



Plymouth Nursery Schools Federation

ADOPTION POLICY (TEACHING STAFF)

Headteacher

A handwritten signature in black ink, appearing to be "SMA", written over a light-colored background.

Dated 05/06/2024

Chair of Governors

A handwritten signature in black ink, appearing to be "C. P. ...", written over a light-colored background.

Dated 05/06/2024

Review date- June 2024

To be Reviewed- June 2027

CHANGES

August 2011: Policy Implemented

October 2011: Changes to Section 8: Repaying Adoption Pay

February 2014: Clarification to Sections 1 Policy Overview, Section 6 Adoption Pay and Section 8 Repaying Adoption Pay and additional Annual Leave Section

October 2015: Changes to Legislation April 2015 and styling revised in line with corporate policy

August 2020: Tweak changes to insert DELT Payroll services

April 2024 – Legislative Changes; Redundancy

Contacts

If you have any questions regarding this policy please contact the school's HR Provider.

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I Policy Overview

I.1 Policy Statement

This policy sets out the help and support that (insert name of school) will give employees who are adopting a child under the age of 18, their rights and responsibilities and the law relating to adoption entitlements.

This policy and procedure does not form part of any contract of employment and (insert name of school) may amend it at any time in line with statutory requirements.

I.2 Key Principles

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave from day one of their employment.

The term adoption applies to legal adoption through an approved adoption agency. It also applies to 'foster to adopt' arrangements where prospective adopters foster a child with a view to adopting that child and where a parent will become the legal parents of the child under a surrogacy arrangement. It does not apply to:

- Short term fostering, e.g. where a person undertakes regular short term fostering assignments for a local authority or temporarily cares for a relative's child.
- A private adoption, e.g. where the child of a close relative is being adopted and is known by the prospective parent.

Adoption leave and pay are available to:

- Individuals who adopt
- One member of a couple where a couple adopts jointly (the couple must choose which partner takes adoption leave).

Same sex parents can qualify for adoption leave and pay as can the male partner in a heterosexual relationship.

Only one partner can take adoption leave so the couple must decide who this will be. The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to statutory paternity leave and/or pay subject to meeting eligibility requirements (see Paternity Policy for details). Shared Parental Leave is also available to employees adopting (see Shared Parental Leave Procedure Guide).

Where more than one child is adopted under the same arrangement, the entitlement for adoption leave (and paternity leave) is the same as for one child.

I.3 Scope

This policy and procedure applies to all (insert name of school) teaching staff.

1.4 Eligibility

Adoption Leave

To be eligible for adoption leave, an employee must:

- Be an employee of *insert name of school*
- Be newly matched with a child for adoption by an adoption agency
- Produce documentary evidence of adoption (see below)
- Have notified the adoption agency that they agree that the child should be placed with them and that they agree with the date of placement
- Have not already taken adoption leave in relation to this child as part of a 'fostering to adopt' arrangement

Employees are eligible for adoption leave from their first day of employment.

Statutory Adoption Pay (SAP)

To be eligible for SAP an employee must:

- Have at least 26 weeks' continuous service with the current employer ending with the week in which they are notified of having been matched with a child.
- Have average weekly earnings of no less than the lower earnings limit for National Insurance, in the eight weeks up to and including the week in which the employee is notified of being matched with a child.
- Have elected to receive SAP (if part of a couple adopting jointly)
- Be absent from work due to adoption leave

Employees must give their employer documentary evidence from their adoption agency as evidence of their entitlement to statutory adoption leave and pay. Employees should ask their adoption agency for this documentary evidence which may be provided in the form of a matching certificate, which includes basic information on matching and expected placement dates.

2 Entitlement

2.1 Adoption Leave

All employees have an occupational entitlement to adoption leave.

- Ordinary Adoption Leave (OAL) for the first 26 weeks.
- Additional Adoption Leave (AAL) follows on from OAL with no gap between the two. AAL can last for up to 26 weeks.

2.2 Adoption Pay

There are two types of adoption pay:

- Statutory Adoption Pay (SAP) which is funded by the Government, but paid via DELT Payroll services.
- Occupational Adoption Pay (OAP) which the Local Authority has chosen to extend to teachers as a contractual benefit.

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Eligibility for Occupational Adoption Pay (OAP)

Occupational Adoption Pay is a contractual benefit to eligible Teachers. Teachers with more than 1 years' service at the date of matching are entitled to receive OAP.

