

Title	Adoption
Associated Policies	<ul style="list-style-type: none"> • Paternity (TPO/STA/07) • Maternity (TPO/STA/04) • Parental Leave (TPO/STA/06) • Shared Parental Leave (Adoption) (TPO/STA/26)

REVIEWED: FEBRUARY 2019

NEXT REVIEW: FEBRUARY 2022

1. Policy Statement

- 1.1 This policy outlines the statutory rights and responsibilities of employees who adopt, and sets out the arrangements for adoption leave. If you are adopting through an overseas adoption agency see paragraph 5.13 below.
- 1.2 If you have a child placed with you under a local authority "fostering for adoption" or "concurrent planning" arrangement, or you are entering into a surrogacy arrangement under which you will be applying for a parental order, you may also be entitled to adoption leave and pay. Please speak to your line manager for further information.
- 1.3 Arrangements for time off to attend adoption appointments are set out at paragraph 5.24 below.
- 1.4 In some cases you and your 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 set out in the Shared Parental Leave (Adoption) Policy.
- 1.5 This Policy does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the Trust.

2. Who does this policy apply to?

- 2.1 This policy applies to all Academy employees but does not apply to agency workers or the self-employed.

3. Who is responsible for carrying out this policy?

- 3.1 The implementation of this policy will be monitored by the Senior Leadership Team and the governors of the Academy and will remain under constant review by Brooke Weston Trust.
- 3.2 Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

4. What are the principles behind this policy?

- 4.1 The Trust recognises its employees' rights to take leave to prepare for the adoption or to care for a newly placed child.
- 4.2 Definitions:
 - 4.2.1 **Adopter:** A child's adopter is either the person who has been matched with the child for adoption or, where two people have been matched jointly, the person who has elected (at the time they are notified that they have been matched) to be the child's adopter for statutory adoption leave and pay purposes.
 - 4.2.2 **Prospective adopter:** A prospective adopter is someone who has been approved as suitable to adopt a child and has been notified of that decision.

- 4.2.3 **Partner:** spouse, civil partner or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.
- 4.2.4 **Child:** A child is a person who is under the age of 18 when they are placed with the adopter for adoption.
- 4.2.5 **Adoption agency:** An adoption agency in England and Wales is defined by reference to section 2 of the Adoption and Children Act 2002 (ACA 2002)(either a local authority or registered adoption society in England and Wales)
- 4.2.6 **Matched for adoption:** A person is matched with a child for adoption when:
- An adoption agency decides that they would be a suitable adoptive parent for the child either individually or jointly with another person; or
 - A decision has been made to place the child with a local authority foster parent who is also an approved prospective adopter and an adoption agency has identified them as the person with whom the child is to be placed.
- 4.2.7 **Notification of being matched for adoption:** A person is notified of having been matched with a child:
- When an adoption agency decides that they would be a suitable adoptive parent, on the date on which they receive notification of the adoption agency's decision.
 - When a local authority foster parent is identified as an adoptive parent, on the date on which they receive notification of the adoption agency's decision.
- 4.2.8 **Notification of being placed for adoption:** A person is notified of a child being placed for adoption where either the child is:
- Placed for adoption under the ACA 2002; or
 - Placed in accordance with section 22C of the Children Act 1989 with a local authority foster parent who is also a prospective adopter.

5. Procedures

Entitlement to Adoption Leave

- 5.1 Adoption leave is only available if the employee is adopting through an adoption agency. It is not available if there is no agency involved, for example, if the employee is formally adopting a stepchild or other relative.
- 5.2 The employee is entitled to adoption leave if they meet all the following conditions:
- They are adopting a child through a UK or overseas adoption agency.
 - An adoption agency has given them written notice that it has matched them with a child for adoption and tells them the Expected Placement Date
 - They have notified the agency that they agree to the child being placed with them on the Expected Placement Date
 - Their spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave)
 - They provide the Trust with the necessary notice and evidence
- 5.3 The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

If they are adopting a child with another person

- 5.4 Where you and your partner are adopting a child, you must decide between you who will be treated as the primary adopter and who will be treated as the secondary adopter for the purposes of time off. You

must tell us your decision the first time you request time off for an adoption appointment. This will affect how much time you can take off and whether it is paid.

