

Model Policy for Oxfordshire Schools - Adoption Leave & Pay Scheme for teachers

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Introduction

1. This Oxfordshire model policy has been drawn up following consultation with all the recognised trade unions and associations: ASCL, ATL, NAHT, NASUWT, NUT and Unison. Advice on the application of this policy is available from the school's HR service.
2. This policy should be read in conjunction with other relevant documents such as the School Teachers' Pay and Conditions Document (STPCD), Conditions of Service for School Teachers in England and Wales (Burgundy Book) the National Agreement on Pay and Conditions of Service for support staff (the Green Book).
3. It is recommended that academies who have chosen to continue to use the STPCD, Burgundy Book, and Green Book also adopt this model policy. Where an academy adopts this policy the word 'school' should be taken to refer to the academy.
4. The term 'relevant body' has been used throughout this policy. In maintained schools this is the governing body. The differing structures of academies means that the academy trust will need to define the relevant body for the purposes of this policy.
5. The term 'head teacher' has been used throughout this document, however depending on the size and structure of the school this role may be delegated to other members of the senior leadership team, school business managers or line managers as appropriate. Where the head teacher is subject to this policy, this will be managed by the Chair of the relevant body or other nominated governor.

Who does this scheme apply to?

6. This scheme applies to all eligible teachers working in schools or in other settings. School support staff have their own scheme.
7. Adoption leave is available to individuals, or one member of a couple who are jointly adopting a child, if they are:
 - adopting a child
 - fostering a child permanently and becoming their legal parent ('fostering to adopt')
 - having a child through a surrogacy arrangement

Where a couple are jointly adopting a child, the couple must choose which partner takes adoption leave. This includes same sex couples, or couples regardless of their gender.

Exceptions

8. Employees don't qualify for Statutory Adoption Leave or Pay if they:
 - arrange a private adoption
 - become a special guardian or kinship carer
 - adopt a family member or stepchild

Time off to attend adoption meetings

9. Potential adopters will need to attend a number of assessment and matching appointments with the adoption agency.
10. By law, time off is given to employees applying to adopt, to attend up to five adoption appointments.
11. The time off will be paid where the employee is adopting the child on their own. If the employee is adopting jointly then one of the parents may elect to receive the time off as paid and the other will be entitled to take the time off as unpaid.
12. Employees should give their head teacher as much notice as possible and may be required to provide evidence of appointments.

Adoption Leave eligibility and entitlement

13. To qualify for adoption leave, an employee must:
 - be newly matched with a child for adoption by an adoption agency
 - give the correct notice to their head teacher- see paragraph 36
 - provide [proof of the adoption or fostering to adopt](#) placement or surrogacy

Adoption Leave entitlement

14. Qualifying employees are entitled to up to 52 weeks' statutory adoption leave made up of:
 - Ordinary Adoption Leave - first 26 weeks
 - Additional Adoption Leave - last 26 weeks
15. Only one period of leave can be taken, irrespective of whether more than one child is placed for adoption as part of the same arrangement.
16. Couples adopting a child can choose which parent takes adoption leave; the other parent may be able to take:

1. **Paternity Leave** - one or two weeks paid leave and unpaid leave for eligible partners.
 2. **Shared Parental Leave and Pay** - allows eligible adoptive parents to share the care of the child in the first year, taking time off together or separately.
 3. **Parental Leave** - four weeks unpaid leave each year (up to 18 weeks in total) is available for each adopted child, up to their 18th birthday.
17. Shared parental leave and pay will also be available for the intended parents in a surrogacy arrangement provided they qualify for adoption leave and pay.

Adoption Pay entitlement

18. Pay for up to 39 weeks may be available to employees depending on certain eligibility criteria being met. Adoption pay may include:
- Statutory Adoption Pay
 - Occupational Adoption Pay

Statutory Adoption Pay (SAP)

19. To qualify for Statutory Adoption Pay employees must:
- be newly matched with a child for adoption by an adoption agency
 - have worked continuously for the **same employer** for 26 weeks ending with the week in which they are notified of being matched with a child for adoption
 - give the correct notice to their head teacher - see paragraph 36
 - provide [proof of the adoption or fostering to adopt](#) placement or surrogacy
 - earn on average at least £123 a week (before tax)
20. Statutory Adoption Pay is payable for 39 weeks and is paid by the council to the employee on their normal pay day each month. The weekly amount is 90% of the employee's average weekly earnings for the first six weeks, followed by a [flat rate](#) amount set by the government each year, or 90% of the employee's average weekly earnings (whichever is lower). Tax and National Insurance is deducted.

