



# Adoption Policy

November 2020

Date Approved:	<b>November</b>	Review	<b>November</b>	Signed by Chair of	
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	<b>2020</b>	Date:	<b>2022</b>	Governors:	
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## 1 INTRODUCTION

- 1.1 Fareham Academy ("the Academy") is committed to ensuring that adoption benefits are applied fairly and consistently.
- 1.2 This policy sets out the arrangements for adoption leave and pay for employees who are:
- 1.2.1 Adopting a child through a UK or overseas adoption agency.
  - 1.2.2 Fostering a child with a view to possible adoption.
  - 1.2.3 Having a child through a surrogate mother.
- 1.3 In some cases you and your spouse or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives you more flexibility to share the leave and pay available in the first year after the child is placed with you. However, one of you must take at least two weeks' adoption leave first. Details of SPL are available from the Executive Assistant.

## 2 WHO IS RESPONSIBLE?

- 2.1 The Governing Body of the Academy has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework.
- 2.2 The Head teacher is responsible for ensuring compliance with overall school policies and procedures; that all activities are periodically risk assessed, periodic inspections are carried out, and necessary controls are implemented

## 3 DEFINITIONS OF ADOPTION LEAVE TERMS

### 3.1 Leave

- 3.1.1 **Ordinary adoption leave (OAL)** – A period of up to 26 consecutive weeks leave, starting no later than the actual date of placement.
- 3.1.2 **Additional adoption leave (AAL)** – An additional period of up to 26 consecutive weeks adoption leave immediately following the period of **ordinary adoption leave**.

### 3.2 Pay

- 3.2.1 **Average weekly earnings** – Calculated using the period of 8 weeks immediately preceding the week when the adoption agency told the **primary adopter** they had been matched with a child.
- 3.2.2 **Contractual pay** – The salary that is payable to employees under their contract of employment as determined by their terms and conditions of employment.

- 3.2.3 **Earnings related rate** – A weekly rate equivalent to 90 per cent of the employee's **average weekly earnings**.
- 3.2.4 **Occupational adoption pay (OAP)** – These schemes are determined by the terms and conditions of service, length of service and are based on contractual pay.
- 3.2.5 **Standard rate SAP** – A fixed rate payment of **statutory adoption pay** determined by HMRC.
- 3.2.6 **Statutory adoption pay (SAP)** – This scheme is funded by the government and is based on length of service and **average weekly earnings**. The employee may receive payments under either the **standard rate** or **earnings related rate**.

### 3.3 Other

- 3.3.1 **Adoption agency** – A UK adoption agency that decides whether a person would be a suitable adoptive parent for a child, either individually or jointly with another person.
- 3.3.2 **Overseas adoption agency** – A non-UK based adoption agency that decides whether a person would be a suitable adoptive parent for a non-UK national child, either individually or jointly with another person.
- 3.3.3 **Expected date of placement** – The date that the child is expected to start living with the adoptive parent(s).
- 3.3.4 **Keeping In Touch (KIT) days** – The employee may come into work for up to 10 days during their adoption leave period without bringing their adoption leave or pay to an end.
- 3.3.5 **Matching certificate** – One or more documents issued by the **adoption agency** or overseas adoption agency that matched the employee with the child.
- 3.3.6 **Primary adopter** – The person who has been matched with a child for adoption, or in the case where two people have been jointly matched, whichever of them has been elected to be the child's adopter for statutory leave and pay purposes.
- 3.3.7 **Reasonable contact** – Before starting adoption leave, the employee and line manager must agree the contact arrangements that will be in place during adoption leave.

## 4 PRE-ADOPTION MEETINGS

- 4.1 The primary adopter has a right to take paid time off for up to 5 pre-adoption meetings or interviews with, for instance, adoption agencies or solicitors, before starting adoption leave.
- 4.2 You must produce your appointment card or other evidence of the appointment where this is requested by your line manager.
- 4.3 The secondary adopter also has a statutory entitlement to take unpaid time off work to accompany the primary adopter to up to 2 of their pre-adoption appointments. Where an employee wishes to attend these meetings, line managers can use their discretion to make use of annual leave, flexi leave or some other arrangement, subject to operational and business needs.

