KALEIDOSCOPE
Multi Academy Trust

GUIDANCE ON ADOPTION LEAVE AND PAY

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GUIDANCE ON ADOPTION LEAVE AND PAY

Eligibility

Adoption leave and pay are available to you if you are:

- an individual who is adopting or
- one member of a couple who are adopting jointly (if you are one member of a couple who are adopting jointly, you and your partner must choose which of you is 'the primary adopter' and will take adoption leave and which is the 'secondary adopter' and may be entitled to paternity leave).

To be eligible for adoption leave you must:

- be an employee
- have been matched with the child to be placed with you by a UK adoption agency (*UK adoptions*) or have received the relevant UK authority's 'official notification' confirming you are allowed to adopt (*overseas adoptions*)
- have notified the agency that you agree that the child should be placed with you and to the date of placement (*UK adoptions*) or have notified the relevant authorities that you agree to the adoption (*overseas adoptions*)
- give the required notice and
- give proof of the adoption if requested.

If you are adopting from overseas you must <u>also</u> have continuous employment for at least 26 weeks by the time you get your official notification and (if you are adopting a child with your partner) have signed and submitted form SC6 to the School's Payroll provider confirming you are not taking paternity leave or pay.

If you are a surrogate parent who meets the criteria to apply for a Parental Order <u>and</u> you meet the other qualifying criteria, you are eligible for statutory adoption leave and pay. If you are fostering to adopt you also qualify for adoption leave and pay.

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

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a stepchild or family member.

Entitlement

If you are eligible, you can take up to 52 weeks adoption leave. This is made up of 26 weeks ordinary adoption leave followed by 26 weeks of additional adoption leave.

Adoption leave can commence:

- up to 14 days in advance of the expected date of placement but no later than the actual date of placement (*UK adoptions*)
- when the child arrives in the UK or within 28 days of this date (*overseas adoptions*)
- the day the child is born or the day after (*if you have used a surrogate to have a child*)

You can take only one period of leave even if more than one child is placed for adoption with you at one time.

Notification

You must notify the line manager and the School's Payroll provider of when you want to take your adoption leave within 7 days of the date on which you are notified of having been matched with the child (adoption) or at least 15 weeks before the expected week of birth (surrogacy).

You should use the Adoption Application Form available from the School or the School's Payroll provider. You should complete and return the form to the School's Payroll provider as soon as possible and provide a copy to the School.

Your notification should include the following information:

- that you intend to take statutory adoption leave
- when you intend to take the leave
- how much leave you intend to take
- the date the child is expected to be placed with you for adoption (*UK adoptions*)
- the date of your 'official notification' (*overseas adoptions*)
- the estimated date the child arrives in the UK (*overseas adoptions*) (you must supply this within 28 days of getting the notification)
- the expected date of birth (*if you are using a surrogate to have a child*).

If you are adopting from overseas you must also provide notification of the actual date the child arrives in the UK within 28 days of their arrival.

You should provide evidence of the adoption if you are requested to do so by the School (you are required to provide evidence if you qualify for Statutory Adoption Pay).

The evidence must show:

- your name and address and that of the agency
- the matching date (for example on the 'Matching Certificate') (*UK adoptions*)
- the date of placement (for example in a letter from the agency) (*UK adoptions*)
- the relevant UK authority's 'official notification' confirming you are allowed to adopt *(overseas adoptions)*
- the date the child arrived in the UK *(overseas adoptions)*

If you are using a surrogate to have a child, you may be asked for a written statement, signed in the presence of a legal professional, to confirm that you have applied or will apply for a parental order.

The School's Payroll provider will write to you within 28 days of the receipt of your notification confirming the start and end dates of your adoption leave and (where applicable) the start and end dates of your adoption pay and how much adoption pay you will receive.

If the date of placement (*UK adoptions*) or the UK arrival date (*overseas adoptions*) changes you must let your School know within 28 days.

If you wish to change the date of your adoption leave you need to let your line manager and the School's Payroll provider know as soon as possible. Provided you give at least 28 days' notice you will be able to change the date unless this is not reasonably practicable.

If you are unable to specify a date at the time you originally give notice, you must give further notice of the actual date as soon as reasonably practical. (If you are unable to specify an actual

date you should specify that your leave will start on the date of placement / arrival in the UK or a fixed number of days after the date of placement / arrival in the UK.)

Adoption Pay

Statutory Adoption Pay (SAP)

You are entitled to receive Statutory Adoption Pay (SAP) if you:

- qualify to take ordinary adoption leave
- have been continuously employed[1] for a period of not less than 26 weeks ending with the week in which you were notified of being matched with the child (*UK adoptions*) or by the time you get your 'official notification' (*overseas adoptions*) or by the 15th week before the baby is due (*surrogacy*)
- earn on average not less than the lower earnings limit[2] for NI contributions
- give the required notice and
- give proof of the adoption or surrogacy.