- 5.5 You would usually choose to be the primary adopter if you intend to take adoption leave when the child is placed with you. You would not be able to take paternity leave if you have elected to be the primary adopter.
- 5.6 You would usually choose to be the secondary adopter if you intend to take paternity leave when the child is placed with you, although you may be able to take adoption leave if your partner is not taking it. Please refer to the Ordinary Paternity Leave and Pay (Adoption) Policy.

If you are adopting a child alone

- 5.7 If you are adopting a child alone, you are treated as the primary adopter.

If you are adopting more than one child

- 5.8 If the adoption agency is placing more than one child with you as part of the same arrangement, this is treated as one adoption and will not increase the amount of adoption leave or time off you can take.

Notification of intention to take leave

- 5.9 The employee must give the Trust notice in writing of their intention to take statutory adoption leave within 7 days of the agency notifying them (in writing) that it has matched them with a child. This must include:
- The expected date of placement
 - The date the employee wishes their leave to begin (Intended Start Date) and how much leave they intend to take

- 5.10 We will then write to you within 28 days to inform you of your Expected Return Date assuming you take your full entitlement to adoption leave.

- 5.11 At least 28 days before their Intended Start Date (or, if this is not possible, as soon as they can), the employee must also provide the Trust with:

(a) A Matching Certificate from the adoption agency confirming:

- The agency's name and address
- The name and date of birth of the child
- The date the employee was notified of the match; and
- The Expected Date of Placement

- (b) Written confirmation that the employee intends to take statutory adoption leave and not statutory paternity leave.

Overseas adoption

- 5.12 If you are adopting a child from overseas, the following will apply, in addition to the rest of this policy:

5.12.1 You must have received notification that the adoption has been approved by the relevant UK authority (Official Notification).

5.12.2 You must give us notice in writing of:

- your intention to take adoption leave;
- the date you received Official Notification; and
- the date the child is expected to arrive in Great Britain

5.12.3 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). The SC6 form must be completed.

- 5.12.4 You must also give us at least 28 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.
- 5.12.5 You must also notify us of the date the child arrives in Great Britain within 28 days of that date.
- 5.12.6 We may also ask for a copy of the Official Notification and evidence of the date the child arrived in Great Britain.

Starting adoption leave

- 5.13 The employee may begin their adoption leave on the placement date or up to 14 days before the placement date. Where the employee has chosen to start their leave on the placement date and they are at work on that date, their leave begins in the following day. It cannot start any later than the day after the placement date.
- 5.14 If you want to change your Intended Start Date please tell us in writing. You should give us as much notice as you can, but wherever possible you must tell us at least 28 days before the original Intended Start Date (or the new start date if you are bringing the date forward). We will then write to you within 28 days to tell you your new Expected Return Date.
- 5.15 A minimum of two weeks adoption leave must be taken immediately following the placement of the child as compulsory adoption leave.
- 5.16 Shortly before the adoption leave starts the Trust will discuss with the employee the arrangements for covering work and the opportunities for the employee to remain in contact, should they wish to do so, during their leave. Unless the employee requests in writing otherwise, they will remain on circulation lists for internal news, job vacancies, training and work-related social events.

Statutory Adoption pay

- 5.17 Statutory adoption pay is payable to eligible adoptive parents for up to 39 weeks. It stops being payable when the employee returns to work if this is before 39 weeks or if the placement is disrupted.
- 5.18 The employee is entitled to statutory adoption pay if:
- They have been continuously employed by the Trust for at least 26 weeks ending with the week the employee is notified by the adoption agency that they have been matched with the child (the Qualifying Week) and are still employed by us during that week
 - Their average weekly earnings during the eight weeks ending with the Qualifying Week (the week they are notified of the match) are not less than the lower earnings limit set by the Government
 - They have given the Trust the relevant notifications and proof of the adoption
 - be on the Trust's payroll and earn at least £116 a week in an 8-week period
- 5.19 SAP is calculated as follows:
- First six weeks: SAP is paid at the Earnings-related Rate of 90% of your gross earnings over the Relevant Period.
 - Remaining 33 weeks: SAP is paid at the Prescribed Rate which is set by the government for the relevant tax year, or the Earnings-related Rate if this is lower.
- 5.20 SAP accrues with each complete week of absence but payments shall be made on the next normal payroll date. Income Tax, National Insurance and pension contributions shall be deducted as appropriate.
- 5.21 If the employee leaves employment with the Trust for any reason (for example, if they resign or are made redundant) they will still be eligible for Statutory Adoption Pay if the employee has already been notified by an agency that they have been matched with a child. In such cases, Statutory Adoption Pay shall start:

- 14 days before the Expected Placement Date; or
- The day after employment ends, whichever is the later

5.22 If the employee becomes eligible for a pay rise before the end of their adoption leave, they will be treated for Statutory Adoption Pay purposes as if the pay rise had applied throughout the Relevant Period. This means that the Statutory Adoption Pay will be recalculated and increased retrospectively, or that the employee may qualify for Statutory Adoption Pay if they did not previously qualify. The Trust will pay the employee a lump sum to make up the difference between any Statutory Adoption Pay already paid and the amount payable by virtue of the pay rise. Any future Statutory Adoption Pay payments at the Earnings-Related Rate (if any) will also be increased as necessary.

Time off for an adoption appointment

- 5.24** An adoption appointment is an appointment arranged by an adoption agency (or at the agency's request) for you to have contact with a child who is to be placed with you for adoption, or for any other purpose related to the adoption.
- 5.25** You may take time off to attend an adoption appointment once the adoption agency has notified you that a child is to be placed with you for adoption but before the child is actually placed with you.

Amount of time off

- 5.26** If you are adopting on your own or have elected to be the primary adopter, you may take paid time off to attend an adoption appointment on up to five occasions in relation to any particular adoption.
- 5.27** An adopter who has taken paid time off work to attend up to five adoption appointments is disqualified from taking paternity leave and pay. Where you and your partner are jointly adopting a child and both adopters are potentially eligible for adoption leave and pay, the adopter that intends to take a longer period of time off work would normally be the person who takes paid time off work to attend adoption appointments.
- 5.28** If you are the secondary adopter so intend to take paternity leave and pay, you may take paid time off to attend an adoption appointment on up to two occasions only.
- 5.29** You must not take more than six and a half hours off for each appointment, including travel and waiting time.

How to book time off

- 5.30** Please give us as much notice of the appointment as possible. You must provide your line manager with a signed statement or an email confirming:
- the date and time of the appointment.
 - that the appointment has been arranged or requested by the adoption agency.
 - whether you are adopting a child alone or jointly with another person.
 - if you are adopting with another person, whether you are electing to take paid or unpaid time off.
- 5.31** If you are an agency worker you may have to notify your agency as well. You should check with the agency.
- 5.32** We may sometimes ask you to try and rearrange an appointment where it is reasonable to do so. In exceptional circumstances we reserve the right to refuse a request for a particular appointment but we will not do so without good reason. Any time off under this policy must be taken before the first child is placed with you.

Terms and Conditions during Adoption Leave

- 5.33** During ordinary adoption leave the employee's normal terms and conditions apply, except those relating to normal salary. In particular:
- annual leave entitlement under your contract shall continue to accrue (see paragraph 5.35); and

- pension benefits shall continue.

5.34 During additional adoption leave the employees terms and conditions relating to notice, redundancy and disciplinary or grievance apply.

Annual leave

5.35 During statutory adoption leave, annual leave will accrue at the rate provided under the employee's contract.

5.36 In many cases a period of adoption leave will last beyond the end of the holiday year. Any holiday entitlement for the year that is not taken, or cannot reasonably be taken before starting your adoption leave can be carried over to the next holiday year and must be taken immediately before returning to work, or within three months of returning to work unless agreed otherwise. You should try to limit carry over to one week's holiday or less. Carry-over of more than one week is at our discretion.

Pensions

5.37 The period of ordinary adoption leave and any further period of paid adoption leave counts towards the final-salary pension scheme as pensionable service, provided the employee makes the necessary minimum contributions based on the adoption pay they are receiving. Members of the Teachers' Pension Scheme (TPS) and Local Government Pension Scheme (LGPS) will pay contributions based on the actual adoption pay received during the first 39 weeks of the maternity pay period.

5.38 The period of unpaid additional adoption leave shall not count as pensionable service under the final salary scheme. The employee does not have to make any contributions but they may do so if they wish, or they may make up for missed contributions at a later date.