## 5 ENTITLEMENT TO ADOPTION LEAVE

- 5.1 To qualify for adoption leave, you must meet all the following conditions:
- 5.1.1 You are adopting a child through a UK adoption agency, or you are a local authority foster parent who has been approved as a prospective adopter.
  - 5.1.2 The adoption agency or local authority has given you written notice that it has matched you with a child for adoption, or that it will be placing a child with you under a fostering for adoption arrangement, and tells you the date the child is expected to be placed into your care (**Expected Placement Date**).
  - 5.1.3 You have notified the agency that you agree to the child being placed with you on the Expected Placement Date.
- 5.2 In a surrogacy case, you are entitled to adoption leave if all the following conditions are met:
- 5.2.1 A surrogate mother gives birth to a child who is biologically your child, the child of your spouse or partner, or the child of both of you.
  - 5.2.2 You expect to be given parental responsibility for the child under a parental order from the court. The child must live with you and you must apply for the parental order within six months of the child's birth.
- 5.3 Only one parent can take adoption leave. If your spouse or partner takes adoption leave with their employer you will not be entitled to adoption leave but you may be entitled to paternity leave (see our Paternity Leave Policy).
- 5.4 For the avoidance of doubt, you will not qualify for ordinary adoption leave if you are a step-parent adopting your partner's child/children or, where the adoption is immediately preceded by a period of foster care.
- 5.5 The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (**OAL**) and 26 weeks' Additional Adoption Leave (**AAL**). AAL must be taken immediately following the end of the ordinary adoption leave entitlement.

## 6 NOTIFICATION REQUIREMENTS

- 6.1 Not more than seven days after the agency or local authority notifies you in writing that it has matched you with a child (or where that is not reasonably practicable, as soon as reasonably practicable), you must give us notice in writing of the Expected Placement Date, and your intended start date for adoption leave (Intended Start Date).

## 7 RESIGNATION BEFORE ADOPTION LEAVE STARTS

- 7.1 If you intend to resign, rather than take adoption leave, you are required to give your contractual notice.
- 7.2 If you cannot meet the requirements of your contractual notice period, you should give your line manager at least 21 calendar days' written notice of your intention to resign.

## 8 Starting adoption leave – UK ADOPTIONS

- 8.1 Before starting adoption leave, appropriate and reasonable contact arrangements for the adoption leave period should be made.
- 8.2 In adoption or fostering for adoption cases, 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.

- 8.3 If you are certified medically unfit to remain at work earlier than the 14<sup>th</sup> day before the expected date of placement, you are only entitled to the relevant benefits for sickness absence.
- 8.4 If you are certified medically unfit to remain at work between the 14<sup>th</sup> day before and the expected date of placement, you can choose whether to take sick leave or start their adoption leave.
- 8.5 If you continue to be medically unfit for work, it is likely that the adoption will be postponed until you are fully recovered.

## 9 OVERSEAS ADOPTIONS

- 9.1 If you are adopting a child from overseas, the requirements set out in this policy are varied as follows:
  - 9.1.1 You must have received notification that the adoption has been approved by the relevant UK authority (**Official Notification**).
  - 9.1.2 You must give us notice in writing of:
    - 9.1.2.1 your intention to take adoption leave;
    - 9.1.2.2 the date you received Official Notification; and
    - 9.1.2.3 the date the child is expected to arrive in Great Britain.
  - 9.1.3 This notice should be given as early as possible but in any case within 28 days of receiving Official Notification (or, if you have less than 26 weeks' employment with us at the date of Official Notification, within 30 weeks of starting employment).
  - 9.1.4 You must also give us at least 21 days' notice in writing of your Intended Start Date. This can be the date the child arrives in Great Britain or a predetermined date no more than 28 days after the child's arrival in Great Britain.
- 9.2 You must also notify us of the actual date the child arrives in Great Britain within 28 days of that date.
- 9.3 Adoption leave in these cases may start on a predetermined date no more than 28 days after the child arrives in Great Britain, or on the date of the child's arrival in Great Britain, but no later.
- 9.4 If you want to change your Intended Start Date please tell your line manager in writing. You should give us as much notice as you can, but wherever possible you must tell us at least 21 days before the original Intended Start Date (or the new Intended Start Date if you are bringing the date forward).

