



South York
MULTI-ACADEMY TRUST

Adoption Pay & Leave Policy

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Author	CEO
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Links to other procedures:	Shared Parental Leave Policy Maternity Policy Flexible Working Request

This policy has been adopted by the Board of Directors of the South York Multi-Academy Trust (SYMAT) and applies to all schools that make up the Trust. This policy applies to each school operating within the South York Multi-Academy Trust unless specific conditions and applications are identified within this policy.

This policy will be monitored regularly by the Multi Academy Trust Board in line with the agreed timetable for policy review or sooner as events or legislation changes require.

ADOPTION LEAVE & PAY FOR SCHOOL EMPLOYEES

1. Purpose and Scope:

This procedure sets out the provisions applicable to those employees becoming an adoptive parent.

This Applies to:

- School based employees in SYMAT schools.
- The adopter is a person who has been matched with a child for adoption or, if a couple is matched jointly, the **one** member of the couple who has chosen to take adoption leave and pay. Adoption leave and pay can only be taken by one of a pair of adopters (primary adopter).
- The second adopter will normally be entitled to take paternity leave and pay and, shared parental leave and pay, provided they meet the eligibility criteria.
- One of the parents in a surrogacy arrangement may be eligible for adoption leave and pay if they intend to apply for and expect to obtain (or have already obtained) a Parental Order for their child. The application for a Parental Order must be made within 6 months of the child's birth and the intended parents must expect the Parental Order to be made.
- Prospective adopters starting a 'Fostering for Adoption' placement (including Concurrent Planning) and notified of the placement.

2. Responsibility and Accountability:

Headteachers must:

- Ensure that employees have access to the Adoption Leave & Pay for School Employees Policy and understand their entitlements and what forms must be completed.
- Follow the processes and adhere to the time scales set out in the procedures outlined in this document.

Employees must:

- Adhere to the required time scales to provide notification of adoption matching, or expected date of birth in surrogacy arrangements and request adoption/paternity leave.
- Submit the relevant forms and information to their line manager in the time scales stipulated.

Schools should ensure that their payroll providers:

- Record and action adoption/paternity leave and pay requests submitted by employees.
- Provide information and guidance to employees and managers as required

Definitions:

Matched: a child is matched when an adoption agency decides that the person is suitable to adopt the child either individually or jointly with another person. A dated matching certificate would be provided.

Placed for adoption: the child starts living with the person permanently with a view to being formally adopted in the future, or placed with a local authority foster parent who is a prospective adopter.

Parental Order: the intended parents in a surrogacy arrangement can apply for a Parental Order which will make them the legal parents of the child that they are having with the help of a surrogate mother.

Review and Amendment

This Policy does not form part of the employee's contract of employment and the Trust retains the right to review and change the Policy at any time, ensuring that it complies with current employment legislation and the requirements of the Trust.

3. ADOPTION LEAVE & PAY – ENTITLEMENTS

Paid time off to attend adoption meetings

The primary adopter is entitled to take paid time off to attend up to 5 adoption meetings. With the exception of the first meeting, the employee must provide their manager, on request, with paperwork in conjunction with the appointments from a registered adoption agency.

If an employee is eligible for and elects to take paid time off to attend adoption appointments, it will be assumed that they are the main adopter and will take the adoption leave and pay, they will not be able to take paternity leave in relation to the adoption of that child.

Single adopters are entitled to paid time off to attend up to 5 adoption meetings. Their partner is not entitled to time off work to attend adoption meetings but they may be able to use their annual leave for this.

The second adopter is allowed to take unpaid time off to attend up to two such appointments. The employee should make a request to apply for time off to attend a joint adopter's meeting – this will normally be unpaid.

The time off to attend adoption appointments must be taken in the period between being notified of a match with a child and the date that the child joins the family. For adoptions from outside Great Britain, statutory adoption leave cannot be used to cover the period employees spend travelling overseas to arrange the adoption or visiting the child. Employees may be granted unpaid leave on a discretionary basis.

Time off to attend ante-natal appointments for Parental Order parents

Parental Order parents are entitled to take unpaid time off work to accompany the surrogate mother to two of her antenatal appointments. Both of the Parental Order parents are entitled to unpaid time off to attend antenatal appointments and can request this by completing the Declaration Form for Surrogacy to Attend Antenatal Appointments.

