



Adoption Leave & Pay - All Staff

Approved by Trust Board on 10 March 2022

Applicable from 01 May 2022

This policy applies where the date of placement as stated on a colleague's matching certificate is on or after 01 May 2022

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1. Introduction and applicability

- 1.1. This policy applies to all staff employed by Co-op Academies Trust. Any questions or concerns regarding eligibility should be directed to the relevant HR colleague. Where this policy refers to "partner" this is regardless of gender and includes same-sex partners.
- 1.2. The Trust is committed to supporting colleagues to understand the choices available to them when planning for the adoption of a child, as families now have additional options open to them with regards to managing time off during the first year of their child's adoption. This policy should be read alongside the Trust's policies on Paternity Leave and Shared Parental Leave & Pay to ensure that colleagues are fully aware of the options available to them and their family.
- 1.3. This Policy will be applied with due consideration to the Trust's Equality, Diversity & Inclusion Policy and our co-operative values.
- 1.4. This policy is also applicable to colleagues who are fostering to adopt, or adopting a child following a surrogacy arrangement.
- 1.5. If colleagues are adopting a child with their partner, only one party in the couple will be entitled to adoption leave and/or pay. Colleagues will need to decide with their partner who will take adoption leave and/or pay, known as the 'main adopter.'
- 1.6. This policy refers to the entitlements of colleagues who are the "main adopters" for the purposes of adoption leave and pay.
- 1.7. If the colleague is not the main adopter, they may be eligible to take statutory Paternity, Parental or Shared Parental Leave and should refer to these separate Trust policies.
- 1.8. The following definitions are used within this policy:

Matching Week	The week commencing the Sunday on or immediately prior to the date on which the adopter was told that they have been told by the adoption agency that they have been matched with a child for adoption.
Ordinary Adoption Leave (OAL)	The first 26 weeks of adoption leave to which colleagues are entitled provided they have complied with the notification requirements.

Additional Adoption Leave (AAL)	A further period of 26 weeks' adoption leave directly following OAL to which colleagues may be entitled provided the OAL has not ended prematurely because of a disrupted placement of the child.
Statutory Adoption Pay (SAP)	This is paid by the Trust to colleagues who meet the statutory conditions. SAP is paid at the statutory rate as set by the Government for the relevant tax year, or 90% of an employee's average weekly earnings if this is lower.
Occupational Adoption Pay (OAP)	This is paid (up to 39 weeks) by the Trust to employees who meet the statutory conditions. This is paid at the statutory rate set by the Government in the relevant tax year.
SPL (Shared Parental Leave)	An alternative or supplementary option to adoption leave, which allows a parent or carer to reduce their adoption leave entitlement and share the remainder of their time off with their partner (if eligible). Details are available in the Trust's Shared Parental Leave Policy.

2. Eligibility

- 2.1. In order to be eligible for adoption leave and pay the colleague must:
- Continue to be employed (whether or not at work) immediately before the start of the adoption leave.
 - Notify the employer in writing within 7 days of their notification of being matched with a child, or as soon as reasonably practical of their intention to take adoption leave.
 - Notify their line manager of the start and end dates of their leave.
 - Inform their line manager of the date of placement for their child.

3. Adoption leave & pay

- 3.1. All colleagues who adopt (and are the main adopter) are entitled to take up to one years' adoption leave (52 weeks). This is not pro-rated for part-time workers and it does not require a minimum length of service. It is however, subject to satisfying the notification requirements set out later in this policy. This 52 week period is split into two blocks, referred to as:
- Ordinary Adoption Leave (OAL) for 26 weeks
 - Additional Adoption Leave (AOL) for 26 weeks

