

# Adoption Pay and Leave Policy for Support Staff

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Please note that all Trust policies are reviewed annually. Should you have any queries regards this policy, note an omission or wish to propose an amendment, please email [sconnor@strathmore.richmond.sch.uk](mailto:sconnor@strathmore.richmond.sch.uk).

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## 1. Scope

This policy applies to all support staff in schools, and takes into account the changes under the Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2008.

The recognised trade unions have been consulted.

## 2. Policy/Purpose

This model policy sets out adoption leave and pay entitlements and procedure for employees to request leave who have been matched by an adoption agency with a child for the purposes of adoption on or after [5<sup>th</sup> April 2019](#).

Within the policy reference is made to 'the school's HR consultant'. Currently Clarendon uses [Action>HR](#) and Strathmore and Capella use [Schools HR](#). Contact details can be obtained from the respective School Business Managers.

## 3. Qualifying Criteria

Male and female employees are eligible for adoption leave and pay provided they are notified that they have been matched with a child by an approved adoption agency.

The right is for one parent to receive adoption leave and pay and the other adoptive parent is likely to have the right to paternity leave.

To be eligible you must:

- Be the child's adopter
- Have agreement from the adoption agency that the child will be placed with you and the date of placement.
- Be absent from work due to adoption leave.
- Not be in receipt of paternity leave.

You do not qualify for adoption leave and pay if you:

- Arrange a private adoption
- Become a special guardian or kinship carer
- Adopt a stepchild
- Adopt a family member or stepchild

## 4. Confirming the Adoption

You should inform your manager of your intention to adopt as early on in the process as possible.

You will need to provide the school with evidence from the adoption agency that matches you with a child (Matching Certificate). This documentation will state your details, details of the adoption agency, the date notified as having been a match and the expected date of placement.

## **5. Right to take time off to attend adoption appointments**

The Children and Families Act 2013 introduces a new right to attend adoption appointments. The main adopter will be able to take paid time off to attend up to 5 adoption appointments. If there is a secondary adopter, they will be able to take unpaid time off to attend up to 2 adoption appointments.

## **6. Adoption Pay**

### **6.1 Statutory Adoption Pay (SAP)**

There are two rates of SAP:-

- Higher rate of SAP: 90% of your salary
- Lower rate of SAP: **£148.68** or 90% of your salary whichever is the lower amount. This rate is reviewed each April.

SAP is paid by the employer in the same way, time and frequency as your normal salary and it is subject to tax and National Insurance deductions.

To qualify for SAP you have to meet conditions based on your length of service and level of earnings as below:-

- ❶ You must have at least 26 weeks' continuous service with the employer by the date of placement.
- ❷ Your earnings must be above the lower limit for National Insurance Contributions, currently **£118.00** per week before tax.

### **6.2 Adoption Allowance (AA)**

If you do not qualify for SAP you may be able to claim AA from your Job Centre Plus office/Social Security Office, provided that you satisfy the National Insurance Contributions conditions based on your previous employment or self employment.

Payments are made weekly for a maximum period of 39 weeks and are paid out at the same rate as SAP.

If you have been assessed as not being entitled to SAP, you will be sent a SAP1 Form from your school's payroll provider.

### **6.3 Occupational Adoption Pay (OAP)**

OAP is conditional to you having not less than 52 weeks' local government service by

the week you are matched with a child, and on you returning to work for 13 weeks, or an equivalent extended period if returning on reduced hours, at the end of your adoption leave. OAP is paid at equivalent to 50% of your salary for a period of 12 weeks. You can choose to receive this payment as follows:-

- ❶ over a period of 12 weeks following the first 6 weeks' at SAP or AA (and concurrent with the lower rate SAP),
- ❷ spread over the 33 weeks following the first 6 weeks' at SAP or AA (and concurrent with the lower rate SAP)
- ❸ when you return to work at the end of your adoption leave when it will be paid to you as one lump sum.