Adoption Leave

All employees who are primary adopters have a statutory entitlement to Ordinary Adoption Leave (OAL) of 26 weeks and Additional Adoption Leave (AAL) of a further 26 weeks to start immediately after OAL if they have:

- Been matched with a child for adoption by an approved adoption agency.
- Notified the adoption agency that they agree that the child will be placed with them and have agreed a date for this placement.

- Given the correct notice to their employer: notice should normally be given within 7 days of the employee being notified of a match with a child – or as soon as is reasonably practicable.
- Complied with the evidence requirements where they apply.

Only one period of leave per adoption arrangement is permitted, even if more than one child is adopted.

Where adoption leave and pay do not apply

An adopter will not qualify for adoption leave and pay if they:

- Arrange a private adoption.
- Become a special guardian or kinship carer.
- Adopt a stepchild.
- Have a child with the help of a surrogate mother, where the intended parents do not meet the conditions to apply for a Parental Order (this will include single parents and parents who have no genetic link to the child).
- Adopt a family member or stepchild.

If the adopter is not eligible for adoption leave and pay their employer must tell them why.

Adoption leave does not apply to someone who already lives with the child and adopts them e.g. a stepchild.

An adopter can choose when to start his/her adoption leave, subject to giving the required notice.

If adopting from within Great Britain, adoption leave can start on either:

- The date on which the child is placed with the adopter for adoption; or
- A pre-determined date no earlier than 14 days before the expected date of placement, and no later than the expected date of placement.

If adopting from overseas, adoption leave can start on either:

- The date the child enters Great Britain; or
- A pre-determined date no later than 28 days after the date the child enters Great Britain.

Dual approved prospective adopters:

- Are entitled to take adoption leave and pay from up to 2 weeks before the child is placed with the family i.e. from up to 2 weeks before the child joins the family, initially for fostering.
- The notice must be given within 7 days of the employee being notified by the local authority in accordance with section 22C of the Children Act 1989,

Surrogate parents where:

- They are under a Parental Order – to qualify for adoption leave they need to notify their employer by the 15th week before the baby's due date. This notice must include the baby's expected week of birth. The school/ can request a statutory declaration from the employee confirming that they intend to apply for a Parental Order (with the other intended parent) under section 54 of the Human Fertilisation and Embryology Act 2008 within the prescribed time limit (6 months from birth) and expect that order to be made.

Children born to a surrogate mother who is based overseas where:

- The intended parents in a surrogacy arrangement are eligible for and intend to apply for a Parental Order in respect of their child, they may be eligible for adoption leave and/or pay.
- The leave can be taken from the date of the child's birth even if the child has not yet entered the country.

The Trust can require the intended parent in a surrogacy arrangement who wishes to claim adoption leave and/or pay to provide a statutory declaration that they have applied for or intend to apply for a Parental Order in respect of their child and expect such an order to be made. A statutory declaration is a written declaration signed by the individual making it in the presence of a: practising solicitor; Notary of the Public; Justice of the Peace; Commissioner for Oaths or any other qualified person.

If the adoption leave has commenced and the placement is delayed the employee cannot stop the leave and start it again at a later date. If the adoption falls through; or where the intended parents' application for a Parental Order is refused by the court or a placement comes to an end once the employee has commenced adoption leave, the period of leave will normally end eight weeks later (unless the period of leave remaining is less than eight weeks). Schools should seek advice the Trust's HR providers for individual cases.

Statutory Adoption Pay

Employees who are primary adopters are entitled to Statutory Adoption Pay (SAP) if they:

- Have at least 26 weeks' continuous service with the Council ending with the week in which they are notified of being matched with a child for adoption, previous service with other local authority organisations or those under the Modification Order does not count towards this, and
- Earn before tax, the Lower Earnings Limit for National Insurance Contributions.

The primary adopter is entitled to:

- 6 weeks of SAP paid at 90% of the adopter's normal weekly earnings in the 8 week period leading up to the date the adopter is notified of a match with a child, followed by
- 33 weeks of the SAP rate set annually by the Government or 90% of the employee's average weekly earnings – whichever is the lower. See the gov.uk website for the current SAP rate.