Overseas adoptions

21. To qualify for both Adoption Leave and Pay, the conditions are the same as above except employees must:
- have worked continuously for Oxfordshire County Council for at least 26 weeks by the time they get their 'official notification'

- sign [form SC6*](#) if they are adopting a child with their partner.

*Official notification is permission from a UK authority that the employee can adopt from abroad. [Form SC6 - adopting a child from abroad](#) confirms the employee is not taking paternity leave or pay.

Surrogacy arrangements

22. To qualify for Statutory Adoption Pay you must:

- have been [continuously employed by your employer](#) for at least 26 weeks by the 15th week before the baby's due
- intend to apply for a [parental order](#)
- expect the order to be granted (for example because you do not have any convictions involving children, and the birth mother or father agree to the arrangement)

23. All the other conditions for qualifying for pay and leave are the same as for adoptive parents.

Occupational Adoption Pay (OAP)

24. In addition to statutory adoption pay, teachers may qualify for occupational adoption pay in accordance with the Conditions of Service for School Teachers in England and Wales ('the Burgundy Book').

25. To qualify teachers must have completed 6 months continuous **local authority service** by the beginning of the 11th week before the week in which the baby is due.

26. Teachers who qualify for OAP will be paid:

- Full pay for the first four weeks of adoption leave followed by
- 90% of normal pay for the next two weeks and
- 12 weeks at half pay normal pay

27. OAP of 12 weeks at half pay is made on condition that the teacher returns to duty after their adoption leave for a period of at least three months on a continuous contract; otherwise they will be required to repay this sum. Employees do not have to return to the same hours or to the same school, but they must return to the same employer or a local authority school on a contract (not supply).

28. If employees are undecided about coming back to work, they can opt to be paid this as a lump sum if they do return.

29. If half pay plus SAP entitlement is more than the employee's normal pay, it will be reduced accordingly.
30. Once entitlement to adoption pay is exhausted any remaining adoption leave taken is unpaid.
31. Where an employee works variable hours each week, adoption pay will be calculated using the average pay earned in the 12 weeks preceding the date on which the last complete week ended. This will exclude any week in which no pay was earned.

Qualifying continuous service

32. The adoption pay an employee is eligible for depends on the length of their continuous service. This is the amount of time an employee has worked for one employer without a break. For teachers in maintained schools, continuous service for occupational adoption pay is recognised between maintained schools and from one local authority to another and will be carried over in any transfer of employment under TUPE regulations, e.g. during academy conversion. However, if an employee voluntarily changes employer in the adoption qualifying period or during the period of adoption leave then their entitlement to adoption pay may be affected and they should check this with the school's HR service.

Giving notice to take adoption leave

33. Adoption leave can start on any day of the week, either:
 - from the date of placement (date the child starts living with the employee)
 - for UK adoptions - up to 14 days before the placement date
 - for overseas adoptions - when the child arrives in the UK or within 28 days of this date
 - the day the child's born or the day after (if you've used a surrogate to have a child)
34. If the placement is delayed after the employee has started their adoption leave, they cannot stop the leave and start it again at a later date. Employees should ensure the placement will be going ahead, on the date agreed, before they start their adoption leave.
35. To help the head teacher plan appropriate cover arrangements, employees must let them know as early as possible about their intention to adopt and advise them of potential timescales.
36. Within seven days of being matched with a child, the employee must give formal notice of adoption leave by completing the [Family Leave form](#). The employee should

print a copy for their records before submitting the form. Once submitted a copy will be sent to the line manager and the IBC (payroll).

37. Employees must also show their matching certificate issued by the adoption agency to the head teacher and send a photocopy to the IBC at Transactional HR & Pay, IBC, E11 East, The Castle, Winchester, SO23 8UB.
38. The employee will receive written confirmation from the Payroll team within 28 days, confirming entitlement to adoption leave and pay.
Letters will be sent directly to the 'My Documents' section of [employee self-service \(ESS Lite\)](#) and will be available for employees to view and download at any time. Employees will receive a notification via the 'my notifications' app on employee self-service when a new document is available to view.