Occupational Adoption Pay is payable as follows:

First 4 weeks	Weeks 1-2	Full pay (offset against SMP payments)
Next 2 weeks	Weeks 5-6	90% of pay (offset against SAP payments)
Next 12 weeks	Weeks 7-18	Half pay plus SAP
Next 8 weeks	Weeks 19-26	SAP
Next 13 weeks	Weeks 27-39	SAP (as Additional AL)
Next 13 weeks	Weeks 40-52	Unpaid leave (as Additional AL)

Entitlement 2 – Teachers who not eligible for SAP but qualify for OAP

Teachers who do not meet the eligibility criteria for SAP will not have an entitlement to SAP. However, if they have at least one year's continuous employment with one or more local authorities or maintained schools at the beginning of the 11th week before EWC they will be entitled to the full benefits of the Burgundy Book scheme.

Eligible teachers under entitlement 2 will be entitled to the following benefits:

First 4 weeks	Weeks 1-4	Full pay
Next 2 weeks	Weeks 5-6	90% of pay
Next 12 weeks	Weeks 7-18	Half pay
Next 29 weeks	Weeks 19-52	Unpaid leave

Entitlement 3 –Teachers who are eligible for SAP but not OAP

Teachers who meet the eligibility criteria for SAP but do not have at least one year's continuous employment with one or more local authorities or maintained schools at the beginning of the 11th week before EWC, will not be entitled to the occupational maternity provisions of the Burgundy Book, although they can benefit from maternity pay and leave under the statutory maternity scheme.

Entitlement 4 – teachers who are not eligible for SAP or OAP

Teachers who do not meet the eligibility criteria for SAP or OAP (set out above) will be entitled to take up to 52 weeks' adoption leave but will have only limited statutory entitlements to pay.

Statutory Adoption Pay

SAP is payable for up to 39 weeks.

If the employee qualifies for SAP it will be paid for a period of up to 39 weeks.

Higher rate SAP is 90% of average weekly earnings for the first six weeks, then;

The fixed statutory amount for the next 33 weeks or 90% of average weekly earnings if earnings are less than the fixed rate.

SAP rates are fixed by Government and are subject to tax and National Insurance deductions. Full details of the rates of SAP, how and when it may be paid can be obtained from DELT Payroll Services.

If the employee returns to work before the end of the 39 week period, they will stop receiving SAP. To make use of Shared Parental Leave and Pay, the employee should refer to the Shared Parental Leave Guide and the relevant forms.

If an employee has elected to receive SAP instead of SPP, they are required to declare this to DELT Payroll services.

2.3 Repaying Adoption Pay

If a Teacher received OAP during their absence and has declared their intention to return to work, they must return for a period of 13 weeks in order to 'protect' their contractual adoption payments. If a Teacher returns to work on reduced hours, the 13 week period will need to be extended i.e. if returning on a 0.5 contract a Teacher will be required to return to work for a total of 26 weeks to protect their contractual adoption payment. Returning to another post within Plymouth City Council under these conditions will ensure contractual adoption pay is protected. However should a teacher either return to a teaching post with an employer other than Plymouth City Council or transfer to an employer other than Plymouth City Council within the 13 weeks period (or extended period), contractual adoption pay will cease to be protected and will be recoverable either in whole or in part depending on the circumstances.

If the Teacher does not return for the full 13 week period he/she will be required to repay the 12 weeks of half occupational adoption pay. If he/she knows that he/she intends to leave he/she can elect not to receive this payment. The school's Payroll provider will advise of the exact amount.

Where parental leave is taken as a full time block of leave following adoption leave, a Teacher will be required to refund OAP unless he/she returns to local authority employment for a period of at least 3 months after the end of the parental leave period.

There is no requirement to refund SAP payments received.

2.4 Pre-adoption entitlement

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 appointment must have been arranged by or at the request of the adoption agency.

Time off to attend an adoption appointment is capped at six-and-a-half hours on each occasion, although individuals should only take the time that they need to attend the adoption appointment.

The time off must be taken before the date of the child's placement for adoption with the individual.

3. Adopting a Child from the UK

3.1 Notification requirements

The employee must notify their line manager of their intention to take adoption leave, no later than 7 days of being notified of a match by the adoption agency, unless this is not reasonably practicable.

Evidence of adoption must be provided 28 days before the start of adoption leave to qualify for SAP.

Notification should include the start date of the leave, the date the employee was notified of the placement by the adoption agency, the expected date of placement and a declaration that they have elected to receive SAP rather than Statutory Paternity Pay (SPP). The Employee Request for Adoption Leave and Pay form should be used by employees to give these details. The line manager should make sure that employees complete this form, which will need to be signed by the line manager and the employee.