In the event you do not return to work for the specified equivalent period after the end of your adoption leave, and OAP has been paid to you during your adoption leave, you will be required to repay the OAP element of the adoption pay including the corresponding National Insurance Contributions.

#### **6.4 Entitlement to Adoption Pay**

Entitlement to adoption pay and the corresponding qualifying criteria is set out below and in the Adoption Pay & Leave Chart at Appendix 1:-

**An employee with 52 weeks' continuous local government service by the week they are matched with a child for adoption, and meet the qualifying criteria for SAP as stated above, will receive adoption pay as follows:-**

- 6 weeks at 90% of salary, offset against payments made by way of SAP
- 12 weeks at 50% of salary (OAP) plus lower rate SAP
- 21 weeks at lower rate SAP

The remaining period of adoption leave i.e., 13 weeks will be on an unpaid basis.

**Employees with 52 weeks' continuous local government service by the week they are matched with a child for adoption, but who do not meet the qualifying criteria for SAP as stated above, will receive adoption pay as follows:-**

- 6 weeks at 90% of pay, offset against payments made by way of AA
- 12 weeks at 50% of salary (OAP) plus AA if eligible
- There is no entitlement to SAP
- You may be entitled to AA for the remaining 21 weeks (Eligibility for AA will be assessed and paid by your local Job Centre Plus/Social Security Office).

**Employees with less than 52 weeks' continuous local government service by the week they are matched with a child for adoption, but who meet the qualifying criteria for SAP as stated above, will receive adoption pay as follows:-**

- 6 weeks at 90% of salary i.e., higher rate SAP
- 33 weeks at lower rate SAP

- There is no entitlement to OAP

The remaining period of adoption leave i.e., 13 weeks will be on an unpaid basis.

**Employees with less than 52 weeks' continuous local government service by the week they are matched with a child for adoption, and who do not meet the qualifying criteria for SAP as stated above:-**

- No entitlement to SAP
- No entitlement to OAP
- May be eligible for AA (Eligibility for AA will be assessed and paid by your local Job Centre Plus/Social Security Office).

## **7. Adoption Leave**

Male and female employees who have been matched with a child by an approved adoption agency are entitled to take up to 52 weeks' adoption leave regardless of number of hours worked and length of service.

The right is for one parent to receive adoption leave and pay and the other adoptive parent is likely to have the right to paternity leave.

### **7.1 Ordinary Adoption Leave (OAL)**

You are entitled to 26 weeks' OAL during which time your contract continues and you will continue to receive your contractual benefits except for pay. You are entitled to return to the same job on the same terms and conditions of employment as if you had not been absent (unless a restructuring or redundancy situation has arisen).

### **7.2 Additional Adoption Leave (AAL)**

You are entitled to 26 weeks' AAL. This will start immediately after OAL i.e., there cannot be a gap between OAL and AAL. Your contract will continue and you will continue to receive your contractual benefits except for pay. You are entitled to return to the same job on the same terms and conditions of employment as if you had not been absent. However, if this is not reasonably practicable you will be offered a job that is suitable and appropriate with terms and conditions that are no less favourable than those of your original job.

### **7.3 Starting your Adoption Leave**

Adoption will commence on either of the following two dates:

- The date the child is placed with you for adoption i.e., when the child starts to live with you permanently; or
- A date which is no more than 14 days before the expected date of placement i.e., when the child starts to live with you permanently.

#### **7.4 'Keeping in Touch (KIT) Days' - Working during adoption leave**

You may, by agreement with the school, work for up to 10 days during your adoption leave, without losing any benefits.

The KIT days do not have to be consecutive and may be used for an activity, which would normally be classed as work under your contract of employment, for which you would be paid and can include training events, attending meetings etc. Any work and the type of work undertaken during the adoption leave period must be by agreement with the school and yourself; there is no obligation on either party for work to be offered or accepted respectively. Part days worked will count as whole days and you will be paid your normal daily rate of pay for days worked, and offset by SAP if there is an entitlement.

