



West Norfolk Academies Trust

Adoption Leave and Pay Scheme - Support Staff

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| Formally adopted by the Trustees of:- | West Norfolk Academies Trust |
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| Chair of Trustees:- | Mr Livesey |
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We, the Governing Board/Trust Board, have adopted this scheme.

1. Introduction and scope

- 1.1 The purpose of this scheme is to outline the adoption leave and pay provisions for support staff.
- 1.2 Governing boards and trusts must comply with the statutory scheme. All governing boards must comply with the nationally agreed schemes and all trusts, other than those who have formally moved away from the Green Book provisions, must also follow the national schemes. All governing boards must follow locally agreed provisions.
- 1.3 This scheme also covers those employees who are local authority foster parents who have been approved as prospective adopters (foster-to-adopt scheme) and are notified that a child is to be placed with them.
- 1.4 The Headteacher will ensure that employees are made aware of the provisions of this procedure and that they are applied in a consistent manner.

2. Equalities and support

- 2.1 The Headteacher will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.
- 2.2 Through the implementation of this procedure, the Governing Board/Trust will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.
- 2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Governing Board/Trust understands the employee may require extra support in relation to the application of this scheme. Where reasonable adjustments are necessary and can be accommodated, the Headteacher will support these.

3. Entitlement

3.1 Time off for adoption appointments

Details on entitlement to time off for adoptive parents to attend adoption appointments are detailed in the **Leave and Time Off Policy under Other *Compassionate leave – Adoption related appointments.***

Where a couple are adopting jointly, only one of them is entitled to take paid time off, the other person can take unpaid time off. In these cases, the individual taking the paid time off entitlement will be the adopter and will be the individual taking adoption leave and pay after the placement.

3.2 Leave

The chosen adoptive parent or the parent eligible for adoption leave is automatically entitled to a period of 26 weeks ordinary adoption leave and 26 weeks additional adoption leave regardless of how many hours worked per week, where the appropriate notice has been given and the eligibility criteria are satisfied. This means adoption leave can be taken for a total period of up to 52 weeks.

3.3 Pay

Statutory Adoption Pay (SAP)

There are two weekly rates of SAP:

- The higher rate is 9/10 of the employee's average weekly earnings and is payable for the first six weeks of the period for which SAP is due.
- The lower rate is a set rate payable for the remaining 33 weeks of the adoption pay period or 9/10 of the employee's average weekly earnings where this is less than the SAP rate. [Current rates can be found on gov.uk](#)

SAP is subject to pension, tax and NI contributions.

A further 13 weeks "additional" unpaid adoption leave can be taken.

The payroll provider will calculate average weekly earnings but broadly they are an average of the gross earnings paid in the 8 weeks before the end of the matching week.

SAP is payable for 39 weeks and operates on a rolling week basis e.g., if adoption leave starts on a Tuesday, pay will run from Tuesday to Monday for the entire 39 weeks.

Occupational Adoption Pay (OAP)

If the employee **is intending** to return to work, OAP will be paid for 18 weeks.

Payments will be calculated as follows:

- For the first six weeks of absence, the employee will receive OAP at 100% of contractual weekly pay.
- For the next 12 weeks, the employee will also receive half a week's contractual pay as OAP (in addition to any entitlement to SAP provided the two combined do not exceed full pay).
- This is followed by 21 weeks at the SAP provided the eligibility criteria is fulfilled.
- The final 13 weeks of the adoption leave period will be unpaid.

As a qualifying condition for OAP, (irrespective of whether there have been any agreed changes in working hours) the employee will be required to return to local authority employment for a period of at least 12 weeks. If the employee does not return, they will be asked to repay the 12 weeks half pay and 6 weeks at 100% of pay (minus SAP). However, in cases of involuntary termination, repayment of OAP will be considered on a case by case basis.

Arrangements to have OAP payments (at both 100% and 50% of contractual weekly earnings) paid over the 33-week SAP period or as a one off lump sum may be made where this is mutually agreed between the current employer and the employee. Alternatively, it is possible, if the employee wishes, to ask for the OAP payments to be held until their return to work.

OAP will be calculated on contractual weekly pay. In some circumstances it is possible that SAP might exceed normal contractual pay and, in these circumstances, no additional OAP will be paid as at least 100% of contractual pay has already been achieved.

If the employee qualifies for both OAP and SAP, they will be paid whatever amount is the greater for the first six weeks.