## 10 STATUTORY ADOPTION PAY

- 10.1 Statutory adoption pay (SAP) is payable for up to 39 weeks. It stops being payable if you return to work sooner or if the placement is disrupted. You are entitled to SAP if:
  - 10.1.1 you have been continuously employed for at least 26 weeks ending with the week in which the approved UK or overseas adoption agency notified you that you had been matched with the child (**Qualifying Week**) and are still employed by us during that week;

10.1.2 your average weekly earnings during the eight weeks ending with the Qualifying Week (**Relevant Period**) are not less than the lower earnings limit set by the government; and

10.1.3 you have given us the relevant notifications under paragraph 6.

10.2 Payment of SAP starts when your adoption leave period commences.

10.3 SAP payments stop if you return to work before the end of the SAP period (except for Keeping In Touch Days).

## 11 OCCUPATIONAL ADOPTION PAY

11.1 You are entitled to occupational adoption pay (OAP) if you have been continuously employed for at least 1 year at the beginning of the week you are notified of being matched with a child for placement (as specified on the matching certificate). Payment of OAP starts when the employee starts their adoption leave period.

11.2 OAP payments stop if you return to work before the end of the OAP period (except for Keeping In Touch Days).

11.3 OAP is paid on the condition that you will be available to work, or able to return to work for a required return to work period.

11.4 The 12 weeks of half pay OAP is repayable in the event that you do not complete the required return to work period.

11.5 Please refer to the [Appendix 1](#) for full details of SAP and OAP.

## 12 ANNUAL LEAVE

12.1 During OAL or AAL, holiday entitlement will accrue at the rate provided under your contract. Where this leave spans more than one annual leave year, you are entitled to your full annual leave entitlement within the year to which it relates.

12.2 Employees that work term time only, including teachers, are required to take annual leave during school holidays.

12.3 For all other staff, you must ensure annual leave is planned around your adoption leave to ensure that minimal annual leave is carried forward into the next leave year. You should discuss your holiday plans with your line manager in good time before taking adoption leave to ensure that minimal annual leave is carried forward into the next leave year.

## 13 PENSIONS

13.1 If you are a member of the Teachers' or Local Government Pension Schemes, you will have pension deductions made from your occupational and statutory adoption pay.

13.2 If you are a member of the Local Government Pension Schemes, your pension contributions are automatically made on paid periods of leave. Contributions will continue at the usual percentage rate. This period will count in full for pension purposes. This applies whether you receive full or part pay. For the period of unpaid adoption leave, you will be given the option to make pension contributions at the rate paid during your half pay period. If you do so, the unpaid period will then count in full for pension purposes.

13.3 If you do not pay contributions, this period of unpaid leave will not count towards your pension.

## 14 DEDUCTION FROM SALARY

- 14.1 All payments under the Statutory and Occupational Adoption Pay schemes are treated as earnings and are therefore subject to income tax and national insurance deductions.
- 14.2 Union contributions, charity contributions, staff loan repayments and BUPA payments will continue to be deducted whilst you receive statutory or occupational adoption pay.
- 14.3 If you usually have these items deducted from pay you will have to make your own arrangements to pay these during your unpaid adoption leave period.
- 14.4 If you are a member of the Hospital Savings Association (HSA) you may still be able to claim benefits during the period of unpaid leave. You should let HSA know well in advance of your period of unpaid leave.

## 15 KEEPING IN TOUCH DAYS

- 15.1 We may make reasonable contact with you from time to time during your adoption leave.
- 15.2 You may work (including attending training) on up to ten days (**Keeping in Touch Days**) during adoption leave without bringing your adoption leave to an end. This is not compulsory and must be discussed and agreed with your line manager.
- 15.3 You will be paid at your normal basic rate of pay for time spent working on a Keeping in Touch Day and this will be inclusive of any adoption pay entitlement.
- 15.4 Please refer to [Appendix 2](#) for further details.

## 16 SICKNESS ABSENCE DURING ADOPTION LEAVE

- 16.1 If you are ill whilst on OAL or ALL, you are not entitled to receive sick pay.
- 16.2 Your entitlement to receive sick pay would resume upon your return to work from adoption leave.

## 17 Entitlement in the event of the child not being placed or ceasing to live with the adopter

- 17.1 If the placement does not go ahead at all, you are not entitled to receive any statutory or occupational entitlements.
- 17.2 If the placement does not go ahead, but you have already started your adoption leave, you will be entitled to statutory adoption leave and pay for up to 8 weeks after the end of the week you were notified that the child would not be placed with you.
- 17.3 If the child ceases to live with the adopter during the statutory adoption pay period, you will continue to be entitled to statutory adoption leave and pay for up to 8 weeks after the end of the week the placement ended, if it was not due to end earlier. Entitlement to occupational adoption pay ends with immediate effect of the placement being cancelled.