- 3.2. The law requires that the main adopter must take a minimum of two weeks adoption leave following the placement of a child.
- 3.3. Colleagues have the right to choose the start date of their adoption leave subject to the following conditions:
 - Adoption leave may commence no sooner than 14 days prior to the placement of the child (UK adoptions).
 - Adoption leave may commence no later than the date of placement for the child (UK adoptions).
 - For overseas adoptions, adoption leave may commence on the day the child arrives in the UK, or within 28 days of this date.
 - Adoption leave must commence on the date the child is born or the day after (if you have used a surrogate).
 - Employees must notify the academy within 28 days if the date of placement, or UK arrival date for overseas adoptions changes.
- 3.4. Statutory Adoption Pay (SAP) is a statutory entitlement for colleagues whose average weekly earnings are not less than the lower earnings limit for National Insurance Contributions and who have completed 26 weeks' continuous service by the week they are matched with a child.
- 3.5. SAP is subject to deductions for Income Tax, National Insurance and pensions (where applicable). Payment of SAP is not conditional on the colleague returning to work.
- 3.6. Colleagues must provide proof of adoption in order to be eligible for SAP. This proof will need to include the following information:
 - The employee's name and address
 - The name and address of the adoption agency
 - Evidence of the match date, which is evidenced from the Matching Certificate
 - Confirmation of the date of placement, which can be provided via a letter from the Adoption agency
 - The relevant UK authority's 'official notification' confirming that the employee is allowed to adopt (overseas adoptions only)
 - Evidence of the date that the child arrived in the UK (overseas adoptions only)
- 3.7. Colleagues are not entitled to SAP if any of the following apply during the period in which they are being paid SAP:
 - They start working for a new employer that they didn't work for during the matching week.
 - They are taken into legal / police custody
 - They move outside the European Economic Area during the SAP period. If this applies, the colleague will need to discuss the details (e.g. which

country) with their line manager and advice from the Hub HR Manager should be sought.

- 3.8. Those not eligible for Statutory Adoption Pay will be issued with form SAP1.
- 3.9. It is the colleague's responsibility to notify the Trust if any of the above events occur in the period in which they are being paid SAP. Any overpayment of SAP will be reclaimed by the Trust.
- 3.10. Adoption pay for all colleagues is detailed in the tables below and varies depending on length of service, hours and pay. As a minimum the Trust offers adoption pay benefits which are in line with the provisions set out in the respective national terms and conditions of service. In many cases the Trust has exceeded those provisions.
- 3.11. Colleagues who have completed 26 weeks' continuous service, but less than one year by the end of the matching week shall be entitled to Statutory Adoption Pay as set out below:

Weeks 1 to 6 (6 weeks)	SAP - 90% of average weekly earnings
Weeks 7 to 39 (33 weeks)	Standard SAP rate for the tax year or 90% of your average weekly earnings (whichever is lower).
Weeks 40 to 52 (13 weeks)	Unpaid.

- 3.12. Colleagues who have completed one years' continuous service by the end of the matching week shall be entitled to Statutory Adoption Pay and Occupational Adoption Pay as set out below:

Weeks 1 to 4 (4 weeks)	Full pay - Offset against payments made by way of SAP or MA.
Weeks 5 to 6 (2 weeks)	90% of average weekly earnings (SAP)
Weeks 7 to 11 (5 weeks)	90% of average weekly earnings - offset against payments made by way of SAP or MA.
Weeks 12 to 24 (13 weeks)	50% of average weekly earnings plus SAP, subject to a maximum of full pay. *Conditional on returning to work for a period of 13 weeks (full-time staff) See paragraph 3.14.
Weeks 25 to 39 (15 weeks)	Standard SAP rate for the tax year or 90% of

	your average weekly earnings (whichever is lower).
Weeks 40 to 52 (13 weeks)	Unpaid.

- 3.13. OAP received during weeks 7 to 24 is conditional on the colleague returning to work for the required period of thirteen weeks after their adoption leave.
- 3.14. Where the Trust agrees, a full-time colleague may return to work on a part-time basis for a period which equates to 13 weeks' full-time service. Similarly, where the Trust agrees, a part-time employee may return to work on a different part-time basis for a period which equates to 13 weeks' part-time service relating to the previous contract. Further details around flexible working can be found at section 8 and in the Trust's Flexible Working policy.
- 3.15. The 13-week period (or part-time equivalent) starts from the date the colleague actually returns to work or the date during the school holiday on which the colleague has notified the school in writing that they are available to work, provided they actually return to duty on the first day after the period of closure.
- 3.16. If the colleague does not return to work for the required period, they will be required to refund the sum of OAP received after the first six weeks. Payments made by way of SAP are not refundable.
- 3.17. If a colleague is unsure whether they will be making a return to work following their adoption leave, they can request that the Trust withhold the refundable OAP element of their adoption pay. If the colleague does return to work for the required period, they will be paid the OAP owed to them. Colleagues are advised to seek advice from their pension scheme, as pension contributions could be impacted by this option.
- 3.18. During the time that a colleague is receiving adoption pay, National Insurance, tax and pension contributions (where applicable) will be deducted from the gross pay.
- 3.19. For the purpose of this scheme, a week's pay shall be treated as the amount payable to the colleague under the contract of employment. If there are significant variations in the colleague's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.
- 3.20. Entitlement to SAP will remain for eight weeks if the placement is disrupted after it started or if the child dies.

4. Notification Process

- 4.1. The Trust recognises that adoptive parents may not be given much notice of the date when the adoption will take place and may therefore not always be able to give lengthy notice to the Trust. However, adoptive parents requesting leave should give as much notice as possible to their line manager.
- 4.2. Colleagues should inform their line manager that they wish to take adoption leave (including dates of the leave, see 4.3) within 7 days of having been notified by the adoption agency that they have been matched with a child (unless this is not reasonably practicable) or have received 'official notification' in the case of an overseas adoption.
- 4.3. Colleagues should submit a formal notification of adoption leave to the line manager / relevant colleague using the Trust's '*Adoption Leave Request*' form. 28 days notice should be given. The form will ask you to specify:
 - Date that you were notified of being matched
 - Expected date of placement
 - Date that you intend to commence adoption leave
- 4.4. The Adoption/Matching Certificate should be forwarded to the line manager / relevant colleague along with the Adoption Leave Request Form or as soon as reasonably possible.
- 4.5. Within 28 days of receipt of the formal notification and Adoption/Matching Certificate, the academy/Trust will write to the colleague to confirm the leave and pay arrangements. Colleagues who do not have the required length of service or are ineligible for SAP will be provided with a SAP1 form.

5. Overseas Adoptions

- 5.1. For overseas adoptions, employees must inform their line manager of the following:
 - The date of their official notification of adoption
 - The estimated date of the arrival of their child to the UK, within 28 days of notification
 - The actual date of arrival of their child to the UK, within 28 days of the child's arrival
 - The start day for this leave, providing 28 days' notice of the start date

6. Surrogacy arrangements

- 6.1. Colleagues must provide notice in writing of their intention to take Adoption Leave at least 15 weeks before the Expected Week of Confinement and the start and end dates of the leave they intend to take.
- 6.2. Colleagues must provide a written statement to confirm that they will be applying for a parental order in the 6 months following the birth of the child.
- 6.3. For all of the above arrangements, the Trust will write to the colleague within 28 days to confirm the start and end dates of adoption leave.

7. Adoption appointments

- 7.1. Colleagues who are eligible to take adoption leave are entitled to take reasonable paid time off to attend pre-adoption appointments after they have been matched with a child.
- 7.2. If the colleague is not the main adopter, they are entitled to take reasonable time off to attend adoption appointments, which would usually be paid.
- 7.3. Colleagues who are the father, partner or civil partner of a main adopter, are entitled to take time off work to attend pre-adoption appointments (Please refer to the Trust's Paternity Policy).
- 7.4. Colleagues should advise the line manager / relevant colleague of any such appointments in advance and show their appointment card if requested.
- 7.5. Colleagues should seek to arrange appointments at the beginning or the end of the day, although the Trust recognises that this may not always be possible. You will not be asked to make your time up or change your hours.

