part-time or on altered hours this should be discussed with the Headteacher/Line Manager, using the Flexible working request procedure, who will consider the practicalities of doing so.

The Headteacher/Line Manager will need to inform the HR team when an employee's adoption leave ends, even if they are not returning to work straight away e.g., due to being on sick leave.

6.3 Delayed return to work

If the teacher is unable to return to work on the expected day of return due to sickness, the absence will be covered by the sickness scheme in the normal way.

7. Contractual status

7.1 Contractual benefits

An employee's contractual benefits and status will mirror those of an employee taking a period of maternity leave.

8.0 Salary sacrifice arrangements

Employees should be aware that if they are participating in a salary sacrifice arrangement e.g., childcare vouchers, or thinking of doing so, payments for adoption pay may be affected due to reductions in national insurance contributions and income tax.

Childcare vouchers

The provision of childcare vouchers will be suspended if an employee's SAP does not cover the cost of providing their childcare vouchers. Statutory payments such as SAP cannot be exchanged for childcare vouchers.

8.1 Teachers' Pension Scheme

Pension contributions will be payable on all payments made in the form of SAP. Service will be counted as reckonable for pension purposes during any paid employment. Service will not count for pension during unpaid adoption leave. If the teacher wishes to make voluntary contributions during their period of unpaid adoption leave or if they require guidance regarding this matter, they should contact Teachers' Pensions.

9. Notice requirement if not returning to work

If a teacher decides they will not be returning to work after adoption leave, it would be helpful if they could let the Headteacher/Line Manager know as soon as possible in writing. The employee will not be asked to give the appropriate notice period and their last day of service will be from the date of their letter of confirmation.

10. Adoption and unfair dismissal

10.1 It is automatically unfair to dismiss an employee for an adoption related reason, in these circumstances, employees will be entitled to bring unfair dismissal claims regardless of the hours they work or their length of service.

Where an employee is dismissed at any time during their adoption leave, they are entitled to be provided with written reasons for their dismissal (whether requested or not).

However, employers are not prevented from dismissing employees for reasons unconnected to their adoption leave (e.g., for redundancy or misconduct reasons). Where a dismissal would have occurred regardless of the fact that the employee is on adoption leave, such a dismissal will not be automatically unfair. The fairness will be judged according to the reasonableness of the employer's actions. Employees will need two years' service to make an unfair dismissal claim in these circumstances.

- 10.2 Special considerations apply to redundancy during and after adoption leave, this is detailed in the Redundancy and Restructure Policy

11. Data Protection

Personal data collected and processed for the purpose of this scheme will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.

Appendix 1 – Table of changes

Date of change	Paragraphs affected	Summary of update
01/10/2024	6.1	Updated to add that actual hours can be claimed, up to a maximum of the employee's normal pay for a day's work
27/03/2024	All 9.2	Review of whole document and terminology to ensure consistency across all policies and procedures. Inclusion of the protection from redundancy legislative changes.
01/09/2023	5.1	Updated to reflect amended approach to KIT day payments – claims are now made for actual hours worked.
01/09/2023	Equal Opportunities	Updated to reflect correct terminology for protected characteristics.
22/11/2021	Equal Opportunities	Additional paragraph to include consideration for employees with mental health issues.
07/12/2018		Updated to ensure the policy is fit for MAT's as well as schools. Changes reflect terminology and MAT structure and set up.
11/05/2018	8	New para added to take account of the General data protection regulations in force from 25 May 2018.
01/06/2017	6.4	Change to the payment of childcare vouchers during adoption leave.
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content