



Langley Park Learning Trust

Adoption Policy

Staff at Langley Park Learning Trust

Owner (job role):	Director of HR
Approval Body:	Trust Board
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Version	Approval Date	Summary of Changes
1.0	22/10/20	New policy

1. Introduction

- 1.1 This policy aims to provide a supportive and flexible framework to assist eligible employees who wish to adopt a child.
- 1.2 The aim of these guidelines is to outline an employee's entitlements to adoption leave, statutory and occupational adoption pay and to explain the steps that need to be taken by an employee and their headteacher/line manager before and during adoption leave.

2. Eligibility

- 2.1 Adoption leave is a 'day one' right.
- 2.2 To qualify for statutory adoption leave, an employee must be newly matched with a child by an adoption agency ('matched' means that the adoption agency gives the employee the details of the child they think is suitable for her/him to adopt) as follows:
 - The employee must be in receipt of written notice that an adoption agency has matched her/him with a child for adoption and gives the expected placement date.
 - The employee must have notified the adoption agency that s/he agrees to the child being placed with her/him on the expected placement date.
 - The employee's spouse or partner must not be taking adoption leave with her/his employer (although there may be an entitlement to paternity leave).
- 2.3 Adoption leave is open to employees of either gender and may be shared in accordance with the provisions for shared parental leave. Adoptive parents are entitled to take adoption leave, regardless of whether they work for different employers.
- 2.4 Adoption leave is only available to employees who are adopting a child through a UK or overseas adoption agency. It does not apply where an agency is not involved, for example to special guardians, foster carers or to step-parents adopting a child outside of an adoption agency framework.
- 2.5 In addition, an employee who is the secondary carer for the child, as opposed to the primary adopter, is entitled to take either one week's leave or two consecutive weeks' leave during the period of 56 days beginning with the date on which the child is placed for adoption. One week is at full pay, the second week at statutory adoption pay (SAP).

3. Entitlements

- 3.1 Adoption leave:

All employees with responsibility as primary carers for an adopted child are entitled to 52 weeks adoption leave. A period of 26 weeks of ordinary adoption leave (OAL) is available to all employees who qualify for adoption leave, followed by a further period of 26 weeks of additional adoption leave (AAL) immediately following OAL. Adoption leave must be taken as a continuous block. Although the adoption leave can be split into two parts there is, in effect, no difference between them in respect of employment rights. The primary adopter is able to split the entitlement to leave with the secondary carer by following the shared parental leave provisions (please refer to the school's shared parental leave policy).
- 3.2 Employment terms and conditions during adoption leave
During OAL and AAL, the employee is entitled to benefit from all her/his normal terms and conditions of employment, with the exception of pay.

- 3.3 This period is counted as continuous service for the calculation of statutory employment rights (such as redundancy, unfair dismissal rights, notice requirements), and other contractual payments based on length of service.
- 3.4 The period of adoption leave will be treated as continuous for the purpose of calculating contractual annual leave and contractual sick pay. This means the employee continues to accrue annual leave and this period is included in the calculation of entitlement to sick pay.
- 3.5 Benefits in relation to the pension scheme will continue (see below).
- 3.6 Pre-adoption leave
An employee who has been matched with a child by an adoption agency is entitled to paid time off during their working hours in order to attend an adoption appointment up to a maximum of five times. Such an appointment is for the purpose of the employee having contact with the child or any other purpose connected with the adoption. On each occasion, the maximum time off work to attend the appointment is six and a half hours.
- 3.7 The partner of the primary carer has the right to take unpaid time off to attend two pre-adoption appointments.
- 3.8 Once an employee has made an application to become an adoptive parent and s/he is notified that s/he will be assessed by the local authority/adoption agency, s/he should inform the headteacher/governing board. The purpose of this is:
- To ensure the headteacher/governing board is aware that the employee is going through the adoption process.
 - To enable the headteacher/governing board and the employee to start planning for the employee's adoption leave.
- 3.9 Should the employee wish to take time off for an adoption appointment, they must provide evidence of the date and time of the appointment in question.
- 3.10 Surrogacy
Provided they meet the eligibility criteria, parents who have a child through surrogacy can take paternity leave and pay, adoption leave and pay and shared parental leave and pay. Both parents will also be entitled to take unpaid time off to attend two antenatal appointments with the woman carrying the child.

