



Dated 14th November 2016

St Hilda's C of E Primary School

Adoption Policy



1 SCOPE AND PURPOSE

- 1.1 This policy outlines the statutory rights and responsibilities of employees who adopt through a UK adoption agency and sets out the arrangements for adoption leave. The rules governing an employee's rights when adopting children from overseas agencies vary slightly to those included in this policy. If an employee plans to adopt a child from an overseas agency please contact the Head Teacher for further information.
- 1.2 No-one will be discriminated against or subjected to a detriment for taking leave in accordance with this policy.
- 1.3 This policy does not form part of any employee's contract of employment and it may be amended at any time on consultation with recognised unions.

2 WHO IS COVERED BY THIS POLICY?

- 2.1 This policy covers all employees at all levels and grades including senior managers, employees, trainees, part-time and fixed term employees (referred to as **employees** in this policy).
- 2.2 It does not apply to agency staff, volunteers and self-employed contractors.

3 WHO IS RESPONSIBLE FOR THE POLICY?

- 3.1 The Governing Body has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Governing Body has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the the Head Teacher.
- 3.2 The Senior Leadership Team has a specific responsibility to ensure the fair application of this policy and all employees are responsible for supporting colleagues and ensuring its success.

4 DEFINITIONS

The definitions in this paragraph apply in this policy.

Qualifying Week means the week, starting on a Sunday, in which an employee is notified in writing by an adoption agency of having been matched with a child;

Expected Placement Date means the date on which an adoption agency expects that it will place a child into an employee's care with a view to adoption;

Ordinary Adoption Leave (OAL) means a period of up to 26 weeks' leave available to all employees who qualify for adoption leave under paragraph 5;

Additional Adoption Leave (AAL) means a further period of up to 26 weeks' leave immediately following OAL.

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5 ENTITLEMENT TO ADOPTION LEAVE

- 5.1 Adoption leave is only available if an employee is adopting through a UK adoption agency. It is not available if there is no agency involved, for example, if an employee is formally adopting a stepchild or other relative.
- 5.2 An employee is entitled to adoption leave if he/she meets all of the following conditions:
- 5.2.1 An adoption agency has given an employee written notice that it has matched him/her with a child for adoption and tells him/her the Expected Placement Date.
 - 5.2.2 An employee has notified the agency that he/she agrees to the child being placed with him/her on the Expected Placement Date.
 - 5.2.3 An employee's spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave).
- 5.3 The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' OAL and 26 weeks' AAL.

6 NOTIFICATION OF INTENTION TO TAKE LEAVE

- 6.1 An employee must give the Head Teacher (or in the case Head Teacher all references to Head Teacher within this policy should be read as though reference to the Chair of Governors) notice in writing of:
- 6.1.1 the Expected Placement Date; and
 - 6.1.2 his/her intended start date for adoption leave ('**Intended Start Date**')
- 6.2 This notice should be given not more than seven days after the agency notified an employee in writing that it has matched him/her with a child.
- 6.3 At least 28 days before an employee's Intended Start Date (or, if this is not possible, as soon as he/she can), he/she must also provide the Head Teacher with:
- 6.3.1 A Matching Certificate from the adoption agency confirming:
 - 6.3.1.1 the agency's name and address;
 - 6.3.1.2 the date he/she was notified of the match; and
 - 6.3.1.3 the Expected Placement Date.
 - 6.3.2 Written confirmation that he/she intends to take statutory adoption leave and not statutory paternity leave.



7 STARTING ADOPTION LEAVE

- 7.1 OAL may start on a predetermined date no more than 14 days before the Expected Placement Date, or on the date of placement itself, but no later.
- 7.2 An employee must notify the Head Teacher of his/her Intended Start Date in accordance with paragraph 6. The Head Teacher will then write to an employee within 28 days to inform him/her of the date he/she is expected to return to work if he/she takes the full entitlement to adoption leave (**Expected Return Date**).
- 7.3 An employee can postpone his/her Intended Start Date by informing the Head Teacher in writing at least 28 days before the original date or, if that is not possible, as soon as he/she can.
- 7.4 An employee can bring forward his/her Intended Start Date by informing Head Teacher in writing at least 28 days before the new start date or, if that is not possible, as soon as he/she can.
- 7.5 Shortly before an employee's adoption leave starts the Head Teacher will discuss with him/her the arrangements for covering his/her work and the opportunities to remain in contact, should he/she wish to do so, during the adoption leave. Unless an employee requests otherwise, he/she will remain on circulation lists for internal news, job vacancies, training and work-related social events.