4. Adopting from within the UK

4.1 Eligibility

Eligibility for adoption leave and SAP will be based on the date the employee is matched with a child. This date must be confirmed by the matching certificate, which will be issued by the adoption agency.

Where a couple is adopting, they will be able to choose which of them will take adoption leave. Their partner will be eligible to take paternity leave and potentially shared parental leave, providing they meet the eligibility criteria for these. Where an individual adopts, they will be the parent eligible for adoption leave.

4.2 Leave

To qualify for statutory adoption leave the employee must:

- be the child's adopter
- have notified the adoption agency that they are in agreement both with the child being placed with them and with the date of placement.

An employee's period of adoption leave is unaffected by the placement of more than one child as part of the same arrangement.

4.3 Pay

Statutory Adoption Pay (SAP)

To be eligible for SAP the employee must:

- earn on average at least the lower earnings limit for National Insurance
- have completed 26 week's continuous service with their current employer continuing into the week that they are informed by the adoption agency that they have been matched with a child.

A further 13 weeks unpaid leave can be taken for the remaining period of adoption leave.

Occupational Adoption Pay (OAP)

The occupational adoption scheme applies to employees regardless of the number of hours worked per week.

To qualify for OAP, the employee must:

- have completed at least one years' continuous local government service when they are informed by the adoption agency that they have been matched with a child. Continuous service does not have to be with the current employer and can include other local authority employment.
- The employee must also intend to return to work following adoption leave to qualify for occupational adoption pay.

If an employee has less than one years' continuous local government service when they are informed by the adoption agency that they have been matched with a child, then they will not qualify for OAP, but will still get SAP (where the eligibility criteria have been met).

4.4 Commencement of adoption leave

Employees are encouraged to informally notify their Headteacher that it is their intention to take adoption leave as soon as they are approved for adoption, although it is recognised that it is unlikely a date of commencement of leave will be known at this stage.

4.5 Notification

The matching certificate must be passed to the employer within 7 days of its issue, at which time the adoptive parent must confirm that they intend to take adoption leave. This can be done by completing [Adoption leave and pay form for support staff F208c](#).

Wherever possible, the employee should also inform the Headteacher at that time of the date on which they expect to commence their adoption leave, based on the anticipated date of placement. The earliest date on which an adoptive parent may begin their leave will be 14 days before the expected date of placement. However, leave must not start any later than the date the child is placed with them.

The adoptive parent must give at least 28 days' notice of when they wish their adoption pay to start, unless this is not reasonably practicable. Where due notice cannot be given pay will begin on the date the child is placed for adoption.

An adopter may vary the date on which they intend to commence their adoption leave by giving at least 21 days' notice of the amended date where this is reasonably practicable.

The Headteacher must respond to the employee's notification of leave plans within 28 days of that notification. This response should set out the expected date of return in the event of the full statutory leave entitlement being taken. Failure to do this can have implications for the employer in the same way as with maternity leave cases.

5. Adopting from abroad

An employee who adopts a child from overseas can be eligible for adoption leave and pay if they meet the relevant criteria.

5.1 Eligibility

The employee will have fulfilled all of the following criteria to be eligible:

5.2 Leave

- received official notification from the relevant UK authority of their eligibility to adopt a child from abroad
- is the child's adopter or if jointly adopted be the person who has chosen to take the adoption leave
- have notified their Headteacher that they wish to take adoption leave

5.3 Pay

Statutory Adoption Pay (SAP)

The employee will have fulfilled all of the following criteria to be eligible:

- worked for their current employer continuously for at least 26 weeks by the time the official notification is received or by the time adoption leave is due to begin, whichever is later,
- earn on average at least the lower earnings limit for national insurance,
- is the child's adopter, or if jointly adopting, the person who has chosen to take adoption leave.

Occupational Adoption Pay (OAP)

To qualify for OAP, the employee must:

- have completed at least one years' continuous local government service when they are informed by the adoption agency that they have been matched with a child. The employee must also intend to return to work following adoption leave to qualify for OAP.

If an employee has less than one years' continuous local government service when they are informed by the adoption agency that they have been matched with a child, then they will not qualify for OAP, but may get SAP (where the eligibility criteria have been met).

5.4 Commencement of adoption leave

The earliest date on which an adoptive parent may begin their leave will be 14 days before the expected date of placement or within 28 days of when the child arrives in the UK.

An adopter may vary the date on which they intend to commence their adoption leave by giving at least 21 days' notice of the amended date where this is reasonably practicable.

5.5 Notification

Employees adopting a child from overseas must give notice in three stages that they intend to take adoption leave.