The employee should also provide the matching certificate from the adoption agency.

When an employee actually commences Adoption Leave, the line manager should complete a Manager Notification of Adoption Leave form (ADOPTNOTE) and send it to DELT Payroll services team.

Only the first section of the form (Form 1: Notification of commencement of leave) should be completed at this stage.

Within 28 days of receiving the employee's notice of intention to take adoption leave, DELT Payroll will write to the employee confirming the latest date on which the employee must return to work after Adoption Leave.

When the employee returns from Adoption Leave, the second section of the form (Form 2: Notification of return from leave) should be completed by the line manager and sent to DELT Payroll.

If the employee would like to receive statutory adoption pay, they will need to give DELT Payroll a written declaration that they have chosen to receive SAP and not Statutory Paternity Pay (SPP).

3.2 How to start adoption leave

Adoption leave can start either:

- 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.

It starts on the day the employee specifies in their notice. If the employee is at work on the day the placement starts, the adoption leave will start the next day.

3.3 Changes to placements

If an employee starts their adoption leave before the child is placed, they need to be sure that the placement is going to go ahead. If the placement is delayed once the employee has started their leave, they cannot stop their leave and start it again at a later date.

If, after the adoption has started, the placement ends for whatever reason, the employee's adoption leave will end eight weeks after the week in which the placement ends (or at the end of the adoption leave if this is sooner).

As the employee will be returning to work earlier than intended, they should give 8 weeks' notice of the early return. In many cases where no notice of the termination of the placement is given this will effectively mean the employee should notify the employer of their early return on the day the placement ends.

4. Adopting a Child from Overseas

To qualify for leave and pay, an employee who adopts from overseas must have received a written official notification from the Secretary of State for Health which confirms that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

There are a number of modifications to the statutory adoption scheme for employees adopting a child from overseas, as follows:

4.1 Notification requirements

The employee must provide the following information at least 28 days (where reasonably practicable) before an employee wants their adoption leave to start:

- A copy of the official notification
- The date they received the official notification
- Their name and address
- The date the child is expected to enter Great Britain or
- On a specified date within 28 days after the child enters Great Britain If the child has already entered Great Britain, the date they entered plus evidence (eg plane tickets) within 28 days of that date.
- The date they expect their adoption leave to begin (at least 28 days before they want their leave to begin)
- A written declaration that they have elected to receive SAP and not SPP.

When an employee adopts a child from overseas their adoption leave cannot begin until the child enters Great Britain.

The employee must notify their employer as soon as reasonably practicable if the child is no longer going to enter Great Britain.

4.2 Changing the start date of overseas adoption leave

To remain entitled to statutory adoption leave, where the child has not entered Great Britain on the expected date the employee must inform their employer of the new date they expect their leave to start. This can either be the new date the child is expected to enter Great Britain or a specified date within the 28 days of when the child is expected.

5. Conditions of Employment

Employees who are adopting have the right not to be dismissed or discriminated against for any reason connected with the adoption.

During the period of adoption leave, the employee's contract of employment continues in force. An employee is expected to continue to comply with the terms and conditions of their contract while on adoption leave and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a laptop and mobile phone) will continue and contractual annual leave entitlement will continue to accrue.

If a backdated pay rise is awarded which took effect during the eight week period used to calculate SAP, the pay increase will be taken into account and any arrears due will be paid.

5.1 Dismissal

If an employee is dismissed during adoption leave this will bring their adoption leave to an end. They will still be entitled to receive their full statutory adoption pay if the employee has satisfied the qualifying conditions for SAP but will cease to be entitled to the benefit of any contractual terms and conditions.

5.2 Redundancy

If employment ends before the employee has started their adoption leave, SAP will start 14 days before the expected day of placement, or on the day after the last day of employment where this is within that 14 days' period. The employee will not need to have complied with the notice requirements in these cases. However, the employee should still provide evidence of their entitlement.

If a redundancy situation has arisen whilst the employee is on adoption leave and for 18 months from the day of placement or, in the case of overseas adoptions, from the date the child enters Great Britain, they have the right to be offered suitable alternative employment within the school. Where an appropriate vacancy exists the employee must be offered the alternative employment under a new contract that begins on the day immediately following the day on which their previous contract comes to an end. The new work must be suitable in relation to the employee and appropriate for them to do under the circumstances, and the new terms and conditions must not be substantially less favorable than those of the previous contract. Where a suitable vacancy exists and the employer fails to offer it, the employee's dismissal will be automatically unfair.