8 STATUTORY ADOPTION PAY

- 8.1 Statutory adoption pay (**SAP**) is payable for up to 39 weeks. SAP will stop being payable if an employee returns to work (except where an employee is simply keeping in touch), if the placement is disrupted or if he/she makes a declaration to receive Shared Parental Leave. An employee is entitled to SAP if:
- 8.1.1 He/she has at least 26 weeks continuous service at the end of the Qualifying Week and are still employed by the School during that week;
- 8.1.2 His/her average weekly earnings during the eight weeks ending with the Qualifying Week (the **Relevant Period**) are not less than the lower earnings limit set by the Government; and
- 8.1.3 He/she has given the School the relevant notifications under paragraph 6.
- 8.2 SAP is calculated as follows:
- 8.2.1 First six weeks: SAP is paid at the **Earnings-Related Rate** of 90% of an employee's average weekly earnings calculated over the Relevant Period;
- 8.2.2 Remaining 33 weeks: SAP is paid at the **Prescribed Rate** which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower.



- 8.3 SAP accrues with each complete week of absence. SAP payments shall be made on the next normal payroll date and Income Tax, National Insurance and pension contributions shall be deducted as appropriate.
- 8.4 If an employee leaves employment for any reason (for example, if he/she resigns or is made redundant) he/she shall still be eligible for SAP if he/she has already been notified by an agency that he/she has been matched with a child. In such cases, if an employee's adoption leave has not already begun, SAP shall start to accrue:
- 8.4.1 14 days before the Expected Placement Date; or
- 8.4.2 the day after his/her employment ends,
- whichever is the later.
- 8.5 If an employee becomes eligible for a pay rise before the end of his/her adoption leave, he/she will be treated for SAP purposes as if the pay rise had applied throughout the Relevant Period. This means that an employee's SAP will be recalculated and increased retrospectively, or that he/she may qualify for SAP if he/she did not previously qualify. The Governing Body shall pay an employee a lump sum to make up the difference between any SAP already paid and the amount payable by virtue of the pay rise. Any future SAP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

9 OCCUPATIONAL ADOPTION PAY

ACADEMIES, FREE SCHOOLS AND PRIVATE SCHOOLS ARE NOT OBLIGED TO PAY IN ACCORDANCE WITH THE BURGUNDY OR GREEN BOOK (EXCEPT FOR EMPLOYEES WHO HAVE RELEVANT PROTECTION UNDER TUPE). HOWEVER, THIS MAY BE A USEFUL PROVISION FOR ALL SUCH SCHOOLS TO CONSIDER SHOULD THEY BE CONSIDERING PROVIDING A BENEFIT OF THIS NATURE

FURTHER UNDER THE BURGUNDY THE ADDITIONAL MATERNITY PAY ENTITLEMENT DOES NOT AUTOMATICALLY APPLY TO ADOPTING PARENTS RATHER MAINTAINED SCHOOLS HAVE DISCRETION AS TO WHETHER TO EXTEND THE SAME RIGHT TO ADOPTING PARENTS. FURTHER MORE THE GREEN BOOK RECOMMENDS, BUT DOES NOT REQUIRE, THAT MATERNITY RIGHTS BE EXTENDED TO ADOPTING PARENTS. THE WORDING BELOW IS INTENDED TO REFLECT THE RELEVANT MATERNITY PROVISIONS AND MAY BE RELIED UPON SHOULD YOU WISH TO PROVIDE A BENEFIT OF THIS NATURE. HOWEVER IF YOU DECIDE NOT TO PROVIDE OCCUPATION ADOPTION PAY THEN THIS CLAUSE 8 SHOULD BE DELETED



- 9.1 To Qualify for OAP an employee must:
- 9.1.1 Have at least one year's continuous service at the beginning of the 11th week before the matching week.
 - 9.1.2 Declare in writing that he/she intends to return to work for at least 3 months following the end of the adoption leave, or parental leave if this follows on immediately after adoption leave. If he/she subsequently decide not to return to work, he/she must repay the half pay period of Occupational Adoption Pay.
- 9.2 Occupational Adoption Pay is paid at the same as the Occupational Maternity Pay provided for in the Burgundy Book or the Green Book as applicable to teachers in local authority managed schools.