First Stage

The employee must inform their Headteacher of the date on which they received Official Notification from the relevant UK authority.

Official Notification is written notification issued on or behalf of the relevant domestic authority that the authority is either prepared to issue a certificate to the overseas authority dealing with the adoption of the child that the adopters are classed as eligible or the notification has already been issued.

Where 26 continuous weeks service has been completed, they must give this information within 28 days of receiving the notification.

If 26 weeks continuous service is not yet complete, once this is complete the employee then has 28 days to notify their current employer of the Official Notification.

It is likely that on Official Notification the employee will know roughly the date the child is expected to enter the UK.

Second Stage

In all cases the employee must give at least 28 days' notice of the actual date they want to take the adoption leave (and SAP if they qualify, and OAP if it is available and they qualify). This notification can be given using [Adoption leave and pay form - support staff F208c](#). If an employee wishes to change this date at least 21 days' notice should be given.

Third Stage

Employees must notify their Headteacher of the date the child has entered the UK. This must be done within 28 days of the child entering the UK.

If the child does not then enter the UK the employee should inform their Headteacher as soon as is reasonably practicable.

6. Provisions applicable to both UK and abroad adoptions

6.1 Keeping in Touch (KIT) days

KIT days are a statutory entitlement where the individual may work for up to 10 days during their adoption leave without the loss of SAP for that week, or their adoption leave being terminated.

The employee and Headteacher must be in agreement of any such work - the employee cannot be required to attend a KIT Day, nor is the employee entitled to request a KIT day if there is no practicable reason for them to attend the workplace.

KIT days do not have to be consecutive and can be used for work activities, training or any other activity such as a team meeting that enables the employee to keep in touch with the workplace. Working for part of a day will count as one of the 10 KIT days.

Employees who attend a KIT day will claim for the actual hours that they have worked on each KIT day taken, up to a maximum of the employee's normal pay for a day's work. KIT day payments will be paid at the employee's normal hourly rate, offsetting any OAP for that day, SAP is not affected.

Completion of *Keeping in touch (KIT) days claim form F208b* is required.

6.2 Returning to work

An employee is expected to return to work at the end of the period of adoption leave on the date notified by the employer. An employee wishing to return before the end of the adoption leave period is required to give at least 21 days' notice of the date on which they intend to return.

Employers have the right to postpone an employee's return only to ensure that the required notice period is given. However, it should be noted that this postponement should not extend the return date beyond the end of the full adoption leave period.

If after starting a period of adoption leave:

- (i) notification that placement of the child will not go ahead is received, or
 - (ii) the child dies or is returned to the adoption agency,
- the employee will be entitled to continue adoption leave for a period of up to eight weeks after the week in which the change occurred. However, there is no extension of additional adoption leave if there is less than eight weeks remaining of the total period.

In the event of a change to the adoption leave period, the employee must still give at least 21 days' notice of early return to work. The employer may postpone the return to work date where insufficient notice of early return is given provided the required notice of end of adoption leave date was given to the employee.

When returning to work at the end of the adoption leave, the employee will come back to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have applied had they not been absent. However, in the event of this position being no longer available through reason of redundancy the employee will be entitled to be offered alternative employment where available in accordance with the terms and conditions of the Trust Organisational Change Policy and Procedures and Redundancy Policies.

The employee may wish to return to work part-time or adjust their working hours on their return from adoption leave. Although there is no automatic right to do this, they do have the right to request it. Further information can be found in the Trust Flexible Working Policy. Should they wish to return to work part-time or on altered hours this should be discussed with the Headteacher, using the Flexible Working Policy, who will consider the practicalities of doing so.

The Headteacher will need to inform the payroll when an employee's adoption leave ends, even if they are not returning to work straight away e.g., due to being on sick or annual leave.

6.3 Resigning from work

Resignation before adoption leave

If the employee states before their adoption leave that they will not be returning to work and gives their resignation date as their last day of service, then their contract of employment ends with effect from the day after that date. They will still be entitled to SAP provided they fulfil the eligibility criteria but they will not be entitled to OAP.

If an employee does not give a resignation date, an appropriate date should be agreed. This will normally be their last day of service or the last day of their 39-week adoption pay period. In the latter case, the employee will be entitled to receive all contractual benefits for the adoption pay period (except remuneration).

Resignation during adoption leave

If during a period of adoption leave an employee tenders their written resignation, their last date of service would be the date of their letter. As described above, the employee will be entitled to receive all contractual benefits up to their resignation (except remuneration).

