



## HR: Adoption Leave Policy

<b>Review Due:</b>	September 2023
<b>Last Review</b>	September 2020
<b>Applicable to:</b>	All Trust Schools
<b>Reviewed By:</b>	ZD
<b>Approved By:</b>	Trust Board

### Comments:

Policy review in line with cycle and approved by solicitors.

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## 1. Policy Statement

- 1.1 This policy sets out the arrangements for adoption leave and pay for employees who are:
  - Adopting a child through a UK adoption agency
  - Fostering a child with a view to possible adoption
  - Having a child through a surrogate mother
- 1.2 Adoption leave and pay may also be available for adoptions from overseas, which are not dealt with in this policy. Please contact Human Resources for information on eligibility and process.
- 1.3 Arrangements for time off for adoption appointments are set out in our Time off for Adoption Appointments Policy.
- 1.4 In some cases you and your spouse or partner may be eligible to opt into the shared parental leave scheme which gives you more flexibility to share the available leave and pay. For information, see our Shared Parental Leave (Adoption) Policy.
- 1.5 This policy only applies to employees. It does not apply to agency workers or self-employed contractors. It does not form part of any employee's contract of employment and we may amend it at any time.

## 2. Entitlement to Adoption Leave

- 2.1 In adoption cases or fostering for adoption cases, you are entitled to adoption leave if you meet all the following conditions:
  - You are adopting a child through a UK adoption agency, or you are a local authority foster parent who has been approved as a prospective adopter.
  - The adoption agency or local authority has given you written notice that it has matched you with a child for adoption, or that it will be placing a child with you

under a fostering for adoption arrangement, and tells you the date the child is expected to be placed into your care (Expected Placement Date).

- You have notified the agency or local authority that you agree to the placement.

2.2 In a surrogacy case, you are entitled to adoption leave if all the following conditions are met:

- A surrogate mother gives birth to a child who is biologically your child, the child of your spouse or partner, or the child of both of you.
- You expect to be given parental responsibility for the child under a parental order from the court. The child must live with you and you must apply for the parental order within six months of the child's birth.

2.3 The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

2.4 Only one parent can take adoption leave. If your spouse or partner takes adoption leave with their employer, you will not be entitled to adoption leave but you may be entitled to paternity leave (see our Paternity Leave Policy). In some cases, you may also qualify for shared parental leave (see our Shared Parental Leave (Adoption) Policy).

### **3. Notification requirements**

3.1 In an adoption or fostering for adoption case, you must tell us in writing of the expected placement date, and your intended start date for adoption leave. You must give this information not more than seven days after the agency or local authority notifies you in writing that it has matched you with a child, or if that is not reasonably practicable, as soon as you can.

3.2 Once you receive the matching certificate from the agency or local authority, you must provide us with a copy.

3.3 In a surrogacy case, you must tell us [in writing] of your intention to take adoption leave and give the expected week of childbirth (EWC). You must give this information by the end of the 15th week before the EWC, or if that is not reasonably practicable, as soon as you can. When the child is born you must tell us the date of birth.

3.4 We will write to you within 28 days of receiving your notification, to confirm your expected return date assuming you take your full entitlement to adoption leave.

### **4. Starting adoption leave**

4.1 In an adoption or fostering for adoption case, OAL may start on a date of your choosing no more than 14 days before the expected placement date, or on the date of placement itself, but no later.

4.2 If you want to change your intended start date please tell us in writing. You should give as much notice as you can, but wherever possible you must tell us at least 28 days before the original intended start date (or the new start date if you are bringing the date forward). We will write to you within 28 days to tell you your new expected return date.

- 4.3 In a surrogacy case, OAL will start on the day the child is born, unless you are at work, in which case it will start on the following day. You cannot change the start date.