Forms at Appendix G and H can be used to record KIT days and to submit for payment respectively.

#### **7.5 Reasonable Contact during adoption leave**

Your manager is allowed to make reasonable contact with you during your adoption leave to discuss such issues as your return to work. This does not constitute 'work' and would not therefore count towards the 10 KIT days. This is also useful in order to keep you informed of other issues such as job vacancies, significant developments in the workplace and training opportunities.

### **8. Responsibilities: Employee, Headteacher/Manager, Schools HR**

Please see Appendix B for your specific responsibilities and those of your Headteacher / Head of School and school's HR consultant.

### **9. Notification of Adoption Leave**

If you fail to give the required notifications within the specified time limits you may lose your right to adoption pay and to start adoption leave on your intended start date.

You must give notice, in writing, of the intention to take adoption leave within 7 days of having been notified of a match with a child for the purposes of adoption. You must state the expected date of placement and the date the adoption leave will begin.

You are required to give the school 28 days' notice, in writing, of the date you wish to start your adoption leave, which can be a date up to 14 days before the expected date of placement. Where this is not practicable, notice should be given as soon as possible and leave will start on the date the child is placed for adoption.

If you later wish to change the intended start date, you need to give at least 28 days' notice before the amended start date.

The school's HR consultant will write to you within 28 days of your written notification to start adoption leave, setting out your adoption pay and leave entitlement and your

expected date of return based on the adoption leave start date notified by you.

The Step by Step Notification Process and procedure is given at Appendix C.

## **10. Early Return to Work**

If you wish to return to work from adoption leave earlier than the date originally agreed you must give 21 days' notice of the revised date of return to work. Failure to give the appropriate notice may result in the return being delayed. The Notification of Early Return to Work Form at Appendix I can be used.

## **11. Pension**

If you are a member of the Local Government Pension Scheme, any paid part of your adoption leave will count as pensionable service. This means that deductions will be made from all adoption pay you receive from the Employer. You can elect to pay contributions for the unpaid period of adoption leave when you return to work.

## **12. Arrangements unique to Surrogacy, Overseas Adoptions, and Fostering for Adoption**

### **12.1 Surrogacy**

You can get pay and leave if the child is due on or after [5<sup>th</sup> April 2019](#).

To qualify for SAP, you must have worked continuously for your employer for at least 26 weeks by the 15<sup>th</sup> week before the baby's due. All other conditions for qualifying for pay and leave are the same as for adoptive parents.

You must inform your employer the due date and when you want to start your leave at least 15 weeks before the expected week of birth. Your employer may also ask for a written statement (statutory declaration) to confirm you've applied or will apply for a parental order in the 6 months after the child's birth. This needs to be signed in the presence of a legal professional.

### **12.2 Overseas Adoptions**

You must tell your employer:

- The date of your 'official notification' confirming you are allowed to adopt
- The estimated date the child arrives in the UK – within 28 days of getting the notification
- The actual date the child arrives in the UK – within 28 days of this date
- How much leave you want and your start date – giving your employer 28 days notice

### **12.3 Fostering for Adoption**

You are entitled to adoption pay and leave from when the child comes to live with you



subject to the other qualifying criteria.