4. Statutory Adoption Pay

- 4.1 An employee is entitled to statutory adoption pay (SAP) for up to 39 weeks if:
- S/he has been continuously employed by her/his employer for at least 26 weeks at the end of the week in which s/he is notified in writing by an adoption agency of having been matched with a child.
 - Her/his average weekly earnings, during the eight weeks ending with the week in which s/he is notified in writing by an adoption agency of having been matched with a child, is at or above the national lower earnings limit which is set by the government.
 - The relevant notifications have been given to the employer in accordance with the provisions within this policy.
- 4.2 Statutory adoption payments start when an employee begins her/his ordinary adoption leave. The payments will continue for a period of 39 weeks, unless the employee returns to work before that time.

- 4.3 If an employee is not entitled to statutory adoption pay, s/he will still be able to take unpaid adoption leave. S/he may also be entitled to income support while on adoption leave. Employees should contact their local jobcentre plus or benefits office to find out whether they are entitled to this.
- 4.4 The weekly rate of SAP is similar to maternity with 90% of normal weekly earnings for the first six weeks and then at the prescribed rate set annually by the government, or at 90% of the employee's average weekly earnings if this is lower. The average weekly earnings is calculated using the eight weeks ending with the week in which the employee is notified in writing by an adoption agency of having been matched with a child.
- 4.5 Payments in respect of SAP shall be made on the school's normal payroll dates and income tax, national insurance and pension contributions shall be deducted as appropriate.
- 5. Occupational Adoption Pay (OAP) – an enhancement to the statutory scheme**
- 5.1 The National Joint Council has agreed that the support staff adoption scheme should, as far as possible, mirror the maternity scheme.
- 5.2 Accordingly, the contractual arrangements for support staff should be that occupational adoption pay is paid for a total of 18 weeks and is split into two levels of payment:
- Six weeks at 90% of their actual weekly pay. If the employee qualifies for statutory adoption pay and this amount is more than the SAP payment, then the OAP payment is inclusive of the SAP entitlement. The employee does not receive both.
 - Followed by 12 weeks at half pay. If the employee also qualifies for statutory adoption pay the statutory payment is made in addition to half pay. (Employees who qualify for both OAP and SAP will not receive more than full pay when the two are combined, therefore if the half pay plus SAP exceeds full pay, the excess will be deducted.)
- 5.3 Where an employee is entitled to both statutory and occupational adoption pay the entitlements will run concurrently. Those employees who qualify for SAP will also be entitled, in addition, to 21 weeks SAP and 13 weeks unpaid AAL.
- 5.4 An employee can choose to make the half pay last for longer by having it paid over 20 weeks at a rate of 3/10ths of pay; the amount received overall is the same. If an employee is not sure whether s/he will return to work, s/he can ask for the half pay to be withheld until s/he has made a decision.
- 5.5 Employees not intending to return to work after adoption leave may be entitled to SAP. This being the first six weeks of OAP at 90% of a week's pay if they meet the qualifying criteria.
- 5.6 To be entitled to occupational adoption pay the employee must have:
- One year's continuous local government service by the week that they are notified that they have been matched with a child; and they must return to work for a minimum period of three months at the end of adoption leave. (If the employee does not return to work, they could be required to repay any half pay paid to them.)
 - Local government service for the purposes of this policy refers to service with an organisation that is covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 as amended. This includes those employees transferring under TUPE arrangements or otherwise to the employ of an academy or free school, but not automatically those moving from an academy or free school.
- 5.7 In respect of teachers, the 'burgundy book' states that employers may determine to adopt a scheme similar to the maternity scheme.

6. Notification of intention to take adoption leave

- 6.1 Where possible, an employee should keep the headteacher advised of when s/he thinks s/he may be starting adoption leave so that arrangements can be made to cover the employee's absence.
- 6.2 When an employee is notified that s/he has been matched with a child, s/he should inform the headteacher that s/he intends to take adoption leave. This notification should be submitted in writing within seven days of receipt of the notification of matching and it should include details of the expected date of placement and the intended start date of the adoption leave.
- 6.4 The date an employee intends to start adoption leave must be advised in writing to the headteacher at least 21 calendar days before the date on which the leave is due to start.
- 6.5 The earliest ordinary adoption leave (OAL) can start is on a predetermined date fourteen days before the date the child is expected to be placed for adoption with the employee, however the employee can work up to the day before the child is placed with her/him for adoption, but no later.
- 6.6 The employee must produce a letter from the appropriate social services department or an adoption agency confirming both the intention to adopt and verification when the child has been placed with the employee.
- 6.7 At least 21 days before the employee's intended start date (or as soon as possible) s/he must also provide the employer with:
- A matching certificate from the adoption agency confirming the agency's name and address, the name and date of birth of the child, the date the employee was notified of the match and the expected placement date.
 - Written confirmation that s/he intends to take statutory adoption pay and, where applicable, statutory paternity pay.
- 6.8 Following receipt of the notification, in accordance with the above provisions, the employer will write to the employee within 28 days to inform her/him of the date s/he will be expected to return to work if the full entitlement to adoption leave is taken.