SAP is the same as SMP. SAP is payable for up to 39 weeks. The first 6 weeks are paid at 90% of your average weekly earnings[3], followed by 33 weeks at a standard flat rate (from April 2022, £156.66) or 90% of your average weekly earnings (whichever is lower). (The standard flat rate is normally increased in April each year and further information is available from the GOV.UK website: https://www.gov.uk/business-tax/paye)

You must give a minimum of 28 days' notice in order to receive SAP. *For further information about the receipt of statutory pay, see the statutory adoption pay section.*

If you are not eligible for SAP, the School's Payroll provider will send you form SAP1 explaining why you cannot receive it.

Occupational Adoption Pay (OAP)

To qualify for Occupational Adoption Pay (OAP) you need to have completed one years' continuous employment as at the beginning of the 11th week before the expected date of the placement of the child with you[4].

OAP is paid over a total of up to 18 weeks. If you are a member of support staff the first 6 weeks is at nine-tenths of your normal week's pay[5] and if you are a teacher the first four weeks are at full pay and the next two weeks at nine-tenths of your normal week's pay. Your next 12

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[1] With regard to statutory adoption pay, if you are a teacher or a member of support staff at a LA maintained school, continuous employment means continuous employment with North Somerset Council or a Local Authority school in North Somerset and if you are a teacher or a member of support staff in an Academy it means continuous employment with the individual Academy.

[2] The Lower Earnings Limit is the amount of gross weekly earnings that allow you to qualify for certain state benefits. This usually changes each April and is, from April 2022, £123. For further information, go to www.gov.uk

[3] If the standard rate is higher than your average weekly earnings then the standard rate or your full pay whichever is lower will be paid to you for the first 6 weeks.

[4] With regard to occupational adoption pay, if you are a teacher in a LA maintained school, continuous employment means continuous employment with one or more Local Authorities (including any LA schools); if you are a member of support staff in a LA maintained school continuous employment means continuous employment with any organisation covered by the 'modification order' - including any Local Authority, LA school or Academy; if you are a teacher or a member of support staff in an Academy it means continuous employment with the individual Academy *unless the Academy recognizes service with other Academies or LA schools for the purposes of occupational maternity pay.*.

weeks' entitlement will be at half pay provided you return to work for a period of at least 3 months (if you are a member of support staff) or 13 weeks (if you are a teacher) at the end of your Adoption Leave.

You can choose when the 12 weeks' half pay is paid to you. You can request that it is paid directly after the first 6 weeks, in addition to your SAP OR you can request that it is paid to you in one lump sum once you return to work. You should ensure you inform the School's Payroll provider of your choice on your adoption leave application form.

If you do not return to work for at least 3 months (if you are a member of support staff) or 13 weeks (if you are a teacher) and you elected to receive the 12 weeks' half pay during your leave you will have to refund it to the School.

If you are a teacher and you return to work on a part-time basis, you will need to complete a proportionately longer period of service. For example: if you return on a 0.5 basis you will need to return for 26 weeks in order to receive / retain the 12 weeks' half pay OMP.

If you are eligible to receive both OAP and SAP you will be entitled to receive:

- *if you are a member of Support Staff* - first 6 weeks: 9/10ths of a week's pay[6]
- *if you are a Teacher* – first 4 weeks full pay then 2 weeks 9/10ths of a week's pay
- next 12 weeks: half pay (OAP) plus SAP (provided this figure does not exceed your normal weekly pay rate)
- next 21 weeks: SAP only.

General information on adoption pay

If you decide to take the full 52 weeks leave, you will not receive any pay for the last 13 weeks of your adoption leave.

Adoption Pay will be paid to you in the normal way on the last working day of the month. Tax and national insurance will be deducted.

You must notify the School and the School's Payroll provider as soon as possible of any change in circumstances which may affect your entitlement to receive adoption pay.

For further information on adoption pay please contact the School's Payroll provider.

Contact and Work during Adoption Leave

Contact

The School is entitled to make reasonable contact with you whilst you are on adoption leave.

Keeping in Touch (KIT) Days

In order to maintain contact whilst on adoption leave, you can undertake up to 10 'days'' paid work by mutual agreement with the school. These days are known as KIT days. They can, for example, be used for training, staff updates or to ease the return to work process. A KIT 'day'

[4] Unless this is lower than the standard flat SMP rate, in which case the standard rate or your full pay whichever is lower will be paid to you for the first 6 weeks.

can be for any length of time from an hour to a full day. Payment will be at the normal hourly rate for your role and you will be paid for the number of hours you work on a KIT day.