An employee who has received the full OAP entitlement and subsequently resigns from their post will be required to repay 6 weeks at 10% of weekly contracted pay and 12 weeks half pay.

7. Contractual status

7.1 Contractual benefits

An employee's contractual benefits and status will mirror those of an employee taking a period of maternity leave.

7.2 Excess travel

If an employee is receiving excess travel payments, the Excess mileage policy should be consulted for further information on what will happen to these payments once they start adoption leave.

7.3 Salary sacrifice arrangements

Employees should be aware that if they are participating in a salary sacrifice arrangement e.g., for childcare vouchers, or thinking of doing so, payments for adoption pay may be affected due to reductions in national insurance contributions and income tax.

Childcare vouchers

Where the employee is in receipt of childcare vouchers via salary sacrifice, they can either:

- suspend their childcare vouchers during adoption leave – the employee will need to contact their childcare voucher provider to inform them of this.
- continue to receive childcare vouchers during adoption leave providing their OAP covers the cost of the vouchers – this is the default position.

The provision of childcare vouchers will be suspended if an employee's OAP does not cover the cost of providing their childcare vouchers. Statutory Payments such as SAP cannot be exchanged for childcare vouchers.

7.4 Annual leave (all year round staff)

Contractual annual leave entitlement, including Bank Holidays, continues to accrue throughout the adoption leave period. Annual leave may not be taken during adoption leave.

An employee going on adoption leave should be encouraged to take all the annual leave they have accrued before starting their adoption leave. The timing of this leave should be discussed with the employee as soon as possible after they inform the Headteacher of the expected date of placement.

An employee who starts and finishes their adoption leave during the same leave year is entitled to take during that leave year all of their annual leave they would have had if they had been at work instead of on adoption leave.

An employee whose adoption leave crosses two leave years is entitled:

- in the first leave year to whatever leave they would have had, had they not been on adoption leave and,
- In the second leave year when they return to work, they are entitled to their full annual leave entitlement.

Where an employee does not return to work after the placement and they have taken annual leave exceeding their pro-rata entitlement up to the point in the leave year when their employment ends, the cost should be recovered from the employee. Where this provision is applied generally to employees leaving and not just to those leaving after adoption leave, it is unlikely to amount to unlawful sex discrimination.

8. Sickness during adoption leave

If an employee is sick during their paid adoption leave, it does not affect their adoption pay and they need not comply with the sickness notification procedures. If, however, they are sick during their unpaid adoption leave, they should inform the Headteacher who will inform the payroll provider as soon as possible. The employee should provide a medical certificate as they may be entitled to statutory sick pay.

9. Pensions

If the employee is a member of the Local Government Pension Scheme, contributions will be deducted on all OAP and SAP payments made to them. Pensionable Pay for calculating LGPS pensions during periods of paid adoption leave is assumed to be equal to average pay before the leave commenced. During unpaid adoption leave, the employee will have the option of making up the “lost” pension.

10. Adoption Support Leave

In accordance with the National Conditions of Service for NJC for Local Government Services (Green Book), eligible support staff can take Adoption Support Leave. This provides for five days’ paid leave (pro rata for part time employees) at contractual pay for nominated carers at or around the time of the placement of a child, or children.

In most cases such care and support would be provided by the partner of the adopter and therefore their first week of statutory paternity pay will be ‘topped up’. However, the role can otherwise be fulfilled by a relative or someone who has a caring relationship with the adopter and/or child e.g., grandparent. Further information can be found in the Paternity leave and pay scheme.

11. Adoption and unfair dismissal

- 11.1 It is automatically unfair to dismiss an employee for an adoption related reason, in these circumstances, employees will be entitled to bring unfair dismissal claims regardless of the hours they work or their length of service.

Where an employee is dismissed at any time during their adoption leave, they are entitled to be provided with written reasons for their dismissal (whether requested or not).

However, employers are not prevented from dismissing employees for reasons unconnected to their adoption leave (e.g., for redundancy or misconduct reasons). Where a dismissal would have occurred regardless of the fact that the employee is on adoption leave, such a dismissal will not be automatically unfair. The fairness will be judged according to the reasonableness of the employer’s actions. Employees will need two years’ service to make an unfair dismissal claim in these circumstances.

- 11.2 Special considerations apply to redundancy during and after adoption leave, this is detailed in the Organisational Change Policy and Procedures and the Trust Redundancy Policy.

12. Data Protection

Personal data collected and processed for the purpose of this scheme will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.