7. Starting adoption leave earlier or later than notified

- 7.1 If the employee wishes to alter the planned date s/he wishes to start adoption leave, s/he must notify the headteacher or her/his line manager of the new date as follows (whichever of these two deadlines is the latest):
- 28 days before the adoption leave was originally due to start.
 - 28 days before the new date s/he wants to start the leave.
- 7.2 Where it is not possible to provide notification within the deadlines specified, notification should be provided as soon as possible, together with the associated reasons.
- 7.3 If an employee does not give the correct notification of their intention to take adoption leave and to claim statutory adoption pay, the school may delay the start of adoption leave and pay, until the correct notification is given.

8. Breakdown of adoption

- 8.1 If a breakdown in the plans for adoption occurs during the adoption leave period, the employee can continue with her/his adoption leave, and adoption pay if applicable, for up to eight weeks after the date that the breakdown occurs. Such arrangements may apply if, for example, the employee is notified that the intended

adoption will not take place, the child is returned to the adoption agency following the date of placement, or the child dies after placement.

8.2 In such circumstances the employee should notify the school as soon as possible.

9. Adoption support leave for secondary carers

For an employee who is the secondary carer for the child, as opposed to the primary adopter, two weeks of adoption support leave (equivalent to paternity leave) can be taken from the date of the child's placement. This leave must be taken in blocks of one week, or two consecutive weeks. Please refer to the Trust's paternity policy for the qualification criteria.

9.1 Transfer of adoption rights

The system of shared parental leave allows parents to share up to 50 of the 52 weeks statutory maternity or adoption leave and up to 37 of the 39 weeks statutory maternity or adoption pay. Please refer to the shared parental leave policy for further details of eligibility and the application process.

9.2 Parental leave entitlement

Parental leave may also be applicable in adoption cases. Please refer to the Trust's parental leave policy.

9.3 Pension contributions

During any period of paid adoption leave (including any period when only statutory adoption pay is paid) an employee must continue to pay pension contributions based on the actual pay s/he is receiving. Benefits during this period will continue to accrue as if the employee was working normally on full pay.

9.4 Where the employee intends to return to work after adoption leave, the employee can choose to pay contributions for any period of unpaid adoption leave beyond the 39 weeks of SAP so that the period of absence will count in full for pension purposes. Normally these contributions will be calculated on the rate of pay that the employee was receiving immediately before they started the period of unpaid adoption leave and will not be deducted until the employee returns to work.

9.5 If the employee wishes to increase contributions to make up any such shortfall, s/he should contact the relevant pensions administering body. The employee should also advise the school in writing, within 30 calendar days of returning to work, that s/he wishes to make these contributions in order to cover the unpaid period. If the employee does not make up the payments, the unpaid period may not count towards the reckonable service for the purpose of the pension scheme.

9.6 Any additional voluntary pension contributions will remain payable throughout adoption leave. They are calculated on the rate of pay the employee would have received if s/he were not on adoption leave. The additional membership continues to accrue in full.

9.7 Where applicable, the school will continue to make the usual employer's contributions for:

- The whole time the employee is on OAL, which is up to the first 26 weeks.
- Any time the employee is receiving any SAP.
- Any time the employee is receiving any contractual adoption pay.

9.8 Any periods of unpaid adoption leave will not count towards the employee's membership of her/his pension scheme. The Trust shall not make any payments into the relevant pension scheme during any periods of unpaid adoption leave.

