

Author	Sandra Peacock	Target group	All employees and consultants
Owner	CfBT Schools Trust	Consultation outcome	Agreed with all recognised trade unions
Consultation period	February to March 2019	Next review due	April 2021
Issued	April 2019		

This policy applies to the whole of CfBT Schools Trust (CST), including all schools.

Policy: Family Friendly & Leave of Absence Policy 2: Adoption Leave and Pay

Introduction and purpose

This document sets out the statutory and contractual entitlements for:

- an individual who adopts a child
- one member of a couple, where the couple jointly adopt a child
- an individual who is using a surrogate to have a baby

Scope

This policy applies to all staff employed by CST, including directly employed central team staff, the Education Executive team (EET) (this term includes the CEO and Education Directors), Headteachers, teachers, NQTs and school support staff.

For the purposes of this policy the term ‘Headteachers’ includes Headteachers and Principals. In this policy, the term ‘teacher’ refers to classroom teachers, middle and senior leaders.

Accessibility

A copy of this policy and a copy of all relevant documents will be made available for all staff. The policy is also available in hard-copy on request and can be made available in large print or other accessible formats if required.

The Right to Adoption Leave

There is no qualifying period for adoption leave. You are entitled to adoption leave from day one of employment if you have been newly matched with a child through a UK or overseas adoption agency.

If you are adopting a child with another person, you must both decide who will be the primary and secondary adopters for the purposes of adoption leave. You must notify us of your decision. The primary adopter will be entitled to adoption leave. The secondary adopter will not be entitled to adoption leave but may be entitled to paternity leave or shared parental leave.

If more than one child is placed with you as part of the same arrangement, this will be treated as one adoption. All placement dates referred to in this policy mean the date that the first child starts living with you.

Statutory adoption leave is:

- 26 weeks Ordinary Adoption Leave (OAL); followed continuously by
- 26 weeks Additional Adoption Leave (AAL).

Exceptions

The provisions of this policy only apply to employees who are newly matched with a child for adoption.

You will not qualify for Statutory Adoption Leave or Pay if you:

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

Start date for adoption leave

Adoption leave may start;

- up to 14 days before the child starts living with you (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 the child is born (if you have used a surrogate to have a child)

Notification of Adoption Leave

Notification must be in writing. It is advisable to notify your manager as early as possible.

In all cases, you must notify your manager no later than 7 days after the agency notifies you in writing that it has matched you with a child. If that is not possible, you must tell your manager as soon as possible. For overseas adoptions, you must notify your manager within 28 days of receiving Official Notification from the relevant UK authority.

You must notify your manager in writing:

- the expected placement date OR date of arrival in the UK if it is an overseas adoption
- the date you intend to start your adoption leave
- how much leave you intend to take

Matching certificate

You must provide us with a copy of the matching certificate issued by the adoption agency along with proof of the date of placement. For overseas adoptions, you must provide a copy of the Official Notification and evidence of the date the child arrived in the UK and sign form SC6.

Changing the start date of adoption leave

If you wish to change the date you start your adoption leave you must do so in writing and give at least 28 days' notice of the revised date.

Surrogacy arrangements

If you use a surrogate to have a baby, at least 15 weeks before the expected Week of Birth, you must tell us in writing:

- the due date
- when you want your leave to start

You must provide us with a statutory declaration confirming that you have applied or will apply for a parental order within 6 months of the child's birth. This document must be witnessed by a legal professional. You must have an expectation that the order will be granted. All other conditions to qualify for pay and/or leave are the same as for adoptive parents.

Time off for adoption appointments

If you are the primary adopter, after you have been matched with a child, you are entitled to paid time off work to attend up to five adoption appointments before the child is placed with you. Line managers may request to see appointment cards etc. as proof that the appointment has been made. It is expected that employees will provide as much notice as possible for all appointments.

If you are the secondary adopter, you may take paid time off to attend up to two adoption appointments. Requests from secondary adopters to attend additional adoption appointments are welcomed and will be agreed at the discretion of the Headteacher or EET.