5.39 If you are employed as a teacher, and are a member of the TPS, you are advised to contact Teachers Pensions to seek advice on the effect that a period of unpaid adoption leave will have as well as any options available to enhance your pension. Further details are available on www.teacherspensions.co.uk.

If you are employed as a member of support staff, and are a member of the LGPS, you may wish to pay contributions in respect of the period of unpaid adoption leave and you should contact the Pensions Scheme Administrators who will provide further details on request.

5.40 In the event that the employees post is affected by a redundancy situation occurring during their adoption leave, the Trust will write to inform the employee of any proposals and shall invite them to a meeting before any final decision is reached as to their continued employment. Employees on maternity and adoption leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

Disputed Adoption

5.41 Adoption leave is disrupted if it has started but:

- The employee has been notified that the placement will not take place
- The child is returned to the adoption agency after placement; or
- The child dies after placement

5.42 In case of disruption the employees entitlement to adoption, leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which disruption occurred, unless the employees entitlement to leave and/or pay would have ended earlier in the normal course of events. The employee must give the Trust eight weeks' notice of their return.

Keeping in Touch

5.43 The Trust may make reasonable contact with the employee from time to time during their adoption leave.

- 5.44 The employee may work (including attending training) on up to ten days (Keeping in Touch Days) during adoption leave without bringing their adoption leave to an end. This is not compulsory and arrangements, including any additional pay, would be discussed and agreed with the Principal.
- 5.45 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.
- 5.46 Shortly before the employee is due to return to work, the Trust invite them to have a discussion (whether in person or by telephone) about the arrangements for their return. This may cover:
- Updating the employee on any changes that have occurred during their absence
 - Any training needs they might have; and
 - Any changes to working arrangements

Expected Return Date

- 5.47 Once the employee has notified the Trust in writing of their intended Start Date, the Trust will send them a letter within 28 days to inform them of their Expected Return Date. If the employees start date changes the Trust will write to them within 28 days of the start of adoption leave with a revised Expected Return Date.
- 5.48 The Trust will expect the employee back at work on their Expected Return Date unless they tell us otherwise. It will help the Trust if, during the employees adoption leave, the employee is able to confirm that they will be returning to work as expected.

Returning early

- 5.49 If the employee wishes to return to work earlier than the Expected Return Date, they must give the Trust at least eight weeks' notice in writing.
- 5.50 If the employee does not give enough notice, the Trust may postpone their return date until four weeks (or eight weeks as appropriate) after they gave notice, or to the Expected Return Date if sooner.

Returning late

- 5.51 If the employee wishes to return later than the Expected Return Date, they should either:
- Request unpaid parental leave in accordance with the Trusts Parental Leave Policy, giving the Trust as much notice as possible but not less than 21 days; or
 - Request paid annual leave in accordance with their contract, which will be at the Trusts discretion
- 5.52 If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence and the Trusts usual sickness policy will apply.
- 5.53 In any other case, late return will be treated as unauthorised absence.

Deciding not to return

- 5.54 If the employee does not intend to return to work, or is unsure, it is helpful if they discuss this with the Trust as early as possible. If they decide not to return they should give notice of resignation in accordance with their contract. The amount of adoption leave left to run when the employee gives notice must be at least equal to their contractual notice period; otherwise the Trust may require them to return to work for the remainder of the notice period.
- 5.55 Once the employee has given notice that they will not be returning to work, they cannot change their mind without the Trust's agreement.
- 5.56 This does not affect the employee's right to receive statutory adoption pay.

The Employees rights when they return

- 5.57 The employee is normally entitled to return to work in the same position as they held before commencing leave. The employee's terms of employment shall be the same as they would have been had they not been absent.
- 5.58 However, if the employee has taken any period of additional adoption leave or more than four weeks' parental leave, and it is not reasonably practicable for the Trust to allow them to return into the same position, the Trust may give the employee another suitable and appropriate job on terms and conditions that are not less favourable.

Returning to work part-time

- 5.59 The Trust 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 the employee does have a statutory right to request flexible working and the Trust will try to accommodate the employee's 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. Further information can be found in the Flexible Working Policy (TPO/STA/28).