10. Annual leave

- 10.1 While an employee is on OAL and AAL, her/his entitlement to annual leave continues to accrue and her/his service is considered to be continuous for the purposes of calculating entitlement to annual leave.
- 10.2 It is important that employees, who are members of the support staff on NJC terms and conditions, agree with their headteacher in advance how they intend to take their annual leave, because there is no right to carry over into the next annual leave year more than the number of days stated in the employee's contract of employment as the number of allowable days to be carried over.
- 10.3 Annual leave applicable to NJC terms and conditions may, with the prior agreement of the employee's headteacher, be taken before the employee starts her/his adoption leave, and/or immediately after adoption leave has finished. Annual leave cannot be taken during adoption leave.

11. Contact while on adoption leave

- 11.1 While they are on adoption leave, the employee's headteacher should maintain reasonable contact with an employee to keep her/him updated about developments at work and matters concerning her/his job. The headteacher/governing board and employee should agree the level and frequency of contact before the employee starts adoption leave.
- 11.2 The school has an obligation to keep an employee informed of any other information relating to her/his job that they would normally be made aware of if working. This may fall outside of the individual agreement referred to above.

12. Keeping in touch days (KIT days)

- 12.1 Shortly before the start of ordinary adoption leave, the headteacher will contact the employee to arrange an informal meeting to discuss the arrangements for covering her/his work during her/his leave and the arrangements for her/him to remain in contact, should s/he wish to do so, during this period.
- 12.2 While on adoption leave, an employee may not normally carry out any work without bringing the adoption leave to an end. This is with the exception of keeping in touch (KIT) days.
- 12.3 To assist an employee with her/his return to work, s/he may, by mutual agreement, work up to 10 KIT days during the unpaid period of adoption leave to assist them in preparing for her/his return to work, without bringing the adoption leave to an end. A KIT day may be used to attend training sessions or meetings (providing these are related to the employee's job) as well as carrying out aspects of the employee's role. In exceptional circumstances, a KIT day may be worked during the paid period of adoption leave. This provision applies to both the primary adopter and secondary carer.
- 12.4 There is no obligation for an employee to work a KIT day if it is offered; likewise, an employee cannot insist that the school provide her/him with a KIT day.
- 12.5 Any work carried out by an employee on a particular day/occasion is counted as one full KIT day. For example, if an employee agrees with their headteacher/line manager that s/he will attend a training course and the course lasts two hours, this is counted as one full KIT days. Likewise, if another employee works a night shift, although this stretches over two dates it is counted as one KIT day.
- 12.6 If the rate of pay for the work is different from the normal rate of pay for the employee concerned, agreement regarding the rate should be reached before the KIT day is taken.

13. Returning to work as notified

- 13.1 An employee does not need to give notice that they wish to return to work if:

- They have elected to take the full 52 weeks adoption leave.
- When they applied for adoption leave, they specified an earlier return date, and they return on this date.

13.2 At the end of OAL, an employee is entitled to return 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 been applicable to them if they had not been absent. Where an employee returns to work during or after AAL, or after four weeks of parental leave, and it is not reasonably practicable for them to return to their old job, they should be offered a similar job on terms and conditions no less favourable than their original job.

13.3 There is no automatic entitlement to return to work on a part-time basis. However, an employee is entitled to apply for a change in their working pattern/hours and to have this request considered. Please refer to the Trust's policy on flexible working for further information.

13.4 Shortly before the employee is due to return to work, the headteacher may invite the employee to a discussion, in person or by telephone, regarding arrangements for the return to work. This discussion may include matters such as updating the employee on any changes and any training that may be necessary.

14. [Returning to work earlier or later than originally notified](#)

14.1 Once the employee has notified the school in writing of her/his intended start date, the school shall send her/him a letter within 28 days to inform her/him of the expected return date.

14.2 If the start date changes, the school shall write to the employee within 28 days of the start of adoption leave with a revised expected return date.

14.3 The school will expect the employee to return on the expected return date unless otherwise notified (see below).

14.4 If an employee wishes to return to work earlier or later than originally notified, s/he should discuss this with the headteacher as soon as possible. S/he must notify the headteacher, in writing, no later than 21 days:

- Before the date they intend to return (if returning earlier than planned).
- Before the date they were due to return, to advise of the new return to work date, (if returning later than planned).

14.5 Adoption leave cannot be extended beyond 52 weeks. If the employee wishes to return later than the expected return date, and later than the permitted period of adoption leave, the employee should either request unpaid parental leave (see parental leave policy), giving as much notice as possible but not less than 21 days, or request paid annual leave (where NJC conditions apply). However, the agreement of such will be at the school's discretion.

14.6 If insufficient notice is given of return to work, then the school may postpone the employee's return to work until the 21 days' notice has expired. If a return to work is postponed in these circumstances, an employee is not entitled to receive wages or salary.

15. [Return to work is delayed because of sickness absence](#)

15.1 If an employee is unable to return to work at the end of the adoption leave period due to sickness, s/he should notify the headteacher through the normal sickness absence reporting procedure. S/he will be required to provide medical certificates as normal. This absence will be treated as sickness absence and the usual sick pay and return to work provisions will apply.

16. Return to work is delayed due to an interruption to work by industrial action or other unforeseen circumstances not related to the employee

- 16.1 If an employee is prevented from returning to work at the end of their adoption leave because of industrial action or other unforeseen circumstances not related to the employee, they may instead return to work when work resumes, or as soon as is reasonably practicable thereafter.
- 16.2 In any case of a later return to work, other than those specified in the sections above, the late return will be treated as unauthorised absence and this may result in disciplinary action.

17. The employee does not wish to return to work after adoption leave

- 17.1 If the employee does not intend to return to work, or s/he is uncertain, s/he should notify the headteacher as soon as possible. If the employee decides not to return s/he must give notice of her/his resignation as set out in her/his employment contract. The total amount of adoption leave remaining at the time of giving notice must be at least equal to the employee's contractual notice period. Where this is not the case, the school may require a return to work for the remainder of the notice period.
- 17.2 The employee's right to receive SAP is not affected.

18. Resignation or redundancy during adoption leave

- 18.1 If an employee chooses to leave her/his post, or the post is redundant and s/he is subsequently dismissed by reason of redundancy during adoption leave, s/he shall still be eligible for SAP if s/he has already been notified by an agency that s/he has been matched with a child and if s/he has complied with the notification provisions as set out in this policy. In these circumstances, SAP shall start 14 days before the expected placement date or on the day after her/his employment ends, whichever is the later date.
- 18.2 Should the employee's post be redundant, and s/he is subsequently dismissed by reason of redundancy during the adoption leave, s/he shall be entitled to a redundancy payment in the same way as s/he would have been had s/he not been absent. S/he shall also continue to be entitled to SAP.
- 18.3 An employee who is made redundant while on adoption leave is entitled to be offered a suitable alternative vacancy *before* it is offered to any other employee who is not on maternity or adoption leave and before the end of their employment under the existing contract. This includes other employees who may also be at risk of redundancy.

19. Pay awards during adoption leave

- 19.1 If the employee becomes eligible for a pay award during the period of adoption leave, SAP shall be calculated as though the pay award was applicable during the eight weeks ending with the week in which the employee was notified in writing by an adoption agency of having been matched with a child. In such circumstances, the employee's SAP will be recalculated and increased in retrospect. It is also possible that this recalculation may qualify the employee for SAP where s/he had not done so previously.
- 19.2 A lump sum will be paid to the employee by the school to account for the difference between any SAP already paid and the amount to which the employee is entitled as a result of the pay award.
- 19.3 Any future SAP payments will be increased to reflect the new rate of earnings as appropriate.

20. Adopting a child from overseas

- 20.1 Employees adopting a child from overseas, and outside the laws of the UK, may be entitled to the same provisions as outlined above, providing s/he has received official notification from, or on behalf of, the relevant UK authority (the official notification) that the employee has been approved to be a suitable adoptive parent.

- 20.2 The scheme is broadly the same, but with the following differences to the notification requirements and the date adoption leave can start.
- 20.3 The employee must inform her/his headteacher within seven days of receipt of notification of matching, or within 30 weeks of starting employment if continuous employment with the employer was less than 26 weeks when notification was received before this point, of:
- Her/his intention to take adoption leave.
 - That s/he has been matched with a child.
 - The date the official notification was received.
 - The date that the child is due to enter the UK.
- 20.4 The employee must:
- Give 28 days' written notice of the date they wish to start adoption leave.
 - Provide a copy of the official notification.
 - Confirm, and provide evidence to the school of, the date the child entered the UK within 28 days of the child entering the country.
21. Starting adoption leave
- 21.1 When adopting from overseas, the earliest date adoption leave may start is from the date the child enters the UK; the latest date it can start is 28 days after the child has entered the UK.