



# Academy Adoption Policy

<b>Consultation Period:</b>	11 <sup>th</sup> April 2016 – 29 <sup>th</sup> June 2016
<b>Date Approved by NET:</b>	7 <sup>th</sup> October 2016
<b>Next Review Date:</b>	October 2019

## Adoption Policy

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## 1. Aims & Principles

- 1.1 As the employer of staff in our Academies, Northern Education Trust (NET) recognises the statutory responsibilities related to employment. Day to day management of staff is delegated to the Principal and line managers in each Academy. Throughout this document reference is made to the responsibilities held by the Governing Body/Principal for operational purposes. Ultimate responsibility rests with the Trust.
- 1.2 The Trust is committed to equality of opportunity in employment for all its employees and to developing work practices and human resource policies that support work-life balance.
- 1.3 This policy is intended to inform employees of their rights to adoption leave and pay. It covers all employees who have a contract of employment with the Trust and work in Trust academies.
- 1.4 Please note where reference is made to the Principal, this is either the Principal or the nominated person in the academy.
- 1.5 Further policies on Paternity Leave and Maternity Support Leave, Shared Parental Leave and Parental Leave are also available.

## 2. Policy

- 2.1 This policy only applies to those who are formally approved prospective adopters via an approved adoption agency; have a child through a surrogacy arrangement and are eligible for a Parental Order or dual approved prospective adopters (fostering for adoption).
- 2.2 Queries on the application of this policy should be directed to the Academy HR function in the first instance.
- 2.3 You don't qualify for Statutory Adoption Leave (SAL) or Statutory Adoption Pay (SAP) if you:
  - Arrange a private adoption
  - Become a special guardian or kinship carer
  - Adopt a stepchild
  - Adopt a family member
  - Have a child with the help of a surrogate mother where the intended parents are not eligible for a Parental Order
- 2.4 If an employee is not eligible the payroll section will provide the employee with form SAP1 setting out the reasons.
- 2.5 For clarification regarding continuous service:
  - For Statutory Adoption Pay, HMRC regulations stipulate that continuous service is only counted with the current employer, i.e. the Trust. For those who TUPE transferred to the Trust, continuous service with the predecessor school is counted.
  - For teachers who are eligible for Occupational Adoption Pay, the Trust recognises continuous service with any public body listed on the modification order as long as the service with those employers was subject to the provisions of the Burgundy Book.

- For support staff who are eligible for Occupational Adoption Pay, the Trust recognises continuous service with any public body listed on the modification order subject to NJC conditions of service.

### 3. Introduction to Adoption Rights & Benefits

#### 3.1 Entitlements

- 3.1.1 This policy sets out the rights of employees to SAL and SAP. Only one person in a couple, the main adopter, can take adoption leave. The other partner, the secondary adopter, could get paternity, shared parental leave or parental leave. (See separate Trust policies).
- 3.1.2 An employee who adopts a child through an approved adoption agency is entitled to up to a maximum of 52 weeks adoption leave. Adoption leave is a 'day one' right, there is no qualifying period. However there is still a qualifying period to be eligible for SAP.
- 3.1.3 The employee's entitlement is 26 weeks ordinary adoption leave (OAL) followed immediately by 26 weeks additional adoption leave (AAL).
- 3.1.4 All employees who take adoption leave have the right to return to work at any time during either ordinary or additional adoption leave subject to following the correct notification procedures as set out below.
- 3.1.5 Employees are entitled to up to a maximum of two and half days paid leave (pro rata) towards their training. Annual leave or unpaid leave should be utilised for the matching process.
- 3.1.6 Employees are also entitled by statute to up to five days paid leave (pro rata) for adoption appointments after you have been matched with a child but before the child is placed. In the case of adoptions by a couple, the other adopter will be entitled to up to two days unpaid leave (pro rata) for adoption appointments.

#### 3.2 Eligibility for Statutory Adoption Leave (SAL)

##### 3.2.1 **Adoption:** the employee must:

- Be newly matched with a child for adoption by an approved adoption agency.
- Give notice of their intention to take adoption leave no later than seven days after the date on which notification of the match with the child is given by the adoption agency. The notice, which must be in writing, must specify the date the child is expected to be placed for adoption and the date on which the employee intends to start adoption leave. If the employee subsequently wishes to change the start date of the adoption leave, they must give 28 days' written notice of the revised start date.
- Produce evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency, if asked by the Academy to do so.

##### 3.2.2 **Surrogacy:** the employee must

- Be one of a couple who has obtained a Parental Order for the child or who have, on the day of the child's birth, applied for or intend to apply for, a Parental Order for the child.
- Apply for a Parental Order within 6 months of the child's birth and must expect the Parental Order to be made.
- Have given the Trust the correct notice (notice of entitlement to adoption leave must be given by the 15th week before the expected week of birth and must be in writing).

- Provide a statutory declaration that they have obtained or have applied for/intend to apply for a Parental Order in respect of the child that they are having with the help of a surrogate.
- Give the Trust the actual date of the child's birth as soon as reasonably practicable after birth.