## Support Staff Adoption Pay and Leave Chart

At least one year's continuous local government service by the week matched with a child	At least 26 weeks' continuous service with the Employer by the week matched with a child	Entitlement to Adoption Pay	Entitlement to Adoption Leave
Yes	Yes	<ul style="list-style-type: none"> <li>6 weeks' at 90% of salary</li> <li>12 weeks' at 50% of salary (OAP) plus SAP</li> <li>21 weeks' at lower rate of SAP</li> </ul>	26 weeks' OAL 26 weeks' AAL
Yes	No	<ul style="list-style-type: none"> <li>6 weeks at 90% of salary</li> <li>12 weeks at 50% of salary (OAP) plus AA if eligible</li> <li>May be eligible for AA for remaining 21 weeks</li> <li>No entitlement to SAP</li> </ul>	26 weeks' OAL 26 weeks' AAL
No	Yes	<ul style="list-style-type: none"> <li>6 weeks at 90% of salary</li> <li>33 weeks at the lower rate of SAP</li> <li>No entitlement to OAP</li> </ul>	26 weeks' OAL 26 weeks' AAL
No	No	<ul style="list-style-type: none"> <li>No entitlement to SAP</li> <li>No Entitlement to OAP</li> </ul>	26 weeks' OAL 26 weeks' AAL
SAP Rate: 6 weeks at the higher rate (90% of your salary) 33 weeks at the lower rate of £145.18 or 90% of your salary whichever is the lower NB: Eligibility to AA will be assessed and paid by your local Job Centre Plus/Social Security Office			

Key: SAP: Statutory Adoption Pay  
 AA: Adoption Allowance  
 OAP: Occupational Adoption Pay  
 OAL: Ordinary Adoption Leave  
 AAL: Additional Adoption Leave

**Responsibilities of Employees, Headteacher/Manager, Schools HR**

<b>Employees</b>	<b>Headteacher / Head of School</b>	<b>Schools HR Consultant</b>
<p>Employees have specific responsibilities they need to fulfil in order to be entitled to the appropriate adoption benefits:-</p> <ul style="list-style-type: none"> <li>• To inform the Headteacher of their intention to adopt as early on in the process as possible.</li> <li>• To give formal notification to the school of their intention to take adoption leave within 7 days of having been notified of match with a child for the purposes of adoption.</li> <li>• To provide 28 days' notice of the date they wish adoption leave to start.</li> <li>• To provide 28 days' notice if they wish to change the adoption leave start date from an earlier notified date.</li> <li>• To provide confirmation of adoption in the form of a Matching Certificate from the Adoption Agency.</li> <li>• To provide 21 days' notice of their intention to return to work from adoption leave if this is earlier than the original notified date.</li> </ul>	<ul style="list-style-type: none"> <li>• To provide any information related to the employee's adoption leave arrangements promptly to Schools HR so that they can provide the necessary advice and written notices within set timescales.</li> <li>• To keep in touch with the employee on a reasonably regular basis during the course of their leave so that they remain informed about developments at work.</li> <li>• To agree and arrange with the employee any necessary KIT days during the course of their leave. The School will also liaise with Schools HR to ensure appropriate salary payments are made for KIT days.</li> <li>• To allow the employee to return to the same job on the same terms and conditions (unless a restructuring/redundancy situation has arisen, which the individual would have been fully consulted about).</li> </ul>	<p>The school's HR consultant has a duty to provide accurate information and advice to the school and employees on adoption leave and pay related issues, and in particular:-</p> <ul style="list-style-type: none"> <li>• To confirm adoption leave and pay entitlement in writing to the employee within 28 days of receiving written notification of intention to adopt.</li> <li>• To notify the Payroll Provider accordingly within the same timescales to ensure timely accurate payment.</li> <li>• To notify the employee in writing of their expected return date based on the start date notified by them.</li> </ul>

### Step by Step Notification Process & Procedure

<b>Step 1</b>	<b>Employee advises manager of intention to adopt</b>	<i>As early on in the process as possible.</i>
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<b>Step 2</b>	<b>Employee formally gives notice of the intention to take adoption leave</b>	<i>Within 7 days of having been matched with a child for the purposes of adoption</i>
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<b>Step 3</b>	<b>Employee formally gives notice of the date they wish adoption leave to start</b>	<i>28 days before start date of adoption leave. Adoption leave cannot start any earlier than 14 days before the date of placement.</i>
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- You can use the Adoption Leave Request Form at Appendix B and send it to the School.
- Attach a copy of Matching Certificate from the Adoption Agency as confirmation of Adoption Leave.
- The School will forward the documents to Schools HR.