SAP will normally commence on the first day of the employee's adoption leave. If the criteria to obtain SAP are not met, the employee may be entitled to other financial support. Employees in these circumstances should contact their adoption agency.

Calculation of a week's pay for Statutory Adoption Pay

In the vast majority of adoptions, the qualifying week is the week in which a prospective adopter is notified they have been matched for adoption with a child.

In the case of Parental Order parents, the qualifying week is the end of the 15th week before the expected week of the child's birth.

If the employee is awarded a pay rise which is effective at any time from the start of the set period used to work out SAP and the end of the employee's adoption leave, SAP will be recalculated.

The employee must give their employer at least 28 days' notice of the date of the adoption for pay (the employer can ask for this in writing). Where 28 days' notice is not reasonably practicable the adopter must give whatever notice is reasonably practicable.

There is no entitlement to SAP in the following circumstances:

- In a week in which the person receives statutory sick pay.
- Following the death of the person claiming SAP.
- When the person claiming pay is detained in custody or in prison following sentencing (with some exceptions).

Occupational Adoption Pay

Support Employees

If the employee has one year of continuous local government service at the beginning of the 11th week before the expected week of adoption or before the expected week of childbirth for surrogacy arrangements, and **is** entitled to SAP they will receive a combination of the two elements, with a cap to payments (where applicable) to ensure that they do not exceed their normal full pay:

- SAP at 90% of a weeks' pay for the first six weeks of OAL

And if they declare in writing their intention to return to work with the Council for a minimum of three calendar months (as above), they will receive:

- Half pay for 12 weeks in addition to the lower rate of Statutory Adoption Pay (for 33 weeks).

If they have not been continuously employed by by the qualifying week, they will not meet the requirements for the statutory adoption pay element but will just receive OAP.

Teachers

Teachers with one year of continuous local government service (as a teacher) at the beginning of the 11th week before the expected week of adoption or before the expected week of childbirth for surrogacy arrangements will receive:

- 4 weeks at full contractual pay
- 2 weeks at 90% contractual pay

- 12 weeks at half contractual pay (this will be in addition to Statutory Adoption Pay but will not exceed normal full pay).

Occupational Adoption Pay

A 'week's pay' is calculated with reference to the employee's pay at the time that they commence adoption leave.

12 Weeks' Half Pay Payment Options

The employee may elect to receive the 12 weeks' half pay either

- Paid in conjunction with any SAP payable between the 7th and 18th week, or
- As a lump sum on their return to work.

Support Employees

If the employee does not return to work or returns for less than three calendar months, they will be required to refund the 12 weeks' half pay in full. They would also be required to refund the occupational element if they leave or move to another local government organisation or other organisations where service counts under a 'Modification Order.'

Teachers

In the event of a teacher not being available, or being unable, to return to their job for the required 13 week period, they shall be required to repay the 12 weeks half pay received under the occupational adoption pay scheme.

Second and Subsequent Adoptions

In these circumstances, the employee must return to work for a minimum period of 3 months as a qualifying condition to receiving further Occupational Adoption Pay.

Shared Parental Leave & Pay

The adopters of children placed on or after 5th April 2015, or born on or after 5th April 2015 in a surrogacy arrangement are entitled to apply to share the parental leave once the main adopter has ended their Adoption Leave (or given their notice to curtail it). For more details please see the Trusts Shared Parental Leave Policy.

Keeping in Touch (KIT) Days

An employee can choose to do up to 10 days' work for the school during their adoption leave, as long as both the headteacher and employee have agreed that this will happen. These days are known as Keeping in Touch (KIT) days.

KIT days can be used to keep up to date with what has been happening in the workplace whilst the employee has been on adoption leave, to attend a training course or staff meeting, to complete a specific piece of work or project, or simply to help the employee settle back into work gradually at the end of their adoption leave. If and how KIT days will be used is decided between the employee and their headteacher. The employee will not lose any statutory adoption pay (where they are still in receipt of it) for working up to 10 KIT days. Working even for part of a day will count as one day in terms of KIT days (i.e. deducting from a total of the permitted 10 days).

The employee will receive payment for the actual hours they worked on a KIT day, at their contractual rate of pay. The school/Council's expectation is that an employee will come into work for their normal contractual hours when undertaking a KIT day, but where the length of the working day is shorter, the individual will only receive pay for the

hours they actually worked.