The maximum paid time off work for each appointment is 6.5 hours.

We may sometimes ask you to try to rearrange an appointment, where it is reasonable to do so. We reserve the right, in exceptional circumstances, to refuse a request for time off to attend an appointment. In such circumstances, we will provide our reasons to you.

Contract

All terms and conditions of employment will be maintained throughout the adoption leave period, with the exception of pay.

At the end of adoption leave, you have the right to return to your original job and on terms and conditions that are no less favourable than those that would have been applicable if you had not been absent.

Adoption Pay

Statutory Adoption Pay (SAP)

Statutory Adoption Pay (SAP) starts when you start your adoption leave. You must give us at least 28 days' notice of the date you wish your adoption pay to start. It is paid for up to 39 weeks. It stops if you return to work before the end of the 39 week period or if the adoption is disrupted. SAP is 'pay' and is subject to normal deductions e.g. tax and NI. You must tell us before you start your Adoption Leave about your intentions for returning to work so that suitable payment arrangements can be made.

Eligibility for SAP

The Qualifying Week is

- the week in which you are matched with a child for adoption (UK adoption)
- the week in which you receive Official Notification that you can adopt from abroad (overseas adoption)
- the 15th week before the baby is due (surrogacy)

You are eligible for SAP if you have stopped working and:

- have been continuously employed* by the Trust for at least 26 weeks but less than 52 weeks ending with the Qualifying Week; and
- are still employed by us in the Qualifying Week; and

- have average weekly earnings in the 8 weeks up to and including the Qualifying Week at or above the lower earnings limit for National Insurance contributions (Relevant Period); and
- have given the correct notice.

*continuously employed means that the employee must have worked for all or part of each of the 26 weeks.

If you are entitled to SAP, you will receive:

- for the first 6 weeks – 90% of your average weekly earnings over the Relevant Period
- for the subsequent 33 weeks – the lesser of the standard rate of SAP or 90% of your average weekly earnings.

Any period of adoption leave over 39 weeks is unpaid.

If you are not eligible for SAP, the Trust's payroll provider will send you form SAP1 explaining why. You may be entitled to support from your local council.

Contractual Adoption Pay (CAP)

To qualify for Contractual Adoption Pay you must have at least 1 years' continuous local government service at the end of the Qualifying Week.

CAP is pay and is subject to normal deductions e.g. tax, NI. You may choose to receive CAP during your adoption leave or as a lump sum when you return to work.

CAP Teachers only

If eligible for CAP, you will receive:

- 4 weeks at full pay, offset against SAP; then
- 2 weeks at 90% of a week's pay offset against SAP; then
- 12 weeks at half pay plus SAP*; then
- 21 weeks SAP

Any period of adoption leave over 39 weeks is unpaid.

*if half pay plus SAP is greater than full pay you will receive full pay offset against SAP

Having returned to work, you must work for a minimum period that equates to 13 weeks service under your contract prior to adoption leave. If you were previously full time and return on a part time basis, the period is extended to equate to 13 weeks of full time service. If you do not return to work for the stated period, you must refund such sum of CAP as the Trust may decide. You will, however, retain the first 6 weeks' payment of CAP. You will not have to refund SAP.

CAP non-teaching employees

If eligible for CAP, you will receive:

- 4 weeks at full pay, offset against SAP; then
- 2 weeks at 90% of a week's pay, offset against SAP: then
- 12 weeks at half pay plus SAP*; then
- 21 weeks SAP

Any period of adoption leave over 39 weeks is unpaid.

*if half pay plus SAP is greater than full pay you will receive full pay offset against SAP

Having returned to work, you must work for a minimum period of 3 months. If you do not return to work for the stated period, you must refund such sum of CAP as the Trust may decide. You will, however, retain the first 6 weeks' payment of CAP. You will not have to refund SAP.

Redundancy

If there is a redundancy situation while you are on adoption leave, you must not suffer any detriment because of your adoption leave.