10 **TERMS AND CONDITIONS DURING OAL AND AAL**

All the terms and conditions of an employee's employment remain in force during OAL and AAL, except for the terms relating to his/her normal pay.

11 **ANNUAL LEAVE**

- 11.1 During OAL and AAL, annual leave will accrue. Annual leave cannot usually be carried over from one holiday year to the next.
- 11.2 This entitlement applies to all employees including term time only and teachers.
- 11.2.1 Term Time Only Workers – In order to calculate the entitlement to annual leave it is necessary to carry out a 'Balance of Salary' calculation at the start of the adoption leave period and a second calculation at the end of an employee's leave period. This calculation takes into account an employee's start date with the Governing Body and the number of completed weeks of the academic year up to the point an employee starts his/her adoption leave. The proportion of completed weeks will then be compared to the salary an employee has been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary. Once an employee returns to work, a second calculation is carried out to identify whether he/she is entitled to a payment in respect of annual leave he/she has accumulated whilst on adoption leave. (Please note: The date on which an employee starts and ends his/her adoption leave can significantly affect the balance of salary calculation. Please contact the Governing Body's Finance Officer for further information.)



11.2.2 Teachers –The contracts of employment in place within the School make[s] no specific reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days per annum under the Working Time Regulations. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of adoption leave will have acquired a right to additional annual leave. It is possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

11.2.3 annual leave entitlement under an employee's contract shall continue to accrue (see paragraph 11.1, Annual leave); and

11.2.4 pension benefits shall continue (see paragraph 12, Pensions).

11.3 The School's holiday year runs from 1 September to 31 August each year.

12 **PENSIONS**

For details of the implication of OML and/or AML on an employee's pension please contact the School's Office Manager who will advise further.

13 **DISRUPTED ADOPTION**

13.1 Adoption leave is disrupted if it has started but:

13.1.1 An employee is notified that the placement will not take place;

13.1.2 the child is returned to the adoption agency after placement; or

13.1.3 the child dies after placement.

13.2 In case of disruption, an employee's entitlement to adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which disruption occurred, unless an employee's entitlement to leave and/or pay would have ended earlier in the normal course of events.

14 **KEEPING IN TOUCH**

14.1 An employee's Senior Leadership Team may make reasonable contact with him/her from time to time during the adoption leave.

14.2 An employee may work (including attending training) on up to ten days during adoption leave without bringing his/her adoption leave to an end. The arrangements, including pay, would be discussed and set by agreement with the Head Teacher. An employee is not obliged to undertake any such work during adoption leave.



15 SHARED PARENTAL LEAVE (SPL)

- 15.1 SPL will be available to eligible parents of children placed for adoption on or after 5 April 2015. It will allow an eligible primary adopter to curtail their entitlement to adoption leave in order to enable them or their partner to take SPL. Eligible parents can share up to 50 weeks leave and 37 weeks statutory pay. Full details of this entitlement and the procedure eligible parents are required to follow are contained in the School's Shared Parental Leave (Adoption) Policy.
- 15.2 However, in brief if an employee wishes to opt into the SPL scheme, he/she must give the Head Teacher at least eight weeks' written notice to end his/her adoption leave (a curtailment notice) before he/she can take SPL. The notice must state the date the adoption leave will end. An employee can give such notice before or after adoption leave starts, but he/she must take at least two weeks adoption leave.
- 15.3 An employee must also give the Head Teacher, at the same time as the curtailment notice, a notice to opt into the SPL scheme in accordance with the procedure set out in the School's Shared Parental Leave (Adoption) Policy or a written declaration that the other parent has given their employer an opt-in notice and that he/she has given the necessary declarations in that notice.
- 15.4 If an employee's partner is eligible to take SPL from their employer they cannot start it until the School has received the curtailment notice.
- 15.5 The curtailment notice is binding and cannot usually be revoked. An employee can only revoke a curtailment notice if adoption leave has not yet ended and one of the following applies:
- 15.5.1 He/she realises that neither he/she nor the other parent are in fact eligible for SPL or Shared Parental Pay, in which case an employee can revoke the curtailment notice in writing up to eight weeks after it was given; or
 - 15.5.2 An employee's spouse/partner has died.
- 15.6 Once an employee has revoked a curtailment notice he/she will be unable to opt back into the SPL scheme.



16 EXPECTED RETURN DATE

- 16.1 Once an employee has notified the Governing Body in writing of his/her Intended Start Date, the Head Teacher shall send him/her a letter within 28 days to inform him/her of the Expected Return Date. If an employee's start date changes the Head Teacher shall write to him/her within 28 days of the start of adoption leave with a revised Expected Return Date.
- 16.2 An employee will be expected to be back at work on his/her Expected Return Date unless he/she tells the Head Teacher otherwise. It will help the Head Teacher if, during an employee's adoption leave, he/she is able to confirm that he/she will be returning to work as expected.
- 16.3 Shortly before an employee is due to return to work, the Head Teacher may invite him/her to have a discussion (whether in person or by telephone) about the arrangements for his/her return. This may cover:
- 16.3.1 updating an employee on any changes that have occurred during his/her absence;
 - 16.3.2 any training needs he/she might have; and
 - 16.3.3 any changes to working arrangements (for example, if he/she has made a request to work part time).

17 CHANGING A RETURN DATE

- 17.1 If an employee wishes to return to work earlier than the Expected Return Date, he/she must give the Head Teacher at least eight weeks' notice. It is helpful if an employee gives this notice in writing.
- 17.2 If an employee does not give enough notice, the Head Teacher may postpone his/her return date until four weeks (or eight weeks as appropriate) after he/she gave notice, or to the Expected Return Date if sooner.
- 17.3 If an employee wishes to return to work later than the expected Return Date, he/she should either:
- 17.3.1 Request unpaid parental leave in accordance with the School's Parental Leave Policy, giving the Head Teacher as much notice as possible but not less than 21 days; or
 - 17.3.2 Request paid annual leave in accordance with his/her contract of employment, which will be at the School's discretion.
- 17.4 If an employee is unable to return to work due to sickness or injury, this will be treated as sickness absence in accordance with the School's Sickness Absence Policy.



18 DECIDING NOT TO RETURN

- 18.1 If an employee does not intend to return to work, or is unsure, it is helpful if he/she discusses this with the Head Teacher as early as possible. If an employee decides not to return he/she should give notice of resignation in accordance with his/her contract. Wherever possible, an employee should give as much notice as possible in order to facilitate workforce planning.
- 18.2 Once an employee has given notice that he/she will not be returning to work, he/she cannot change his/her mind without the agreement of the Governing Body.
- 18.3 If an employee has received Occupational Adoption Pay and does not return to work he/she will be required to repay the half pay period of Occupational Adoption Pay in full.
- 18.4 If an employee returns for part of the three month period, he/she shall be required to repay the appropriate proportion of Occupational Adoption Pay
- 18.5 This does not affect an employee's right to receive SAP.

19 AN EMPLOYEE'S RIGHTS UPON RETURN

- 19.1 An employee is normally entitled to return to work in the same position as he/she held before commencing leave. An employee's terms of employment shall be the same as they would have been had he/she not been absent.
- 19.2 However, if an employee has taken any period of AAL or more than four weeks' parental leave, and it is not reasonably practicable to allow an employee to return into the same position, the Governing Body may give him/her another suitable and appropriate job on terms and conditions that are not less favourable.
- 19.3 In the event of a redundancy situation, an employee on adoption or maternity leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

20 FLEXIBLE WORKING

The Governing Body will deal with any requests by employees to change their working patterns (such as working part time) after adoption leave on a case-by-case basis. There is no absolute right to insist on working part time, but an employee does have a statutory right to request flexible working and the Governing Body will try to accommodate an employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the organisation. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the School/Trust's Flexible Working Policy.