Employees may request to receive time off in lieu rather than payment for the hours worked. Any time off granted must be taken within 3 months of their return to work.

It is important that the manager and employee discuss the use of KIT days and pay arrangements before maternity leave commences.

If the employee moves onto Shared Parental Leave & Pay, they also qualify for up to 20 additional Shared Parental Leave in Touch (SPLit) days. The joint adopter also qualifies for this. See the Trusts Shared Parental Leave Policy for further details.

Rights on Return to Work

Employees who return to work after ordinary adoption leave are entitled to return to the same job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen.

Employees who return to work after unpaid additional adoption leave will normally return to the same job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen. However, if there is a reason (other than redundancy) which means that it is not reasonably practicable for the employee to take the employee back to the same job, the employee is entitled to be offered suitable alternative work on terms and conditions that are no less favourable.

Should a redundancy situation arise which could affect the post of an employee on adoption leave (ordinary or additional), they will be consulted about the continuation of their employment, and if the post becomes redundant the employee is entitled to be offered a suitable alternative vacancy, where one exists.

4. ADOPTION LEAVE & PAY – PROCEDURE

Notification Requirements – UK adoptions

Employees must inform their headteacher of their intention to take adoption leave within seven days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable.

1. The employee should complete the “Request for Adoption Pay & Leave” Form (Appendix A of this Policy) and submit it to their line manager (retaining a copy).
2. At the same time, the employee must also submit the matching certificate issued by the adoption agency (or submit this at a later date, if received later, again retaining a copy.)
3. The headteacher must send the form and matching certificate to the payroll.
4. The school will write to the employee confirming the date the employee would be expected to return to work if his or her full entitlement to adoption leave is taken.
5. Employees can change the start date of their adoption leave after they have submitted the form by writing to their headteacher at least 28 days in advance of the new date that they wish their adoption leave to start. The headteacher must advise payroll of any changes without delay.

Notification Requirements - overseas adoptions

Employees must inform their manager in writing of their intention to take adoption leave within 28 days of receiving official notification* (or completing 26 weeks’ service if that is later).

*Official notification in relation to overseas adoption means a written notification issued by or on behalf of the relevant UK authority, that it is prepared to issue or has already issued a certificate to the overseas authority concerned with the adoption of the child, confirming, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

1. The employee should complete the “Request for Adoption Leave and Pay” form (Appendix A in this Policy) and the “Statutory Adoption Pay and Leave Form (SC6) when adopting from abroad, which can be accessed on-line: <https://www.gov.uk/government/publications/statutory-adoption-pay-and-leave-adopting-a-child-from-abroad-sc6>. These must be submitted to their headteacher (retaining copies).
1. The employee must also give their headteacher a copy of the official notification document (either when submitting the form or at a later date, if received later.)
2. The headteacher must send both forms and the official notification document to their payroll provider.
3. Either the school or their payroll provider will write to the employee confirming the date the employee would be expected to return to work if his or her full entitlement to adoption leave is taken.
4. Employees can change the start date of their adoption leave after they have submitted the form by writing to their headteacher at least 28 days in advance of the date that they wish their adoption leave to start. The headteacher must advise their payroll provider of any changes without delay.
5. To claim SAP the employee must provide their headteacher with further evidence of the date of entry, such as a plane ticket or copies of entry clearance documents, within 28 days of the child entering Great Britain.

Notification Requirements - returning to work

The school will expect the employee to return to work at the end of their adoption leave unless they submit their resignation, giving the required contractual notice, in the normal way.

If the employee wishes to return to work earlier or later than previously notified, they must give 21 days’ notice in writing. If the employee fails to give the required notice the school may amend the employee’s return until the 21 days’ notice has been given, but not beyond the end of the adoption leave period. Employees should complete the “Employee’s Notification to Return to Work or Resign (Adoption)” Form (Appendix B of this Policy) to give written notice of a change to the return date.

Employees should complete the form confirming their expected return to work date at least 21 days before their return date to ensure that pay can recommence correctly. Alternatively employees can give the form to their headteacher at one of the contact meetings or on a KIT day. If the expected date of return changes, employees must ensure that the headteacher is informed as soon as possible by email.