However, where the employee rejects the alternative employment, or no suitable vacancy exists, the employer is entitled to dismiss by reason of redundancy. Refer to the school's Redundancy Policy for further details on redundancy.

5.3 Teachers' Pension Scheme

If the teacher is a member of the Teachers' Pension Scheme (TPS) and receiving contractual or statutory pay, the period will count in full for pension purposes. If the employee does receive pay, then they will pay the normal percentage rate, but only on the actual pay received, with the School also paying any required employer contributions under the scheme regulations. If no pay is being received, membership of the scheme will cease for the period that is unpaid and contributions will be paid, by either the school or the employee, during any period of unpaid adoption leave.

For further advice/information on TPS, please contact the Teachers' Pension Scheme directly.

5.4 Annual Leave

Teachers do not have a contractual entitlement to paid annual leave or a specified annual leave year; however, teachers are entitled to 28 days' statutory annual leave under the Working Time Regulations. A teacher who takes adoption leave must be able to take the 28 days statutory annual leave at a time outside of their adoption leave. This entitlement can be offset by any period of school closure that has taken place in the leave year in question. **This is not an additional entitlement to annual leave on top of the current school closure arrangements.**

A teacher should be advised prior to commencing their adoption leave that they have a statutory entitlement to 28 days annual leave and that this should be taken either before or after the adoption leave period during school closure periods. On their return from adoption leave, a teacher must be allowed to take any outstanding leave during term time during the leave year if there are insufficient school closures to accommodate their leave in that leave year;

Where the return from adoption leave is so close to the end of the leave year that there is not enough time to take all her annual leave entitlement, a teacher must be allowed to carry over any balance of their leave to the following leave year. It is not possible for either the teacher or the authority 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. It will not be possible for a teacher to obtain payment in lieu of untaken annual leave instead of taking leave, unless the teacher does not return to their job following adoption leave. For advice on entitlement in that scenario please contact your school's HR Provider.

5.5 Leave year

The leave year is defined as the same as the academic year 1st September to August 31st

5.6 Public Holidays

Teachers do not have a contractual entitlement to paid leave on public or bank holidays. In the case of Easter or May Day falling during term time, the holiday will be classed as a school closure which counts against the statutory annual leave entitlement of 28 days.

Examples of scenarios relating to holiday entitlement can be found in the teachers' maternity policy.

6 Returning to Work

6.1 Right to Return to Work

Employees have the right to return to the same job on no less favourable terms and conditions if they have been on adoption leave for 26 weeks or less (Ordinary Adoption Leave; OAL). This remains the case even if the employee takes up to four weeks parental leave immediately after ordinary adoption leave.

If the employee takes leave for more than 26 weeks (Additional Adoption Leave: AAL), they have the right to return to the same job unless this is not reasonably practicable. We will endeavour to keep the same job available but if this cannot be done then the employee will be offered a suitable and appropriate job and the terms and conditions will be no less favourable. If suitable employment is offered and the employee refuses the position he/she will have effectively resigned.

6.2 Return to Work

Before a teacher commences adoption leave, DELT Payroll will advise on the date the teacher is expected to return. This will be based on the teacher taking their full entitlement to adoption leave.

Employees who intend to return to work at the end of their full adoption leave entitlement will not have to give any further notification. It will be assumed that they will return to work on the first available working day after the last date of their maternity leave.

Under the provisions of the Burgundy Book (Conditions of Service for School Teachers in England and Wales) teachers who want to return before the end of their adoption leave must give at least 21 days' notice of the date they intend to return to work.

Where an early return date has already been agreed and the employee wishes to change this date again a further period of 21 days' notice must be given.

Failure to give the correct notice of an early return may result in the employee's return being postponed for the period of the notice required, or until the end of their adoption leave entitlement, whichever is sooner. If the employee returns to work early, the payment of adoption pay will cease on their return.

If a teacher is unable to return to work at the end of their adoption leave due to sickness, normal sickness procedures will apply.

If an employee brings their adoption leave to an end before 52 weeks, they may be entitled to share the remainder of their leave with their partner under Shared Parental Leave (see the Shared Parental Leave Procedure Guide for full details).

6.3 On the Return to Work

The line manager will complete the second part of the Manager Notification of Adoption Leave form. This will notify Payroll that the employee has returned from adoption leave and will trigger the start of normal pay.

The line manager should also offer a re-induction where necessary/requested and provide an update for the employee on any elements that they may have missed during the leave period.