Performance management

Wherever possible, a performance management review will take place prior to the start of your adoption leave. The review will be based on the evidence of performance to date in that performance review period. Where it was not possible to arrange the review prior to the leave commencing, the reviewer may consider the previous performance management period.

Pay progression

You will not be denied pay progression as a result of absence due to adoption leave. On your return to work from adoption leave, you will be given any pay increase that you would have received, following your performance review appraisal, had you not been on adoption leave.

Reasonable contact

Managers may make reasonable contact with you during the adoption leave period. This can be to discuss a range of issues such as arrangements for a return to work, training, to inform you about important workplace developments etc. Contact can be by telephone, email, letter or visits to the workplace.

Keeping In Touch (KIT) Days

KIT days are not the same as reasonable contact (see above).

By mutual agreement, you may work for up to 10 days under your contract of employment during the adoption leave period. During a KIT day, you may carry out work for us, for which you will be paid. KIT days do not bring adoption leave to an end and do not affect SAP or CAP.

Neither party can insist that you undertake a KIT day. They are a matter for agreement between you and us. It is highly recommended that the work to be undertaken is agreed and documented in advance of the KIT day. A pro forma is provided as Appendix 1.

The work carried out may be an activity which would ordinarily be classed as work under your contract of employment.

Any work undertaken on an occasion during adoption leave period will count as using one KIT day. So, for example, if you attend a 3 hour training session and do no other work that day, you will have used a whole KIT day.

Payment can be made for half days or whole days so, in the above example, you would be paid for a half day (assuming you work a full day normally) but would use a full day from your allowance.

Disrupted adoption

Adoption leave is disrupted if it has started but:

- You are notified that the placement will not take place; or
- The child is returned to the adoption agency after placement; or
- The child dies after placement.

If disruption occurs, adoption leave (and pay if applicable) will continue for eight weeks from the end of the week in which disruption occurred, unless the leave or pay would have ended earlier had the disruption not occurred.

Returning To Work

Once you have notified us of your Intended Start Date, within 28 days we shall confirm in writing your Expected Return Date.

You are not required to give notice of your intention to return to work following adoption leave unless you wish to return before the end of the 52 week period.

If you wish to return to work earlier, you must give at least 28 days' notice in writing of the date you wish to return. If you do not give the minimum notice, we may postpone your return (and pay) to a date which does provide the 28 days' notice, or the Expected Return Date if earlier.

Failure to return to work at the end of the adoption leave period without an explanation will be treated as unauthorised absence. The relevant disciplinary procedures will apply.

Should you wish to change your working pattern or reduce your working hours on return from adoption leave, you must discuss this with us at the earliest opportunity.

Resignation

If you do not wish to return to work, then you must give proper notice in accordance with your contract of employment.

Unfit to return

If, for a reason connected to your health, you are not fit to return to work at the end of your adoption leave (including an earlier notified date), you will be treated as having returned to work and the usual sickness absence policy and procedures will apply.

Pensions

If you are a member of a pension scheme, contributions will be automatically deducted from adoption pay based on what you actually receive.

During the unpaid period of AAL, no contributions are paid by you or us.

Some pension schemes permit contributions by the member to cover periods of unpaid adoption leave. You are advised to contact the scheme administrators for further details.

Annual Leave

Annual leave will accrue at the rate provided under your contract.

In some cases, the period of adoption leave will continue beyond the holiday year. Any holiday entitlement for that year that has not been taken, or cannot reasonably be taken before starting adoption leave, may be carried over to the next holiday year. It must be taken immediately before returning to work or within 3 months of returning to work unless agreed otherwise. You should try to limit the carry-over to a maximum of one week's leave. Carry-over of more than one week will be at our discretion.

Teaching staff have an entitlement to statutory annual leave of 28 days per academic year, which must be taken during school closure periods. It is highly unusual that a teacher returning from adoption leave will not have been able, or will not be able, to take that leave during school closure periods in the academic years either side of their adoption leave.

You should discuss your annual leave plans before starting your adoption leave. All annual leave dates are subject to approval by us.