## 18 RETURNING TO WORK

- 18.1 Where you take your maximum entitlement of 52 calendar weeks adoption leave, your line manager can assume that you will return to work on the next available working day following the end of the AAL period. This will usually be discussed during the agreed contact.
- 18.2 You are only required to tell your line manager of your return to work date if you are going to return earlier than your AAL end date. In this case, you must provide your line manager with at least 21 calendar days' written notice.

## 19 **FLEXIBLE WORKING REQUESTS**

- 19.1 We 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 you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business. It is helpful if requests are made as early as possible.

## 20 **COMPLETION OF RETURN TO WORK PERIOD**

- 20.1 Your line manager must ensure that any of your unused/carried forward annual leave is used up at the earliest available opportunity. This should be agreed as part of returning to work or taken prior to returning to work, where operationally viable to do so.
- 20.2 If you have taken any part of the 12 weeks half pay of your occupational adoption pay, you are required to return to work for a period of time defined in your terms and conditions of service.

Appendix 1	
Rates of Statutory Adoption Pay	If you qualify for SAP you will receive:
Weeks 1 – 39	<ul style="list-style-type: none"> <li>• Whichever is the lower of your earnings related rate or the standard rate SAP as prescribed by the government.</li> </ul>
Rates of Occupational Adoption Pay	If you qualify for OAP you will receive:
Weeks 1 – 4	<ul style="list-style-type: none"> <li>• 100% of contractual pay.</li> </ul>
Weeks 5 – 6	<ul style="list-style-type: none"> <li>• 90% of contractual pay.</li> </ul>
Weeks 7 – 18	<ul style="list-style-type: none"> <li>• 50% of contractual pay.</li> </ul>
Weeks 19 – 52	<ul style="list-style-type: none"> <li>• No pay.</li> </ul>
Combining SAP and OAP	If entitled to a combination of the two payments, these entitlements will be calculated as follows:
Weeks 1 – 4	<ul style="list-style-type: none"> <li>• Payments made under the OAP scheme will be reduced so that the total of SAP and OAP is not more than full pay.</li> </ul>
Weeks 5 – 6	<ul style="list-style-type: none"> <li>• Payments made under the OAP scheme will be reduced so that the total of SAP and OAP is not more than 90% of contractual pay.</li> </ul>
Weeks 7 – 18	<ul style="list-style-type: none"> <li>• Full entitlement to SAP plus full entitlement to OAP are payable, provided that the total is not more than normal full pay. Where it is more than full pay, OAP will be reduced so that full pay is not exceeded.</li> </ul>
Weeks 19 – 39	<ul style="list-style-type: none"> <li>• SAP entitlements only.</li> </ul>
Weeks 40 – 52	<ul style="list-style-type: none"> <li>• No pay.</li> </ul>
Appendix 2 – Calculating KIT day Payments	
KIT payments – Departments	<p>Although there is no legal requirement to pay for KIT days, Fareham Academy has elected to make payments to department based staff, irrespective of pay and conditions of employment, on the following basis:</p> <p>Calculating a daily rate of pay - FTE Salary will be divided by 365.</p> <p>Calculating a part day payment – the daily rate will be divided by 7.4, and multiplied by the actual number of hours worked.</p> <p>Payment for working a KIT day will be inclusive of the daily rates of SAP and OAP due to be paid, on the basis that you do not earn in that week more than you would have done had you not been on adoption leave.</p>

KIT payments – Schools	<p>Although there is no legal requirement to pay for working KIT days, Fareham Academy has elected to make payments to school based staff, irrespective of pay and conditions of employment, on the following basis:</p> <p>Calculating a daily rate of pay - FTE Salary will be divided by 365.</p> <p>As a KIT attendance should reflect a normal full day's work, if you work a KIT day you should be paid a full day's pay (1/365th of FTE salary).</p> <p>Payment for working a KIT day will be inclusive of the daily rates of SAP and OAP due to be paid, on the basis that you do not earn in that week more than you would have done had you not been on adoption leave.</p>
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