## **5. Statutory Adoption Pay (SAP) – Qualifying and Payment**

- 5.1 Statutory adoption pay (SAP) is payable for up to 39 weeks provided you have at least 26 weeks' continuous employment with us ending with the Qualifying Week (the week in which the adoption agency or local authority notified you of a match, or the 15th week before the EWC – expected week of confinement) and your average earnings are not less than the lower earnings limit set by the government each tax year. The first six weeks' SAP are paid at 90% of your average earnings and the remaining 33 weeks are at a rate set by the government each year.
- 5.2 If you are not entitled to SAP through the Trust, you may be entitled to Adoption Allowance which is payable directly from DWP (Department of Work and Pensions) and the Trust will provide you with a SAP1 form which will set out the reason why you did not qualify for SAP.

## **6. Terms and Conditions During Adoption Leave**

All the terms and conditions of your employment remain in force during OAL and AAL, except for the terms relating to pay. In particular:

- Annual leave entitlement under your contract shall continue to accrue (see paragraph 10); and
- pension benefits shall continue

## **7. Pensions**

If you are a member of the pension scheme, we shall make employer pension contributions during OAL and any further period of paid adoption leave based on your normal salary, in accordance with the pension scheme rules. Any employee contributions you make will be based on the amount of any adoption pay you are receiving, unless you inform Human Resources that you wish to make up any shortfall.

## **8. Keeping in touch**

- 8.1 We may make reasonable contact with you from time to time during your adoption leave although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work. Reasonable contact is:
- to discuss the employee's plans to return to work.
  - to discuss any special arrangements to be made, or training to be given, to ease an employee's return to work; or
  - to update the employee on developments at work during their absence. This would not constitute 'work' and such contact will not bring the adoption leave period to an end.

- 8.2 You may work (including attending training) on up to ten "keeping-in-touch" days during your adoption leave. This is not compulsory and must be discussed and agreed with your line manager or Human Resources.
- 8.3 You will be paid at your normal basic rate of pay for time spent working on a keeping-in-touch day and this will be inclusive of any adoption pay entitlement.

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

- 9.1 We will expect you back at work on your Expected Return Date unless you tell us otherwise. It will help us if, during your adoption leave, you are able to confirm that you will be returning to work as expected.
- 9.2 Employees returning to work before the end of their ordinary or additional adoption leave date, must give the school eight weeks' notice of their intention to return. If eight weeks' notice is not given the school can delay the return by eight weeks or to the end of the adoption leave date, whichever is the sooner.
- 9.3 You are normally entitled to return to work in the position you held before starting adoption leave, on the same terms of employment. However, if you have taken AAL (or have combined your adoption leave with more than four weeks of parental leave) and it is not reasonably practicable for us to allow you to return to the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.
- 9.4 If you want to change your hours or other working arrangements on return from adoption leave you should make a request under our Flexible Working Policy. It is helpful if such requests are made as early as possible.

## **10. Termination of the Placement of a Child or Children**

Where an expected placement does not happen, but an adoptive parent has already started his/her leave or pay period, adoption leave and pay will be available for eight weeks following notification that the child will not be placed with him/her.

## Appendix – Commencement of Adoption Leave Forms

### Notice of intention to take Adoption Leave.

To be completed and returned to the Trust's HR department.

Name of employee: .....

I, give notice of my intention to take Adoption Leave and confirm that:

- I understand that, for the purposes of exercising my right to take Adoption Leave, the "adopter" of a child is either the person who has been matched with the child for adoption or, where two people have been matched jointly, whichever of them has elected to be the child's adopter for the purposes of taking adoption and paternity leave.
- I was notified that I had been matched for adoption with ..... [name of child] on ..... [insert date].
- ..... [name of child] is expected to be **OR** was placed with me on .....[insert date].
- Please select and where necessary, complete one of the following.  
I would like my Adoption Leave to start:  
 on the date on which the child is placed with me for adoption.  
 on ..... [insert date]. Please note this date must be later than the date on which the child is expected to be placed with the adopter.
- I intend to return from Adoption Leave on ..... [insert date]

Signed

.....

[PRINT NAME]

.....

Date

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