Flexible Working

An employee returning to work after adoption leave has no statutory right to do so on a part-time basis.

Employees are entitled to request flexible working, please refer to the schools' model policy on Flexible Working.

6.4 Choosing Not to Return to Work

If an employee resigns whilst on adoption leave they should give the required notice under their contract of employment. The last day of service will be their last day of adoption leave, unless they give written notice to resign on an earlier date.

Eligibility for SAP is not in any way connected with, or dependent on, the employee's decision whether or not to return to work after adoption leave. Thus if an employee resigns from employment, or is dismissed (e.g. for redundancy), payment will still be made provided they meet all the qualifying conditions.

N.B. There is no requirement to repay Statutory Adoption Pay.

7. Parental Leave (Unpaid)

Employees who have completed one years' continuous service, whether before or during adoption leave, are entitled to parental leave, which may be taken immediately after adoption leave (subject to Parental Leave notice requirement – see the schools' model Parental Leave policy).

Returning to work after ordinary adoption leave followed by parental leave

An employee returning to work after ordinary adoption leave followed by a four weeks parental leave (maximum in any leave year 01 April to 31 March) or less than four weeks, is entitled to return to their original job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen in which case the employee is entitled to be offered a suitable alternative vacancy where one exists.

Returning to work after additional adoption leave followed by parental leave

An employee returning to work after additional adoption leave followed by four weeks parental leave (maximum in any leave year) or less than four weeks, is entitled to return to their original job, unless it is not reasonably practicable, a job that is similar in terms of duties, skills, status and rewards, i.e. the terms and conditions will be no less favourable.

7.1 Shared Parental Leave

If an employee brings their adoption leave to an end before 52 weeks, they may be entitled to share the remainder of their leave entitlement with their partner under Shared Parental Leave (see the schools' Shared Parental Leave Guide for full details).

7.2 Returning to Local Government service following a break for family reasons

Where an employee returns to Local Government service following a break for reasons concerned with caring for children or other dependents, he or she will be entitled to have previous service taken into account in respect of the sickness and maternity scheme entitlements provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.

An employee can have a break in service of more than eight years for family reasons and as long as they have not had full time employment their continuous service will be recognised for annual leave entitlements.

Please contact the school's HR Provider if you require further advice on continuity of service.

8 Keeping in Touch (KIT) Days

Employees can work for up to ten days during adoption leave. These work days are called Keeping in Touch (KIT) days, and do not trigger the end of adoption leave or affect entitlement to SAP.

KIT days are not compulsory. The school offers KIT days; however the employee is under no obligation to use them if they do not wish to do so. They do not have to be consecutive and can be used to attend any work-related activity including training, conferences, meetings etc. KIT days can be used before or after the placement.

Employees who do work on a KIT day will be entitled to their normal rate of pay for the day/half day that they work, which will be offset against SAP (if the KIT day occurs during the period when SAP is received). Working for part of a day will still count as one KIT day, out of a total of ten. The total duration of the adoption leave period will remain the same regardless of whether or not the employee works on a KIT day, therefore the adoption leave period will not be extended or reduced as a result. If a line manager and employee arrange KIT days, the line manager should advise DELT Payroll, using a 'Keeping in Touch Days Record', so appropriate payments can be arranged.

9 Contact during Adoption Leave

During the adoption leave period the school encourages either the manager or another member of the team to keep reasonable contact with the employee. For example, the line manager may contact the employee to discuss various school updates and/or their plans to return to work. Prior to the employee starting adoption leave, the line manager should discuss this with the employee, including the ways in which they would like contact to be maintained. Any discussions should be recorded on the employee's personal file for the duration of the adoption leave. The employee can amend this at any time during the leave. These conversations are not counted as KIT days.

Shortly before the employee returns to work, the line manager may invite them to have a discussion (in person or over the telephone) about the arrangements for their return to work.

10 General

Teachers are strongly encouraged to exercise their right to return to work. If a teacher resigns instead of taking adoption leave, they will forfeit their right to return to work at a later date.

All periods of time which employees take off work as adoption leave are subsequently counted as continuous service for the purposes of calculating any occupational rights that are service-related.

Thus, once the employee has returned to work, their length of service is calculated as if they had never been absent.

If employees have any queries regarding their rights or obligations under (name of school) adoption policy, they should raise them in the first instance with their manager. If there are any further questions please refer to the School's HR Provider.

Forms relevant to this policy:

Employee Request for Adoption Leave and Pay

Manager Notification of Adoption Leave