Statutory Paternity Leave for Adoption

- 5.60 Statutory paternity leave for adoption is absence from work for the purpose of caring for a newly placed adoptive child or to support the main adopter.
- 5.61 The employee is entitled to paternity leave for adoption if they:
- Are the spouse or partner of the adopter
 - Have responsibility for the child's upbringing
 - Have been continuously employed by the Trust for at least 26 weeks ending with the week the child's adopter is notified of the match
 - Have given notice and evidence to the Trust
- 5.62 The employee may choose to take either one or two consecutive week's paternity leave. If the employee is eligible they will receive statutory paternity pay for one or two whole weeks.
- 5.63 The employee may take paternity leave before the end of 56 days from the placement date.
- 5.64 The employee may begin their paternity leave on the placement date, or a date falling a specific number of days after the placement or a predetermined date after the expected date of placement. If the employee chooses to start leave on the placement date and they are at work on that day, leave begins on the day after placement.

Applying for Statutory Paternity Leave for Adoption

- 5.65 The employee must give the Trust notice of their intention to take paternity leave for adoption no more than 7 days after the adopter is notified of the match.
- 5.66 The notice must be in writing and must specify:
- The date the adopter was notified the match
 - The expected date of placement
 - The length of leave the employee wishes to take
 - The date they wish the leave to begin
- 5.67 The employee must supply a signed declaration that the purpose of the absence is to care for a child or to support the child's adopter, that the employee is the spouse or partner of the adopter and that they have or expect to have the main responsibility for the child's upbringing.
- 5.68 The employee may change your leave start date by giving the Trust 28 days' notice.

- 5.69 The employee must give the Trust notice, in writing, of the date that the child was placed as soon as possible after the placement.
- 5.70 If the employee has not started their leave and the child is not placed, they will not be entitled to take statutory paternity leave.
- 5.71 If the employee has started their leave and the placement is disrupted, they will be entitled to take the whole week or two weeks' paternity leave.

Returning to Work from Statutory Paternity Leave for Adoption

- 5.72 The employee's employment contract will continue during their leave and the normal terms and conditions, except those relating to their normal salary, will apply.
- 5.73 In most cases, if the employee returns to work from paternity leave and there is no redundancy situation they are entitled to return to the same job on the same or improved terms and conditions. If a redundancy situation has arisen, the employee is entitled to be offered a suitable alternative position on terms which are not substantially less favourable.
- 5.74 If the employee returns to work from paternity leave which immediately followed additional maternity leave or additional adoption leave or parental leave of more than four weeks, they are entitled to return to the same job or, if that is not reasonably practicable, to an alternative job on no less favourable terms and conditions.

Statutory Paternity Pay for Adoption

- 5.75 Statutory Paternity Pay for adoption is a weekly payment made by the Trust to eligible employees for one or two weeks.
- 5.76 Employees will be entitled to Statutory Paternity Pay for adoption if they:
- Are the spouse or partner of the adopter
 - Have responsibility for the child's upbringing
 - Have been continuously employed by the Trust for at least 26 weeks ending with the week the adopter is notified of the match
 - Their average weekly earnings during the eight weeks ending with the week they are notified of the match are not less than the lower earnings limit set by the Government
 - Have been continuously employed by the Trust from the end of the week the adopter is notified of the match to the day of the placement
 - Have elected to receive Statutory Paternity Pay

Applying for Statutory Paternity Pay for Adoption

- 5.77 The employee should complete form 'SC4 – Becoming an Adoptive Parent' which gives notice of intention to take paternity leave and serves as an application form for Statutory Paternity Pay.
- 5.78 The employee must give the employer at least 28 days' notice of the date from which they wish the payment to start.
- 5.79 If the employee is entitled to both paternity pay and leave, they may give notice at the same time so long as they give notice no more than 7 days after the date the adopter was notified of the match and no less than 28 days before they wish payment to begin.
- 5.80 Statutory Paternity Pay is paid at a Prescribed Rate which is set by the Government for the relevant tax year, or at 90% of the employees average weekly earnings calculated over the Relevant Period if this is less.
- 5.81 Statutory Paternity Pay is not payable during a week if the employee works for the Trust during any part of a week.

6. Policy Review

- 6.1 This policy will be monitored as part of the Academy's annual internal review and reviewed on a three year cycle or as required by legislature changes.