



**WARRINGTON**  
Borough Council

THE **B**   **M** TRUST

# Schools Adoption Leave Policy

## For Support Staff

Produced by Human Resources

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### DOCUMENT STATUS

Version	Date	Action
1	January 2012	Drafted
2	October 2014	Statutory review
3	March 2021	Equality proofed by Stonewall
	September 2021	Adopted by The Beam Trust

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## **1. INTRODUCTION**

- 1.1 The Beam Trust recognises the need for adoptive parents to take time off work to build a relationship with the child when the child starts living with them. This Policy is intended both to reflect the needs of employees during adoption leave, and to retain their skills and commitment which are invaluable to the organisation.
- 1.2 The following sets out the provisions and conditions of the School's Adoption Policy. It aims to inform employees of their appropriate entitlement to both statutory and, where applicable, occupational adoption rights.
- 1.3 Adoption leave and pay applications are open to all eligible employees regardless of age, disability, race, ethnicity, religion or belief, sex, gender identity or gender expression, sexual orientation, marriage, civil partnership, pregnancy or maternity or any other equality characteristic.

## **2. SCOPE OF THE GUIDANCE**

- 2.1 This Policy applies to all employees who adopt a child or children on or after 5<sup>th</sup> April 2015 during their employment with the exception of those cases mentioned in 3.2.

## **3. QUALIFYING FOR STATUTORY ADOPTION LEAVE**

- 3.1 In order to qualify for Statutory Adoption Leave (SAL) employees must:
  - be matched with a child for adoption by an approved Adoption Agency;
  - have surrogacy arrangements in place and intend to apply for a parental order; and
  - and
  - give the correct notification of intention to take SAL.
- 3.2 The following arrangements do not qualify for adoption leave and pay:
  - private adoption arrangements;
  - becoming a special guardian;
  - adoption of a stepchild;
  - surrogacy arrangements for which a parental order is not being applied
- 3.3 If an individual is adopting, they will be entitled to take SAL and receive SAP, subject to meeting the qualifying conditions. If they have a partner (including spouse, civil partner and partner regardless of gender), the partner may qualify for paternity leave, shared parental leave and parental leave.

- 3.4 Where a couple are adopting jointly, only one partner may take SAL and receive SAP, subject to meeting the qualifying conditions. The couple must choose who will take up the entitlement. The other partner may be entitled to paternity leave, shared parental leave and parental leave
- 3.5 Foster parents may qualify for SAL and receive SAP, subject to meeting the qualifying conditions. This only applies to people who foster with a view to adoption and where foster parents go on to adopt a child under a concurrent arrangement, there is a fostering placement before an adoption placement.

#### **4. NOTIFICATION**

4.1 Employees must keep their line manager/headteacher informed at a number of key stages during the adoption process. Employees should complete the Adoption Leave Option Form and hand this to their line manager/headteacher within 7 days of being notified they have been matched with a child from the UK, or within 28 days of receiving official notification when adopting from overseas.

4.2 A checklist for prospective adoptive parents is available.

4.3 A checklist for line managers is available.

#### **4.4 UK Adoptions**

4.4.1 Employees adopting a child from the UK must inform their line manager/headteacher, in writing, within 7 days of being notified by the Adoption Agency that they have been matched with a child, unless this is not reasonably practicable to do so. The line manager/headteacher will need to know:

- when the child is expected to be placed; and
- when the adoption leave and pay is to start (adoption leave may start on any day of the week). Employees should aim to give at least 28 days notice of the commencement of their adoption leave where at all possible.

4.4.2 Employees adopting a child from the UK should ask the Adoption Agency for a Matching Certificate which should be attached to the Option Form (original not a photocopy). The certificate will state basic information, including the:

- Adoption Agency's name and address;
- employee's name and address;
- expected date of placement of the child;
- date on which the employee was informed of the match.

## 4.5 **Overseas Adoptions**

4.5.1 Employees adopting a child from overseas must inform their line manager/headteacher, in writing, within 28 days of receiving official notification that they have been matched with a child, unless this is not reasonably practicable to do so. The line manager/headteacher will need to know:

- the date on which official notification was received; and
- the date the child is expected to enter the UK; and
- when the adoption leave and pay is to start (adoption leave may start on any day of the week). Employees should aim to give at least 28 days notice of the commencement of their adoption leave where at all possible.

Please note that no later than 28 days after the child has entered into the UK employees must notify their line manager/headteacher of the actual date of entry.