8. Right to return to work

- 8.1. After ordinary adoption leave, a colleague is entitled to return to the job in which they were employed under the original contract of employment.
- 8.2. After additional adoption leave, a colleague is entitled to return to either the job that they left, or a suitable alternative job, if the original job is no longer available, on terms and conditions no less favourable than those which would have been applicable had they not been absent. ('Job', for this purpose, means the nature of

the work which they are employed to do and the capacity and place in which they are employed.).

- 8.3. Where it is not practicable by reasons of redundancy for the Trust to permit the colleague to return to work in their job as defined in the above paragraph, the colleague is entitled to be offered a suitable alternative vacancy, where one exists, provided that the work to be done in that post is suitable and appropriate to the circumstances, and that the capacity and place in which they are to be employed and the terms and conditions of employment are not substantially less favourable than if they had been able to return to the job in which they were originally employed.

9. Notification of return

- 9.1. A colleague will have been notified of their date of expected return to work by the Trust and the colleague is not required to give notice of their intended return on this date. However, if they want to return early from adoption leave they must give 21 days' notice. Where this notice is not given, the Trust may postpone the return for up to eight weeks from the date when the colleague informs the Trust of the early return or up to the expected date of return, whichever is sooner.
- 9.2. If the colleague does not return on the specified date, their absence may be considered unauthorised and the line manager may make contact.
- 9.3. Where an employee is unable to return to work at the end of their period of adoption leave due to sickness, the conditions of the sick pay scheme and the Trust's Supporting Attendance Policy will apply.

10. Flexible Working

- 10.1. Colleagues have the right to request a variation to their contract so that they can work more flexibly and thereby balance their childcare responsibilities with their work commitments. There is no automatic right to return to work following adoption Leave on an adjusted working pattern, however careful consideration will be given on receipt of a request in accordance with the Trust's Flexible Working Policy.

11. Relationship with sickness

- 11.1. If a colleague is unable to return to work on the expected date due to illness, they should report this to the employer in the usual way. Full entitlement to SAP has to be paid before Statutory Sick pay (SSP) can start.

12. Statutory annual leave

- 12.1. Paragraphs 12.2 to 12.5 apply to teaching colleagues and support staff on term-time only contracts. Paragraph 11.6 applies to support staff colleagues on all year round contracts.
- 12.2. A colleague who takes adoption leave must be able to take the 28 days' statutory annual leave (which includes bank holidays) at a time outside their adoption leave. Colleagues may have a contractual entitlement to annual leave which exceeds 28 days, however accrual of annual leave during periods of adoption leave only applies to the statutory leave entitlement of 28 days. An employer may not treat any part of the adoption leave period as annual leave.
- 12.3. The statutory annual leave entitlement can be offset by any period of Academy closure that has taken place in the academic leave year in question, i.e. both before and after the adoption leave period. Prior to commencing adoption leave the colleague should be advised that they have a statutory entitlement to 28 days' annual leave including bank holidays and that this should be taken either before or after the adoption leave period during school closure periods.
- 12.4. On the return from adoption leave, a colleague must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures including bank holidays to accommodate the leave in that leave year.
- 12.5. Where the return from adoption leave is so close to the end of the leave year that there is not enough time to take all the statutory annual leave entitlement, a colleague must be allowed to carry over any balance of their leave to the following leave year. A colleague can be required to take this during the remaining periods of academy closure after the 28 days' annual leave for that leave year has been accommodated.
- 12.6. Support staff colleagues who are employed on all year-round contracts, will be permitted to take their statutory annual leave either within term time or during school holidays, subject to usual leave authorisation.

- 12.7. It is not possible for either the colleague or the Trust to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year, i.e. in academy closures or in term time.
- 12.8. A financial payment cannot be made in lieu of the annual leave except where a colleague leaves the Trust's employment whilst this entitlement is owing.