5. ADOPTION LEAVE & PAY – GUIDANCE

Childcare Vouchers

If an employee is a user of the Fidelity childcare voucher scheme – they should contact the Trust HR Co-ordinator for further guidance.

Planning Ahead

The headteacher and employee must agree together how to manage the employee's adoption leave in the workplace. Following the employee's notification about the adoption to their manager, it is recommended that the manager and employee discuss:

- Requirements for time off to attend adoption order interviews
- If/how/when to inform colleagues
- Contact arrangements during adoption leave
- Keeping in Touch (KIT) days
- Return to work plans e.g. flexible working arrangements, parental leave, annual leave
- Childcare vouchers

Maintaining contact

The school may make contact with the employee (and vice-versa) while they are on adoption leave. The purpose of this contact is to discuss issues such as return to work plans, or to keep the employee informed of important developments at the workplace e.g. if a restructure is being planned.

Returning to work

Managers must ensure that their payroll providers are informed of any resignation/return to work date linked to a period of adoption leave and pay, and also any subsequent change to working hours.

Pension

Employees who are members of the Local Government Superannuation Scheme or Teachers Pension Agency will continue to have contributions deducted on all payments during paid adoption leave. This period will count as full service.

During unpaid adoption leave the employee will be retained in the scheme but the period will not count as superannuable service unless the employee arranges for the necessary contributions to be paid. These contributions are based on the statutory payments and not on normal contractual pay. These arrangements must be made **within 30 days** of returning to work. Employees should contact the Pensions Team for further advice.

Annual Leave

An employee who is normally entitled to annual leave will receive full annual leave entitlement provided that they return to work after the adoption leave period. He/she may wish to take part of their entitlement to annual leave before adoption leave starts, or "convert" part of their unpaid adoption leave to annual leave. When the employee returns to work he/she will also receive their full annual leave entitlement for that year, although it is not possible to automatically carry over leave from one leave year to the next. In exceptional circumstances an employee may, with the agreement of their headteacher, carry over annual leave from leave year to the next.

If an employee does not return to work after the adoption of their child, they will accrue entitlement to annual leave for complete month's service up to the day on which they finish their employment.

Teachers do not have a contractual entitlement to paid annual leave but are entitled to 28 days statutory annual leave under the Working Time Regulations. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e both before and after the maternity leave period.

South York Multi-Academy Trust
Request for Adoption Leave/Pay

TO:

FROM:

Full Name:

Home Address:

.....

Job Title :

Employee (Payroll) No : School:.....

Starting Date of Employment with the School:

Date of continuous Local Government service:

Week in which notified of being matched (adoption):.....

Week in which baby due (surrogacy):.....

Matching Certificate/Parental Order seen by headteacher and copy attached/will follow shortly.* (delete as applicable).

I am adopting a child from abroad and have completed Statutory Adoption Leave & Pay Form SC6 and have completed: <https://www.gov.uk/government/publications/statutory-adoption-pay-and-leave-adopting-a-child-from-abroad-sc6>

I intend to commence my Adoption Leave on

My last working day will be

Please delete 2 of the 3 following statements

- I do not intend to return to work after adoption leave.
- I intend to return to work after adoption leave and in accordance with the provisions set out in this Policy, I wish to receive my full entitlement to occupational adoption pay.
- I intend to return to work after adoption leave. I wish to postpone payment of those parts of my occupational adoption pay for which I would relinquish entitlement if I were unable to fulfil my intention to return to work.

(Please refer to the 'Adoption Leave & Pay Policy for South York MAT for guidance – the decision made at this time is not binding, but aids in the calculation of adoption pay)

Signed:Date:

South York Multi-Academy Trust
Employee's notification to return to work or resign

If you wish to return early from adoption leave this notification must reach the School not later than or 21 days before you intend to return.

TO: (Line Manager)

FROM:

- 1. Full Name:.....
- 2. Job Title:
- 3. School:
- 4. Employee (Payroll) No:

I intend to return to work on

OR

I do not intend to return to work. I understand this means I am resigning from my post (please note that you must give the amount of notice required by your contract of employment).

Date:

Signed:

Phone number for us to contact you in case of queries: