



BROADWATER
CHURCH OF ENGLAND
PRIMARY SCHOOL

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Adoption Policy 2019-2022

Turn your ear to wisdom and apply your heart to understanding (Proverbs 2:2)

Broadwater is a Christian School. We will enable children to become wise, confident, successful learners with the motivation, skills and responsibility to make a positive difference in God's world. Our vision is underpinned by the values we live by.

The Holy Spirit produces this kind of fruit in our lives: love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control. There is no law against these things! Galatians 5:22

It is this fruit that, in partnership with parents, we will instil in the children of our school.

Adoption Policy – Teachers’ Terms and Conditions

West Sussex County Council Maintained Schools

This policy should be read in conjunction with any current additional WSCC model policies and guidance notes on adoption.

1. Aim

The aim of this policy 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 Head Teacher/line-manager before and during adoption leave.

2. Scope

This policy only applies to employees who are employed on teachers’ terms and conditions of employment, holding permanent, temporary or fixed term contracts and who are matched with a child on after 1st April 2007 as shown on the matching certificate.

Adoption leave is open to employees of either gender but only ONE adoptive parent is entitled to take adoption leave, regardless of whether they work for different employers.

Adoption leave is only available to employees who are adopting a child through an adoption agency. It does not apply to special guardians, foster carers or to step parents adopting a child outside of an adoption agency framework.

3. Key Information

Subject to meeting certain qualifying criteria an adoptive parent is entitled to:

- 52 weeks adoption leave, which must be taken as a continuous block.
- The right to return to their job, or similar job on terms and conditions no less favourable, at the end of their adoption leave.
- Statutory adoption pay and/or occupational adoption pay, subject to meeting certain qualifying criteria.

4. Entitlement to Adoption Leave

Providing an employee has at least 26 weeks continuous service with WSCC (the school if a Voluntary Aided School), ending with the week they are notified that they are matched with a child, they are entitled to 52 weeks adoption leave. This must be taken as a continuous block. The adoption leave is split into two parts, which attract different employment rights. The first 26 weeks leave is referred to as ordinary adoption leave (OAL) and subsequent 26 weeks period is referred to as additional adoption leave (AAL)

Employment Rights during ordinary adoption leave (OAL).

- During ordinary adoption leave, the employee is entitled to benefit from all their normal terms and conditions of employment with the exception of pay.
- This period is counted as continuous service for calculation of statutory employment rights, pension rights and other contractual payments based on length of service. This means this period is included in the calculation of entitlement to sick pay.
- On return from OAL an employee is entitled to return to the same job on the same terms and conditions as before their leave began.

- If there has been a re-grading or pay award applied to their post during the period they were on OAL then they are entitled to receive these as if they hadn't been away.

AND

26 weeks additional adoption leave (AAL).

- Employees whose expected week of childbirth begins on or after 5 October 2008 are entitled to benefit from all their normal terms and conditions of employment with the exception of pay during Additional Adoption Leave.
- Continuity of employment is preserved during additional adoption leave for the purpose of calculating entitlement to statutory employment rights (such as redundancy, unfair dismissal rights, notice requirements).
- The period of additional adoption leave will be counted as continuous for the purpose of calculating contractual sick pay.
- However some benefits such as pensions will be different during the additional adoption leave period. If there is a period of unpaid adoption leave during this time, that unpaid period of leave may not be treated as continuous service and instead the service before and after this additional adoption leave period will be joined together. Employees are given the option to make pensions contributions during such a period of unpaid leave so that the period counts in full for pensions purposes. (see section 8 for further details).
- On return from additional adoption leave the employee is entitled to return to the same job on the same terms and conditions as before his/her leave, as if s/he had not been absent. If this is not reasonably practicable then s/he should be offered a similar job on conditions that are not less favourable.

5. Entitlement to Adoption Pay

There are two types of adoption pay and these have different qualifying criteria. An employee may qualify for none, one or both of the entitlements set out below.

An employee's entitlement to adoption pay will be closely related to their length of service at the week they are notified that they have been matched with a child.

Statutory Adoption Pay (SAP) – The basic statutory adoption pay scheme provided by the Government.

To be entitled to statutory adoption pay the employee must have:

- At least 26 weeks continuous service with WSCC (the school if a Voluntary Aided School) ending with the week they are notified that they have been matched with a child;
- Average weekly earnings, which are not less than the lower earnings limit for national insurance contributions.

SAP is paid for a total of 39 weeks and is a flat rate payment of statutory adoption pay or 90% of the employee's average weekly earnings whichever is less. The rate payable for statutory adoption pay changes regularly in April and employees should consult www.direct.gov.uk for up to date information.

SAP payments start when an employee begins their adoption leave. They will continue for a period of 39 weeks unless the employee returns to work before that time.

If an employee is not entitled to statutory adoption pay they will still be able to take unpaid adoption leave. They may also be entitled to income support whilst on adoption leave. Employees should contact their local Job Centre plus or Benefits Office to find out whether they are entitled to this.

Occupational Adoption Pay (OAP) – An enhancement to the statutory scheme.

To be entitled to Occupational Adoption Pay the employee must have:

- One year's continuous service as a teacher with one or more Local Authorities, by the week that they are notified that they have been matched with a child.

And

- At the end of adoption leave return to work for a minimum period of 13 weeks equivalent to the employee's hours at the time of commencing adoption leave (school closure periods are included for this purpose). If they do not they will be required to repay any half pay paid to them.

Occupational adoption pay is paid for a total of 18 weeks and is split into three levels of payment.

- 4 weeks at full pay. (If the employee also qualifies for statutory adoption pay, and this amount is more than the SAP payment, then her OAP payment is **inclusive** of the SAP entitlement. The employee does **not receive both**.)
- 2 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 this 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).

Where an employee is entitled to both statutory and occupational adoption pay the entitlements will run concurrently.

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 they will return to work, they can ask for the half pay to be withheld until they have made a decision.

Employees **not** intending to return to work after adoption leave may be entitled to SAP and/ or only 6 weeks of OAP which will be paid at a rate of 90% of a week's pay if they meet the qualifying criteria.

6. Adoption Assessment Process

Notifying Management.

Once an employee has made an application to become an adoptive parent and they are notified that they will be assessed by the Local Authority/ Adoption Agency they should inform their Head Teacher/line manager. The purpose of this is:

- To ensure their Head Teacher/line-manager is aware that the employee is going through the adoption process.
- To enable the Head Teacher/line-manager and the employee to start planning for the employee's adoption leave

Time off for the assessment process

Before an employee is approved to be an adoptive parent they are required to go through an assessment process, consisting of training, meetings and observations. There is no legal entitlement to paid time off for any part of the adoption assessment process. Where possible meetings and training should be arranged to take place outside of work time. Where this is not possible where business needs allow this should be considered within the school's arrangements for dealing with special leave or by flexible working arrangements agreed between the Head Teacher/line-manager and the employee.

Any time off must be agreed in advance with the Head Teacher/line-manager. The Head Teacher/line-manager may ask to see confirmation of the course/meeting the employee is required to attend.

7. Applying for Adoption Leave

Applying for Adoption Leave.

Where possible an employee should keep their Head Teacher/line-manager advised of when they think they may be commencing adoption leave so that arrangements can be made to cover the employee's absence.

When an employee is notified that they have been matched with a child, they should inform their line manager that they intend to take adoption leave. This should not be less than 7 days of receipt of the notification of matching.

The earliest date adoption leave can start is 14 days before the date the child is expected to be placed for adoption with them, but an employee can work up to the day before the child is placed with them for adoption.

Employees applying for adoption leave should complete form ADO/LI as soon as possible. As this form triggers the payment of statutory adoption pay, the form should ideally be completed no later than 28 days before the date they wish their statutory adoption pay to commence. An employee may alter the date they wish to start their adoption leave providing the notification periods set out below, are followed.

Once completed the employee should give their Head Teacher/line-manager the ADO/LI form and the matching certificate. The Head Teacher/line-manager should take a photocopy for their own records, before both **original** documents are forwarded to Pay and Employment Services.

Adoption Pay cannot be paid until the matching certificate is received by Pay and Employment Services.

Starting Adoption Leave earlier or later than notified.

If the employee wishes to alter the planned date they want to start adoption leave they must notify their manager of the new date:

- 28 days before adoption leave was originally due to start.
- Or
- 28 days before the new date s/he wants to start her leave.

Whichever of these two deadlines is the latest.

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. During Adoption Leave

Pension Contributions.

Where an employee is a member of the Teachers' Pension Scheme, pension contributions will continue to be deducted during paid adoption leave. Contributions will be based on the actual remuneration (including SAP) that you receive.

During the unpaid period of adoption leave the employee may choose to pay pension contributions. Employees wishing to do so should contact Teachers' Pension (Membership Section), Capita Hartshead, Darlington, DL3 9EE. Telephone 0845 6066166, Minicom 0845 6099899 or fax 01325 745789.

If pension contributions are not paid during the unpaid period of adoption leave, this period will not count as service for pension calculation purposes.

Annual Leave

Teachers do not have a contractual right to paid annual leave but they do have a right to statutory annual leave under the Working Time Regulations. When an employee is on adoption leave their entitlement to statutory annual leave continues to accrue. Teachers will normally take this leave either before or after their adoption leave during school closure periods. In cases where a teacher does not return to work after a period of adoption leave and there is outstanding annual leave accrued, this can be taken as payment in lieu at the rate of 1/260th of pay for each day accrued. For the purposes of calculation of statutory annual leave entitlement, the leave year runs from 1st September to 31st August.

Contact whilst on Adoption Leave.

Whilst they are on adoption leave the employee's Head Teacher/line-manager should maintain reasonable contact with an employee to keep them updated about developments at work and matters concerning their job. The Head Teacher/line-manager and employee should agree the level and frequency of contact prior to the employee commencing adoption leave.

The school has an obligation to keep an employee informed of any other information relating to their job that they would normally be made aware of if working. This may fall outside of the individual agreement referred to above.

Keeping in Touch Days.

Whilst on adoption leave an employee may not carry out any work without bringing the adoption leave to an end. This is with the exception of 'Keeping in Touch' Days

To assist an employee with their return to work, they may by **mutual agreement** work up to 10 'Keeping in Touch' (KIT) days during the nil pay period of adoption leave to help them prepare for returning to work. A KIT day can 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 job. In exceptional circumstances a KIT day may be worked during the paid period of adoption leave.

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 them with a KIT day.

Any work done by an employee on a particular day is counted as using one KIT day. For example, if an employee agrees with their Head Teacher/line-manager that they will attend a training course and the course lasts two hours, this is counted as using up one of their KIT days.

An employee working a KIT day will be paid their normal hourly rate of pay for the hours actually worked. Claims for payment must be made on a DOC 33 timesheet and authorised by the employee's Head Teacher/line-manager. The employee must clearly state the date worked, and the actual number of hours worked on that day (lunch breaks are excluded). If a KIT day is worked during the paid period of adoption leave an employee will be paid their adoption pay, plus the hours worked. The total payment will be limited to no more than what they would receive for a normal full day's pay.

KIT days do not extend the period of adoption leave. Payment for KIT days will always be made in arrears at the next available payroll.

9. Returning to Work

Returning to Work as Notified.

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.
- Or
- When they applied for adoption leave, they specified an earlier return date and they return on this date.

At the end of adoption leave 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.

The only exception to this is where an employee returns to work during or after additional adoption leave, and it is not reasonably practicable for them to return to their old job. In this case they should be offered a similar job on terms and conditions no less favourable to their original job.

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 seriously considered. Such a request should only be denied if there are clear business reasons. Please refer to the school's policy, The Right to Request Flexible Working, for further information.

If an employee is not able to return to their old job for reasons of redundancy, they will be entitled to be offered a suitable alternative vacancy where one exists. Any such offer should be of work that is suitable and appropriate to the employee and the place, capacity and terms and conditions of employment must not be substantially less favourable than if they had been able to return to their original job.

Suitable alternative employment may also be offered where there are other exceptional circumstances other than redundancy, which necessitate a change in the job in which they were previously employed and would have occurred had the employee not been absent.

Returning to work earlier or later than originally notified.

If an employee wishes to return to work earlier or later than originally notified, they should discuss this with their Head Teacher/line-manager as soon as possible.

They must notify their Head Teacher/line-manager in writing no later than 8 weeks:

- Before the date they intend to return (if returning earlier than planned)
- Or
- Before they were due to return to advise of the new return to work date. (if returning later than planned). Adoption leave cannot be extended beyond 52 weeks.

If insufficient notice is given of return to work then the school may postpone the employee's return to work until the full 8 weeks notice is given. If a return to work is postponed in these circumstances an employee is not entitled to receive wages or salary.

Head Teachers/line-managers are responsible for notifying Pay and Employment Services of the revised return to work date.

Return to work is delayed because of sickness absence.

If an employee is unable to return to work at the end of the adoption leave period due to sickness, they should notify their Head Teacher/line-Manager through the normal sickness absence reporting procedure. They will be required to provide medical certificates as normal. This absence will be treated as sickness absence and the usual sick pay provisions will apply.

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

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.

Taking parental leave immediately following adoption leave.

An employee can agree with their Head Teacher/line-manager to take parental leave immediately following the end of adoption leave. The Head Teacher/line-manager needs to ensure that they have maintained proper records and that Pay and Employment Services are informed so they can record the absence appropriately and ensure accurate pay calculations.

10. Adopting a Child From Outside the UK

Employees adopting a child from outside the UK, and outside the laws of the United Kingdom may be entitled to the same provisions as outlined above, providing they have received official notification from/or on behalf of the relevant domestic authority that the employee has been approved to be a suitable adoptive parent.

The scheme is broadly the same, but with the following differences to the notification requirements and the date adoption leave can start:

Notification Requirements.

An employee must inform their Head Teacher/line-manager:

- That they have been matched with a child

And

- Of the date that the child is due to enter Great Britain within 7 days of receipt of notification of matching or of reaching 26 weeks continuous employment, if the notification was received before this point.

An employee must:

- Give 28 days notice of when they wish to commence adoption leave.
- Confirm and provide evidence to the school of the date the child entered Great Britain within 28 days of the child entering the country.

Starting Adoption Leave.

When adopting from abroad the earliest date adoption leave may start is from the date the child enters Great Britain and the latest date it can start is 28 days after the child has entered Great Britain.

11. Adoption Leave and Unfair Dismissal Provisions

It is automatically unfair to dismiss an employee because they have taken or are on adoption leave. Schools are advised to contact their nominated HR Consultant before taking any action to dismiss an employee who is on adoption leave.



Statutory adoption pay qualifying criteria



Occupational adoption pay qualifying criteria.

When were you notified that you were matched with a child?

Will you have at least 26 weeks continuous service with WSCC (the school if a Voluntary Aided school), by the week you are notified that you've been matched with a child.

Yes

No

Are your average weekly earnings equal to or more than the lower earnings limit for national insurance contributions?

Yes

No

Do you have at least 1 years continuous Local Authority service as a teacher, by the week you were notified that you have been matched with a child?

Yes

No

Do you have at least 1 years continuous Local Authority service as a teacher, by the week you were notified that you were matched with a child?

Yes

No

Are you going to return to work for minimum of three months at the end of your adoption leave?

No

Yes

Are you going to return to work for a minimum of 3 months at the end of your adoption leave?

No

Yes

You are entitled to Statutory Adoption Pay only

Unfortunately you do not meet the qualifying criteria for statutory adoption pay. You will be entitled the first 6 weeks of OAP only, because you are not returning to work.

Unfortunately you do not meet the qualifying criteria for statutory adoption pay or occupational adoption pay.

You are entitled to Statutory Adoption Pay and you will only be entitled to part of the occupational adoption pay entitlement because you are not returning to work.

You are entitled to statutory adoption pay and occupational adoption pay.

You are entitled to occupational adoption pay only