13. Keeping In Touch (KIT) days

- 13.1. Except during the first two weeks of adoption leave, a colleague can agree to work, or to attend training, for up to ten days ("occasions") during either ordinary adoption leave or additional adoption leave without that work bringing the period of their adoption leave to an end and without loss of a week's SAP or MA. These are known as 'Keeping In Touch' (KIT) days. KIT days are not pro-rata for part time colleagues.
- 13.2. Any work carried out on a KIT day shall, regardless of the number of hours worked, count as one of the ten "occasions".
- 13.3. Colleagues are entitled to payment for the hours they work on any KIT day; the calculation for this can be seen in paragraph 13.4. However, if colleagues are still in receipt of SAP when they attend for work, their SAP will form part of the pay they receive for that day. If a colleague is on unpaid adoption leave, they will receive the normal pay on the basis of hours worked. The maximum pay that a colleague can receive for a KIT day is their normal days' pay. If the payment for the amount of hours that they work during a KIT day is less than the normal amount of SAP that they would receive for that day, they will receive the higher amount of SAP and not receive pay for any hours worked.
- 13.4. A "normal day's pay" for fully contracted colleagues (as opposed to temporary / supply) is 1/365. This is the amount of money a colleague receives for every day in employment, and the amount that would be deducted per working day if someone was on unpaid leave. However, often someone only attends for a few hours on a KIT day. To enable a fair and consistent approach across the Trust, depending on the amount of time worked - colleagues are paid the lesser of 1/365, or the pay for the number of hours worked.
- 13.5. The academy cannot require a colleague to carry out any work, and any work undertaken is entirely a matter for mutual agreement between the Trust and colleague. Any KIT days worked do not extend the period of adoption leave.

14. Contact during adoption leave

- 14.1. Before a colleague's adoption leave begins, the line manager will discuss the arrangements for them to keep in touch during their leave. The Trust reserves the right in any event to maintain reasonable contact with the colleague from time to time during their adoption leave. This may be to discuss plans to return to work, to ensure the individual is aware of any possible promotion opportunities, discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence. This does not constitute 'work' and such contact will not bring the adoption leave period to an end.
- 14.2. The Trust will support colleagues who wish to continue their CPD voluntarily whilst on adoption leave. This can be discussed with the line manager

15. General / other information

- 15.1. Adoption leave is regarded as continuous service and does not constitute a break in service, even when unpaid.
- 15.2. Any period of unpaid leave however, does not count towards pensionable service in the assessment of retirement benefits.
- 15.3. If the colleague is a member of the Local Government Pension Scheme (LGPS) or Teachers Pension Scheme (TPS) contributions will continue to be deducted while they are in receipt of adoption pay and the school will continue to pay the employer's contribution based on the colleague's normal full pay. Contributions cannot be made for any unpaid adoption leave period; thus, such period does not count as part of pensionable service. Employees may wish to discuss the possibility of Additional Pension Contributions (APCs) with their pension provider, for any period of unpaid leave.
- 15.4. Colleagues who have sacrificed salary in return for benefits (e.g. childcare vouchers/tax-free childcare scheme, cycle to work) may wish to review the arrangements in advance of their adoption leave. Advice should be sought from the Finance Team or the salary sacrifice benefit provider at the earliest opportunity.
** HMRC confirms employers are not required to provide childcare vouchers during adoption leave and therefore the Trust will not provide childcare vouchers during adoption leave when offered through a salary sacrifice scheme, unless already a member of the scheme.*

- 15.5. Notifications of entitlement to pay and leave may be undertaken on behalf of the Trust by the Trust's payroll provider. The Trust and the colleague must ensure that all relevant documentation is provided in a timely manner to the payroll provider.
- 15.6. In the event of multiple adoptions, there is no entitlement to additional leave or pay if more than one child is placed.

16. Review

- 16.1. The Trust will review this policy every three years and/or if any significant changes in legislation occur.