4.5.2 Employees adopting a child from overseas will need to provide Employee Services with the following documentation:

- a copy of official notification of adoption;
- documentary evidence of the date of entry of the child into the UK, for example, plane tickets or copies of any entry clearance documents.

4.5.3 Please note that official notification (in the case of adoption from overseas) means a written notification, issued by or on behalf of the relevant domestic authority, that is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to the authority, confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

4.6 The line manager/headteacher should inform Employee Services of the adoption and forward a copy of the completed Option Form.

4.7 Employee Services will write to the employee, within 28 days, confirming the employee's entitlement to adoption leave and pay, the date on which adoption leave will start and setting out the return to work date, assuming the employee takes their full leave entitlement.

- 4.8 If employees then wish to change the start date of their adoption leave, they must give at least 28 days' notice of the revised date on which adoption leave is to start.
- 4.9 It is essential that the relevant documentation is passed to Employee Services as it is proof of entitlement for the purpose of adoption leave and pay.

## **5. PRE-ADOPTION APPOINTMENTS**

- 5.1 The main adopter is entitled to paid time off to attend up to 5 adoption appointments.
- 5.2 The secondary adopter is entitled to unpaid time off to attend up to 2 adoption appointments.
- 5.3 Evidence of all appointments should be produced and the necessary arrangements made with the line manager/headteacher.
- 5.4 Where appointments entail travelling and attendance during a normal lunch break, employees are still entitled to a minimum of 30 minutes lunch break, either within the normal lunch break period, or within a reasonable time either side of this.

## **6. STATUTORY ADOPTION LEAVE**

- 6.1 Where adopting a child in the UK, employees may choose to begin the period of adoption leave on any day of the week from:
- the date on which the child is placed with them; or
  - a predetermined date which is up to 14 days before the date on which the child is expected to be placed with them.
- 6.2 Employees adopting a child from overseas may choose to begin the period of adoption leave on any day of the week from:
- the date the child enters the UK;
  - a predetermined date up to 28 days after the date the child enters the UK.
- 6.3 It should be noted that SAL is not intended to cover the period spent travelling overseas to arrange the adoption or visiting the child. Please refer to the School's Authorised Leave Policy for details of other leave entitlements.
- 6.4 It is assumed that employees will take their full entitlement to adoption leave, unless the line manager/headteacher is informed differently.
- 6.5 Employees with The Beam Trust at the beginning of the Matching Week/Official Notification Week, are entitled to:

- 52 weeks Adoption Leave comprising of 26 weeks Ordinary Adoption Leave (OAL) followed in succession by 26 weeks Additional Adoption Leave (AAL) commencing at any time after the 2<sup>nd</sup> week before the expected date of placement.

## **7. STATUTORY ADOPTION PAY**

- 7.1 In order to qualify for Statutory Adoption Pay (SAP) employees must have at least 26 weeks local government service by the Matching Week/Official Notification week and continue to be employed until immediately before the week they are placed with a child.
- 7.2 Payment of SAP is dependent upon an employee's average weekly earnings being not less than the standard earnings limit for the payment of National Insurance Contributions (as a general rule earnings are averaged over the period of 8 weeks up to and including the last pay day before the end of the Matching Week).
- 7.3 The current rate of SAP is available from the following website <https://www.gov.uk/employers-adoption-pay-leave/entitlement>. The entitlement will be made up of:
- 26 weeks OAL at the current rate of SAP (or 90% of weekly earnings if this is less)
  - 26 weeks AAL:
    - 13 weeks at the current standard rate of SAP (or 90% of weekly earnings if this is less)
  - 13 weeks without pay
- 7.4 Employees not eligible to SAP may be entitled to additional financial support through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from Jobcentre Plus or the Social Security office.
- 7.5 Employees must inform their line manager/headteacher immediately if either of the following situations apply during SAL as this may affect eligibility to SAP:
- the employee undertakes work for any other employer for whom they were not working prior to going on leave; or
  - they are taken into legal custody.
- 7.6 The payment that employees are entitled to is the same irrespective of whether more than one child is placed for adoption as part of the same arrangement.

7.7 If employees return to work at any time whilst still receiving SAP, they will not be entitled to that whole week's SAP (unless this is a 'keeping in touch' day)

7.8 For salaried employees, adoption pay is converted into a weekly rate. Therefore, SAP is paid in complete weeks.

## **8. OCCUPATIONAL ADOPTION PAY**

8.1 Occupational Adoption Pay (OCAP) is provided to employees of the school by virtue of this policy and is dependant on the length of Local Government Service and having at least 1 year's continuous service with Warrington Borough Council ending with the week in which the matching/official notification is confirmed.