**3.2.3 Dual approved prospective adopters (fostering for adoption):** the employee must:

- Be a local authority foster parent who has been approved as suitable to adopt the child that they will initially foster.
- Have been notified by the local authority of its decision to place a child with him/her in accordance with section 22C of the Children Act 1989.
- Have notified the local authority that they agree to the placement (initially for fostering) and the date it will take place.
- Give the correct notice to the Trust (this notice must be given within 7 days of the employee being notified by the local authority in accordance with section 22C, or as soon as practicable).

### **3.3 Eligibility for Statutory Adoption Pay (SAP)**

**3.3.1 Adoption:** the employee must:

- Have worked continuously for the Trust (or predecessor school) for at least 26 weeks by the week they were matched with a child
- Earn on average at least at the Lower Earnings Limit for National Insurance in the 8 weeks leading up to the date they were notified of a match
- Give the correct notice (7 days' notice of the intention to start SAL but 28 days' notice for the start date of SAP)
- Give proof of the adoption

**3.3.2 Surrogacy:** the employee must:

- Have been employed by the Trust for 26 weeks at the 15<sup>th</sup> week before the baby is due.
- Have earned, on average, the lower earnings level for National Insurance in the eight-week period leading up to the end of the 15th week before the expected week of birth.
- Have not claimed paternity pay for the child.
- Be the only Parental Order parent who claims statutory adoption pay for that child.
- Comply with the notification requirements.
- Give the Trust the child's actual date of birth as soon as reasonably practicable after birth.

**3.3.3 Dual approved prospective adopters (fostering for adoption):** the employee must:

- Have been employed by the Trust for 26 weeks at the 15<sup>th</sup> week before the baby is due.
- Have earned, on average, the lower earnings level for National Insurance in the eight-week period leading up to the end of the 15th week before the expected week of birth.
- Notified the Trust that they are entitled to statutory adoption pay and when this is to begin.
- Stopped working
- Elected to receive statutory adoption pay

3.3.4 Statutory Adoption Pay (SAP) is payable for 39 weeks and is made up of:

- 6 weeks at 90% of average earnings
- 33 weeks at £139.58 (April 2016) or 90% of average earnings if this is less

3.3.5 If the child's placement is terminated during the employee's adoption leave, they will continue to be entitled to adoption leave and pay (if applicable) for up to eight weeks after the placement ends. As the employee will be returning to work earlier than intended, they should give eight weeks notice of the early return. In many cases where no notice of the termination of the placement is given this will effectively mean the employee should notify the Academy of their early return on the day the placement ends.

3.3.6 Whilst on paid adoption leave, the employee and the Trust will continue to pay pension contributions. Members of the LGPS can buy lost pension for any unpaid period of additional adoption leave. Details of how to apply will be provided at the beginning of the adoption leave. For teachers, advice on buying additional pension can be found on the teachers pensions website at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

### **3.4 Overseas Adoption**

3.4.1 The conditions are the same as adoption leave except for both leave and pay the employee must:

- Have worked continuously for the Trust (or predecessor school) for at least 26 weeks by the time the official notification is received (permission from a UK authority that the employee can adopt a child from abroad)
- Sign form SC6 if they are adopting a child with a partner (SC6 confirms the employee is not taking paternity leave or pay)
- Give 28 days' notice of the date they intend to start their adoption leave and pay
- The date the child is expected in the country
- The actual date of arrival

### **4.0 Eligibility for Occupational Adoption Pay (OAP)** (see clarification on service at para 2.5)

4.1 Providing employees have one year of continuous service from the issue date of the matching certificate they will also receive Occupational Adoption Pay of 12 weeks half pay between weeks 7 and 18 unless an employee does not intend to return to work following adoption leave. The 12 weeks half pay and SAP added together cannot be more than normal full pay except to the extent that SAP exceeds full pay.

4.2 The half pay element is made on the understanding that the employee will return to employment with the Trust for at least three months, or in the case of a teacher 13 weeks, either at the end of adoption leave or at the end of any period of leave, or following an agreed postponement of a return to work. If an employee does not return to work for at least three months or 13 weeks in the case of a teacher, on either a full or part time basis, they will have to repay the 12 weeks half pay. If employees are unsure whether they are going to return to work they can defer payment of the 12 weeks half pay and it can be paid to the employee if they decide they do wish to return to work following adoption leave and sign a declaration to this effect.

4.3 There will be some circumstances where the half pay element will not be reclaimed should an employee not return to the academy following adoption leave; i.e., if the employee gains employment in another NET academy during their adoption leave; if the employee has a fixed term contract which expires prior to being able to return to work from adoption leave and if the employee is dismissed on the grounds of redundancy. There may also be other occasions where the Principal can exercise discretion over how

much of the half pay should be reclaimed; i.e. where an employee does return to work but not for the full 13 weeks; or where there are other exceptional mitigating circumstances.