Managers can access the documentation using 'manage ePF' on the IBC portal and will be notified via the 'my inbox' app on IBC when a new document is available to view. The manager notification will go to the Headteacher, or the school administrator if they have submitted the form on the employee's behalf. The Headteacher/Administrator should prompt the employee to check their documents on ESS Lite.

39. Employees can change the start date of their adoption leave if they need to by giving the head teacher 28 days' notice, if possible.

Employment rights during adoption leave

40. Employment terms and conditions are protected and employees are entitled to any pay rises and improvements in terms and conditions given during the leave.
41. Employees have the same redundancy rights as their colleagues while on adoption leave and where they are selected for redundancy, have the right to be offered a suitable alternative job, where one exists.

Annual Leave

42. Annual leave entitlement continues to accrue during adoption leave. For teachers, any accrued entitlement is included in normal school closure periods.
43. No pay in lieu of days owed is payable.

Pension

44. Pension contributions only continue during paid periods of adoption leave for as long as the statutory payment is made. The Teachers' Pension Scheme does not allow service during periods of unpaid leave to be purchased but there is provision for

Additional Pension to be purchased when returning to paid teaching service. Full details are on the Teachers' Pensions website. For information contact the HR Advice Desk – hradvisedesk@oxfordshire.gov.uk or 03300 240849.

Keeping in touch days

45. Employees and head teachers/line managers should keep in touch during adoption leave and agree at the outset how best to do this. Head teachers can make a reasonable amount of contact with employees, for example to let them know about changes at work, job vacancies, training opportunities or staff events. Employees are under no obligation to accept invitations to attend work events.
46. Employees on adoption leave will be kept informed and consulted about any school changes affecting their job.
47. Employees can work up to 10 days during their adoption leave. These days are called 'Keeping in Touch days' (KIT days). KIT days are optional - both the employee and head teacher need to agree to them.
48. KIT days can be used for employees to work or attend events such as training or appraisal meetings.
49. The type of work and pay employees get should be agreed before they come into work.
50. Depending on the work, employees can be paid at their normal rate of pay or at another rate agreed between the head teacher and the employee.
51. A part day worked is counted as one KIT day, but the employee is only paid for the hours worked.
52. KIT days can be used as a single days or in blocks.
53. The employee's right to adoption leave and pay isn't affected by working the 10 KIT days but if an employee works more than this, it will affect their entitlement to statutory adoption pay.

Returning to work

54. Employees will be expected back at work on the date given on the Adoption Leave notification form. If a date was not given, it will be assumed that the maximum leave entitlement is being taken. The [Notification of Return from Adoption Leave](#) must be completed when the employee returns.

Changing the return to work date

55. Employees must give the head teacher at least 8 weeks' notice if they want to change their return to work date. The employee's return to work may need to be postponed by up to eight weeks, if this notice is not given.
56. If an employee decides not to return to work, they should resign in writing in the normal way, giving the amount of notice specified in their contract of employment.
57. Where an eligible employee has opted to receive payment of occupational adoption pay (12 weeks half pay) and subsequently decides not to return work, (see paragraphs 25 - 30 for full terms), they will be required to repay this sum unless exceptional circumstances apply.

Right to request flexible working

58. All employees have the right to request flexible working and the head teacher will give careful consideration to all requests, ensuring that the needs and priorities of the school can be met before agreeing to any new arrangements. See Flexible Working Policy.

Child Care Voucher Scheme

59. The council participates in a childcare voucher scheme with the provider Edenred. This scheme allows childcare vouchers to be paid from the employee's salary, before tax and national insurance deductions. The scheme was closed to new entrants on 4th October 2018 but parents already registered by this date are able to continue using it for as long as their employer offers it or until they leave the scheme. For more information go to www.childcarevouchers.co.uk.
60. The Government's tax-free childcare scheme replaced childcare vouchers. For further details on eligibility and how to apply visit www.gov.uk/tax-free-childcare

Other related policies and sources of information

- Shared parental Leave policy
- Paternity Leave policy
- Parental Leave policy
- Flexible Working Time Policy
- Oxfordshire Family Information Service ([OxonFIS](#))

Review of policy

We check our policies regularly to make sure they are up to date, the latest version can be accessed from the [schools intranet](#).

If you have any questions about this policy contact your Schools HR Adviser.

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