Your line manager will need to notify the School's Payroll provider of the hours and dates of any KIT days you work.

Adoption appointments

If you are the 'primary adopter' you are entitled to take paid time off for up to five adoption or introductory appointments. If you are the 'secondary adopter' you are entitled to take unpaid time off for up to two appointments. You must produce evidence of appointments if requested to do so.

Annual Leave

Whilst on adoption leave you still accrue annual leave and bank holidays in the same way you would if you were at work.

If you are a teacher or a term time only member of support staff, your accrued leave will be taken during school holidays.

All year round support staff

You should take all accrued leave within the applicable leave year wherever possible.

If you are an all year round employee, you are recommended to consider:

- taking all leave accrued up to the start of your adoption leave prior to the start of your adoption leave
- *if this is not possible* adding the annual leave you have accrued whilst on adoption leave to the end of your adoption leave
- *if you are planning on returning on different hours* changing your hours after your period of annual leave

If you are an all year round employee and you return to work on a different number of hours, your annual leave accrued whilst on adoption leave will be based on your working hours prior to adoption leave.

Return to Work

You are requested to notify your line manager and the School's Payroll provider in writing of your intended date of return to work at least 8 weeks in advance and must do so at least 21 days' prior (If your return date changes the same notice provisions apply.)

If you give a notice period of less than the required period your return to work may be postponed to ensure the full required notice is received.

You must return to work at the end of the 52 weeks leave unless you have given notice of your resignation.

If you are unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

You have the right to request a permanent change to your working pattern effective from your return to work. *Please refer to your School's Flexible Working Policy for further information.*

If you have taken 26 weeks' leave or less you have the right to return to the same job. If you have taken more than 26 weeks' leave you have the right to return to the same job or, if this is not possible, a suitable alternative. The terms and conditions which apply on your return should be no less favourable than those which would have applied had you not been absent.

You are recommended to plan your return to work as early as is practicable.

Resignation

If you decide not to return to work after your adoption leave you must inform your line manager and the School's Payroll provider in writing giving the required notice of termination.

If you are a member of support staff you are required to give your contractual notice. If you are a teacher you are you are requested to give notice as soon as possible and must give at least 21 days' notice.

If you intend to resign rather than take adoption leave you must still give the required notice of termination as stated above.

Temporary Contracts and Adoption Leave

If you are on a temporary contract and your contract ends, your adoption leave will end with the contract.

Pension Information

Pensionable pay is the element of your pay from which your pension contribution is calculated.

Assumed pensionable pay is the amount of pensionable pay you would have received had you not taken adoption leave. This is determined by the average pensionable pay for the three complete pay periods prior to the start of your unpaid adoption leave.

Support Staff

If you are a member of support staff you will accrue 1/49th of your assumed pensionable pay (or 1/98th of your assumed pensionable pay if you have opted for the 50/50 scheme) during your period of ordinary adoption leave and any period of paid additional adoption leave.

You will accrue 1/49th of the actual pensionable pay received for a Keep in Touch (KIT) day during periods of paid adoption leave if this is greater than 1/49th of assumed pensionable pay (or 1/98th if you have opted for the 50/50 scheme)

For any period of unpaid adoption leave, you can elect to pay optional Additional Pension Contributions to buy back the 'lost' pension at any time. If you elect to do so within 30 days of your return to work, the contribution is shared between you as the employee (1/3) and the School (2/3).

The amount of pension you purchase will be added to the pension accrual for the year in which the additional contributions are made. If you elect not to make APCs then the pension accrual

will be less. However, if you work a KIT day during a period of unpaid adoption leave, you will accrue 1/49th of pensionable pay received for the KIT day (or 1/98th if you have opted for the 50/50 scheme).

Existing Additional Pension Contributions (APCs)

If you are already paying APCs, these remain payable for the period of unpaid adoption leave. These payments will be rolled over and recovered from your pay once your period of adoption leave has ended.

Existing Additional Voluntary Contributions

AVCs will only be deducted while your level of pay allows them to be. You will need to contact the School's Payroll provider if you wish to continue making AVC payments once you enter the period of unpaid adoption leave.

Teachers

If you are a teacher, adoption leave is treated as pensionable employment as long as you are receiving at least half pay or are being paid statutory adoption pay.

Unpaid adoption leave will not count as pensionable employment and buy-back is not possible under the Teachers' Pensions scheme.

All our policies and guidance can be found at http://www.supportservicesforeducation.co.uk/

Trustee Board Chair 3/5/2023