## 5.0 Timing of Adoption Leave

### 5.1 Adoption leave can start:

- up to 14 days before the date the child starts living with the employee (UK adoptions)
- when the child arrives in the UK or within 28 days of this date (overseas adoptions)
- the day the child is born or the day after (in surrogacy arrangements)

5.2 The employee should discuss the timing of their adoption leave with their Principal as early as possible so the Principal is fully prepared for the employee's absence and to ensure all necessary paperwork has been completed.

## 6.0 Contact During Adoption Leave

6.1 Both the Principal and the employee should agree when and how contact will take place during adoption leave. This may be to discuss the employee's plans for return to work, any special arrangements to be made, training to be given to ease their return to work or to update them on developments at work during their absence.

## 7.0 Keeping-in-Touch Days

7.1 Except during the first two weeks after adoption, an employee can agree to work for the Academy, (or to attend training) for up to 10 days during either ordinary adoption leave or additional adoption leave without that work bringing the period of adoption leave to an end and without loss of a week's SAP. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

7.2 The Academy has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during the adoption leave. Any work undertaken will be paid at the daily rate and offset against the SAP for the day. Any keeping-in-touch days worked do not extend the period of adoption leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SAP for any week in which an employee agrees to work for the Academy.

## 8.0 Returning to Work After Adoption Leave

8.1 Employees may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give the appropriate notification. Alternatively, employees may take the full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, they must give at least 28 days notice in writing to the Principal of the date on which they intend to return.

8.2 On resuming work after **ordinary adoption leave** the employee is entitled to return to the same job in which they were employed and after **additional adoption leave** of to a suitable alternative job of equivalent status, with protected right to pay, conditions and benefits.

8.3 Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current fit note before the end of the

adoption leave period, the absence will then be dealt with in accordance with the Academy's Attendance Management Policy.

- 8.4 Employees who decide during adoption leave that they do not wish to return to work should give written notice of resignation to their Principal as soon as possible and in accordance with the terms of their contract of employment.





## Appendix 1

### Application for Adoption Leave & Pay

Name:	
Home Address:	
Job Title:	
Academy:	

I hereby make application for adoption leave and give 7 days' notice of my intention to start adoption leave and 28 days' notice of the date my adoption pay should start.

\*I wish (section 1) / do not wish (section 2) to exercise my right to return to work following adoption leave (delete as appropriate).

I have enclosed one or more documents from the adoption agency which shows the:

- Name and address of the agency
- The date I was notified of being matched with the child; and
- The expected date of the placement

#### Section 1

I intend to exercise my right to return to work following adoption leave and provide the following information:

The date that I intend to start adoption leave is:	
The expected date of placement is:	

#### Section 2

As I do not wish to exercise my right to return to work following adoption leave I provide the following information:

The date I intend to start adoption leave is	
I enclose my letter of resignation	
The expected date of placement is	

#### Section 3

I am unsure at the time of signing whether I wish to exercise my right to return to work following adoption leave, but will inform the Principal of my intentions at the earliest possible opportunity, having due consideration for the notice periods required in my contract of employment. I therefore wish to defer the half pay element of my adoption pay until a later date if I make a decision to return to work.

Please tick:

I, the undersigned employee hereby undertake that I agree to repay all gross Occupational Adoption Pay (half pay element) paid to me after the first six weeks paid absence, or such lesser amount as the Academy may decide, if I do not return to work for a period of 3 months, or 13 weeks in the case of a teacher, either at the end of my adoption leave period or at the end of any period of leave beyond adoption leave, taken immediately after the end of adoption leave, as a result of an agreed postponement of return to work.

Signature of Applicant: ..... Date: .....

Signature of Principal: ..... Date: .....

**Please return this form to the Academy HR function prior to the date on which you requested the period of adoption leave to start.**

## CONTACTS

For advice on the content of this policy please contact:

Judith Telford  
Director of Human Resources  
Northern Education Trust  
[jud.telford@northerneducationtrust.org](mailto:jud.telford@northerneducationtrust.org)  
Tel: 07976 044539

Jessica Worthington  
Senior HR Advisor  
Northern Education Trust  
[jess.worthington@northerneducationtrust.org](mailto:jess.worthington@northerneducationtrust.org)  
Tel: 07714 245673

Jane Hiser  
HR Advisor  
Northern Education Trust  
[jane.hiser@northerneducationtrust.org](mailto:jane.hiser@northerneducationtrust.org)  
Tel: 07714 245678

Zoe Strike  
Assistant HR Advisor  
Northern Education Trust  
[zoe.strike@northerneducationtrust.org](mailto:zoe.strike@northerneducationtrust.org)  
Tel: 07715 671660

Katie Rose  
Assistant HR Advisor  
Northern Education Trust  
[katie.rose@northerneducationtrust.org](mailto:katie.rose@northerneducationtrust.org)  
Tel: 07715 655495

Employees are also encouraged to contact their trade union representative for advice and support where appropriate.