8.2 Anyone taking up the option of OCAP will be required to return to work for 13 weeks following their return from adoption leave. Anyone on a fixed term contract that is due to expire prior to the end of the 13 weeks may take the option of OCAP, however if the contract is not extended then they will be required to pay back this element of the adoption pay.

8.3 In order to qualify for OCAP, employees must continue to be employed from the Matching Week/Official Notification Week until immediately before the week they are placed with a child

8.4 It is assumed that employees will take their full entitlement to occupational adoption leave, unless their line manager/headteacher is informed differently.

8.5 Entitlement to the rights for OCAP will depend on the choices the employee makes in terms of returning to work and reserving the right to return to work.

8.6 Employees who qualify for occupational adoption pay are entitled to:

- 26 weeks OAL commencing on the day the child starts to live with them or anytime within 14 days prior to this date for UK adoptions. For overseas adoptions the date the child enters the UK or within 28 days of this date. Pay during this time will be made up of:
  - 6 weeks at 90% of average weekly earnings
  - 12 weeks at half pay (OCAP) plus the current standard rate of SAP (or 90% of weekly earnings if this is less) up to the level of current average weekly earnings
  - 8 weeks at the current standard rate of SAP (or 90% of weekly earnings if this is less)
- 26 weeks AAL:

- 13 weeks at the current standard rate of SAP (or 90% of weekly earnings if this is less)
- 13 weeks without pay

## **9. ENDING ADOPTION LEAVE AND PAY TO TAKE UP SHARED PARENTAL LEAVE**

- 9.1 An employee can elect to curtail (i.e. 'end') their adoption leave and pay (any time after two weeks of adoption leave) to take Shared Parental Leave with their partner, assuming they meet the qualifying criteria for Shared Parental Leave (See the Shared Parental Leave Policy for further details).
- 9.2 For Shared parental leave to be taken adoption leave must come to an end and the employee forfeits all benefits from this policy. An employee must issue the employer with the appropriate notice in order to end Adoption Leave and take up Shared Parental Leave (see Shared Parental Leave Policy).
- 9.3 Once the employee gives notice to end adoption leave and it is accompanied by a notice of entitlement to shared parental leave, then this notice is binding. The notice may be withdrawn only if they have not returned to work, the date to end the adoption leave has not passed and one of the following circumstances apply:
- Where it is discovered in the 8 weeks following the notice that neither the adopter nor their partner has any entitlement to shared parental leave or pay.
  - In the event of the death of the partner.
- 9.4 Further information on Shared Parental Leave can be found in the Shared Parental Leave Policy, which is available on the SLA Online System (Schools Services) or from Human Resources.

## **10. KEEPING IN TOUCH/REASONABLE CONTACT**

- 10.1. Employees are able to attend work for a maximum of 10 days during their adoption leave without their leave or pay being affected. This includes carrying out any work under the contract of employment, training or any activity undertaken for the purpose of keeping in touch with the workplace. Any work carried out on a day or part of a day shall constitute one kit day for these purposes.
- 10.2 Attendance at work must be agreed between an employee and their line manager/headteacher.
- 10.3 The line manager/headteacher will need to consider whether the employee should be paid for their attendance at work, dependent on the nature and duration of the

work. Where an employee undertakes work under their contract of employment, they are entitled to be paid for that work. Employees will be paid their normal hourly rate for the hours worked on that KIT day, regardless of whether they are in receipt of SAP. Any payment (inclusive of SAP) should not exceed a normal day's pay.

- 10.4 During the period of leave, the employee and their line manager/headteacher should be in reasonable contact to discuss issues, such as the return to work. This would not constitute as 'work' and will not count towards the 10 days.
- 10.5 In addition, employees should be kept informed of other work issues, for example, job vacancies (where requested by the employee), workplace developments and training opportunities. In cases of redundancy, there are statutory obligations placed on the School in terms of communicating, consulting etc. with employees on adoption leave. Further information is available from the Human Resources.

## **11. RETURNING TO WORK**

- 11.1 Employees have the right to return to the same job, on the same terms and conditions as if they had not been absent unless there is a justified reason for this not being possible (for example, redundancy or reorganisation), in which case employees will be offered a suitable alternative position where one is available. If a reorganisation takes place whilst an employee is on adoption leave they will be fully consulted and their rights explained.
- 11.2 Employees have the right to request to return to work on a flexible working basis. Further information regarding this process is contained in the School's 'Requests to Work Flexibly' Procedure, which is available from Human Resources and is available on the Intranet.
- 11.3 Employees wishing to apply for flexible working arrangements to commence on return from their leave are advised to take advice from their trade union representative before submitting the request to their line manager/headteacher for consideration as soon as possible in order for the process to be followed and any practical arrangements to be implemented in a timely manner. Employees may wish to discuss the issue with their line manager/headteacher prior to commencing leave.
- 11.4 If employees are not sure whether or not they wish to return to work after adoption leave, they can (and are advised to) reserve the right to do so. This can be discussed further with the line manager/headteacher or Human Resources, in confidence. However, if employees are eligible for OCAP (12 weeks half pay) this would be withheld until after the return.
- 11.5 Once a firm decision has been made, the employee should inform their line manager/headteacher of their intentions.

- 11.6 Employees can only be paid adoption pay based on a weekly rate. If employees return to work at any time when they are still receiving SAP, they will lose that whole week's pay (unless this is a 'keeping in touch' day). In order not to lose any pay, employees should ensure that they return to work at the end of their complete week of the Pay Period.
- 11.7 Where an employee is unable to return to work on their expected return date due to illness, they will be covered by the School's normal sickness scheme from the date they should have returned.
- 11.8 Where an employee is unable to return to work on their expected return date because of an interruption to their work, for example, the workplace being closed for repair (and where an alternative working site is not available), they will return when work resumes, or as soon as is reasonably practicable. They will be paid normal pay during this period.
- 11.9 It is assumed that employees will take their full entitlement to adoption leave unless the line manager/headteacher is informed differently. However, if employees decide to return to work before the end of the appropriate period they are required to give 21 days notice, in writing, of the date on which they wish to return to work.
- 11.10 Where an employee changes their mind about the date they intend to return to work, where they have already notified the school of an early return date, the required notice is as detailed above (where the return is earlier, the notice will apply from the early return date already specified by the employee, where the return is extended, the notice will apply from the original return date).
- 11.11 The School has the right to postpone early return to work where sufficient notice is not given. Any postponement will not take the leave period beyond the end of the statutory adoption leave period. The School will inform employees of the postponement and the reason for it, in writing, before the intended return to work date.
- 11.12 If employees are entitled to OCAP and do not return to work within the School for at least a 13 week period, either on a full time or part time basis, they will be asked to refund the 12 weeks half pay (OCAP). Any annual leave, parental leave or sickness absence taken during this period will count towards the service requirement.

## **12. ANNUAL LEAVE**

- 12.1 Employees should consider their position in relation to annual leave where the period of adoption leave runs from one leave year to the next. Annual leave should be taken in the current year however, employees can carry any untaken annual

leave into the next leave. Leave arrangements should be discussed and agreed with the line manager as early as possible.

- 12.2 Employees are entitled to accrue any Bank Holidays that fall during the whole period of Adoption Leave. A pro-rata entitlement will be added to the employee's annual leave entitlement.

### **13. PENSIONS**

- 13.1 The 39 weeks adoption pay period is treated as pay for pension purposes and contributions will be deducted from it, meaning that the period counts towards future pension calculations on retirement.
- 13.2 Employees who are members of the Local Government Pension Scheme can choose whether or not to pay pension contributions for the duration of any unpaid leave, for example, additional adoption leave or additional paternity leave. Contributions will be based on the last week's or month's pay. Employees will need to indicate on the appropriate Option Form that they wish to continue paying deductions. Further information is available from Human Resources.
- 13.3 The effect of continuing to make payments is that the period of unpaid leave also counts as service for pension purposes and will be taken into account when calculating any benefit under the scheme.
- 13.4 For any period of unpaid leave, employees may wish to consider making voluntary National Insurance Contributions to ensure their state retirement pension is not affected. Employees can ascertain the status of their contributions by contacting the Contributions Agency. The Contributions Agency will be able to advise whether or not backdated payments are necessary.

### **14. SPECIAL CIRCUMSTANCES**

- 14.1 In the sad event that the child's placement ends during the adoption leave period, employees will be able to continue their adoption leave for up to 8 weeks after the end of the placement or until the end of the adoption leave period, whichever is the sooner. Employees must inform their line manager/headteacher as soon as possible of the change of circumstances.