<b>Step 4</b>	<b>Schools HR write to employee</b>	<i>Within 28 days of receipt of written notification</i>
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Schools HR will confirm to you in writing your entitlement to adoption pay and leave and your expected date of return.

<b>Step 5</b>	<b>If you wish to change the start date of your adoption leave from a date notified earlier</b>	<i>Minimum 28 days' notice required before start date of revised date</i>
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If you wish to change your adoption leave start date, from a date you have notified earlier, you must notify the school in writing. You can use the form at Appendix E .

<b>Step 6</b>	<b>Notification of Early return from Adoption Leave</b>	<i>21 days' notice prior to the revised return date</i>
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If you wish to return to work earlier than the agreed date, you must notify the school in writing 21 days before the revised return date. Failure to give appropriate notice may result in the return being delayed. See Appendix I.

<b>Step 7</b>	<b>Return to Work</b>	<i>On return date</i>
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Your manager is required to carry out a return to work interview with you.

**Adoption Leave Request Form**

School: .....

**Employee Details**

Name: .....

Post Title: .....

Telephone Number: .....

**Adoption Details**

Date Matched with a Child: ...../...../..... (dd/mm/yy)

Expected Date of Placement: ...../...../..... (dd/mm/yy)

I would like to start Adoption Leave on ...../...../..... (dd/mm/yy)

Matching Certificate from Adoption Agency attached: Yes / No\*

\*(if No, please forward separately as soon as available)

**Occupational Adoption Pay**

Occupational Adoption Pay (OAP) represents payment equivalent to 12 weeks at 50% of salary. It is paid subject to your returning to work for a minimum of 13 weeks, or an equivalent extended period if returning on reduced hours, after your adoption leave.

If you qualify for Occupational Adoption Pay, please select one of the following options:-

- I intend to return to work after my adoption leave, and I would like OAP to be paid monthly, as half pay for 12 weeks following the 6 weeks at SAP/AA
- I intend to return to work after my adoption leave, and I would like OAP to be spread over the 33 weeks following the 6 weeks at SAP/AA
- I intend to return to work but cannot commit at this stage, and I would prefer for OAP to be paid to me as a lump sum on my return to work.
- I **DO NOT INTEND** to return to work following my adoption leave and am therefore not entitled to OAP.

Declaration: I understand that in the event that I do not return to work and have elected to have OAP paid to me during my adoption leave, I will be required to repay this element of the adoption pay and corresponding National Insurance Contributions.

Signed: .....

Dated: .....

**Notification of Change in Start Date of Adoption Leave**

School: .....

**Employee Details**

Name: .....

Pay Number: .....

Post Title: .....

Telephone Number: .....

**Start of Adoption Leave**

I wish to change the start date of my Adoption Leave.

The revised start date of my Adoption Leave will be: .....

Notification of change to the start date of your adoption leave must be received at least 28 days' before the intended start date of your adoption leave. Failure to give meet the notice period may result in loss of your right to adoption pay and to start adoption leave on the intended date.

Signed: .....

Date: .....



**Keep in Touch (KIT) Days Payment Form**

School: .....

**Employee Details**

Name: .....

Pay Number: .....

Post Title: .....

Telephone Number: .....

**Details of KIT Days for Payment**

KIT Days Worked		
Start Date	End Date	Total
Total Days to be paid		

Please send this form to the School in the month in which any KIT Days are worked so that payment can be made. Payment will be made at the employee’s normal daily rate of pay prior to starting adoption leave.

Signature:..... Date: .....  
 (Headteacher)



**Notification of Early Return to Work**

School: .....

**Employee Details**

Name: .....

Pay Number: .....

Post Title: .....

Telephone Number: .....

**Return to Work**

This is to notify you that I will be returning to work from adoption leave earlier than the previously notified date of ..... (date).

The revised date of my return to work from adoption leave will be ..... (date).

You must give at least 21 days' notice if you are returning to work earlier than the previously agreed return date. Failure to give the required period of notice may result in your return to work being delayed. Please return the form to the School.

Signed: .....

Date: .....