



Adoption Procedure Model Policy & Procedure For School Based Employees

November 2018

Signed (Chair of Trustees):	
Date:	November 2018
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The Arbor Academy Trust reviews this policy annually. The Trustees may, however, review the policy earlier than this, if the Government introduces new regulations, or if the Trust receives recommendations on how the policy might be improved.

This document is also available in other formats e.g. e-mail and enlarged print version, on request to the School Offices and is displayed on the schools' websites.

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Section 1 Outline of procedures

1. Introduction

- 1.1 Adoption Leave assists new adoptive parents to adjust to parenthood and helps with the work /life balance when dealing with the responsibilities of family life.

Adoption Leave and Pay can be granted to the following:

- a) Individuals who adopt;
- b) Eligible parents of babies due or children placed for adoption or surrogacy on or after 5 April 2015.

- 1.2 Adoption Leave and Pay is not applicable where a child is not newly adopted or if a step- parent is adopting a partner's child. Employees generally **will not** obtain Statutory Adoption Leave or Pay, if they are becoming a special guardian or through a private adoption arrangement.

- 1.3 Please note that the arrangement for Adoption Leave and Pay differs slightly depending on whether the child is adopted within the UK or from overseas.

- 1.4 It is important to note that prior to the completion of the adoption process, the main adopter will be able to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments {up to 6.5 hours is allowed for each appointment}.

2.0 Who is eligible for Adoption Leave

2.1 Who is eligible for Adoption Leave?

Adoption Leave can commence on the day the child starts living with the employee or up to 14 days before the child starts living with the employee.

2.2 Adoption Leave for employees who are adopting within the UK

An employee qualifies for 52 weeks Statutory Adoption Leave when adopting a child from the UK, if they:

- a) Have been "matched" with a child to be placed with them by a UK Adoption Agency;
- b) Have notified the Agency that they have agreed that the child should be placed with them and agree the date of placement;
- c) Have notified the School that they want to take their Statutory Adoption Leave no more than 7 days after they are notified that they have been matched with a child.

2.3 Adoption Leave for employees who are adopting from overseas

An employee qualifies for 52 weeks Statutory Adoption Leave when adopting a child from overseas, if they:

- a) Have received official notification from the relevant UK authority of their eligibility to adopt a child from overseas;
- b) Have continuously worked for the School for at least 26 weeks by the time they have received official notification or by the time their Statutory Adoption Leave is due to commence, whichever is later;
- c) Have given the correct notification;
- d) Are the child's adopter: This is the employee who will adopt or who is adopting jointly is

choosing to take Adoption Leave in respect of the child.

(Official notification of overseas adoptions is written notification issued by or on behalf of the relevant domestic Authority, that the Authority either is prepared to issue the certificate to the overseas Authority dealing with the adoption of the child, or has issued a certificate and sent the certificate to the Authority)

3.0 Eligibility for Adoption Pay

- 3.1.1 Adopters who qualify for Statutory Adoption Pay will be paid at the earning related rate in the first 6 weeks. The earnings related rate is calculated as 90% of the adopters normal weekly earnings in the 8 week period leading up to the date the adopter is notified of a match with a child.
- 3.1.2 The remaining 33 weeks will be paid at the lower of the earning related rate or the flat rate {£139.58 per week. The remainder of the Adoption Leave period will be unpaid up to 52 weeks.
- 3.1.3 Adopter's whose Average Weekly Earnings are below the lower earnings limit for National Insurance contributions will not qualify for Statutory Adoption Pay. These employees may be entitled to alternative benefits and must seek advice and guidance from the Department of Works and Pensions. {DWP}

Statutory Adoption Pay will cease if the:

- a) Employee dies while in receipt of Statutory Adoption Leave;
- b) Child becomes 18 years old during the Adoption Pay period;
- c) Child no longer lives with the Adopter;
- d) Adopter works for more than one employer;
- e) Adopter returns to work or commences employment for a new employer;
- f) Adopter is taken into legal custody. There is no obligation for the School to commence the Statutory Adoption Pay, once the employee has been released from legal custody.

3.1 Adoption Pay for employees who are adopting within the UK

- 3.1.1 An employee is eligible for Statutory Adoption Pay when they are adopting a child within the UK provided they:
 - a) Have worked continuously for the School for at least 26 weeks leading into the week in which they were notified of being matched with a child for adoption, the matching week. {The matching week commences on a Sunday and ends on a Saturday;}
 - b) Have given the School at least 28 days' notice or as reasonably practicable of the date from which Statutory Adoption Pay is to commence;
 - c) Have Average Weekly Earnings are at or above the lower earnings limit for National Insurance contributions that applies at the end of the matching week.

3.2 Adoption Pay for employees who are adopting from overseas

- 3.2.1 An employee is eligible for Statutory Adoption Pay when they are adopting a child from overseas provided they:
 - a) Have received official notification;
 - b) Have provided the date the child is expected to enter the country;
 - c) Have worked continuously for the School for at least 26 weeks by either, the week they receive their official notification or the time they want the Statutory Adoption Leave or Pay, if applicable, to commence, whichever is later;

- d) Have a declaration that they are claiming Statutory Adoption Leave and Pay, if applicable and that they are not claiming Paternity leave and Pay. This declaration is available at:
<https://www.gov.uk/adoption-pay-leave/how-to-claim>
- e) Have given the School at least 28 days' notice or as reasonably practicable of the date from which Statutory Adoption leave and pay, if applicable, is to commence;
- f) Have the Average Weekly earnings that are at or above the lower earnings limit for Statutory National Insurance contributions that applies at either, the time they receive official notification or the time they have completed 26 weeks service with the School, whichever is later.

3.3 The School's obligation

- 3.3.1 Managers will respond to the Adopters request to take Adoption Leave within 28 days of receipt of the request. The School's reply will outline the employee's rights under legislation and will also include the dates when the School expects the employee to return to work, if the full Adoption Leave entitlement is taken.

4.0 Surrogacy entitlements

- 4.1 The child must be due on or after 5 April 2015 for the employee to be eligible for Statutory Adoption Pay and Leave.
- 4.2 The other conditions are the same except for Statutory Adoption Pay they must have worked for the School continuously for at least 26 weeks by the 15th week before the week the baby is due. All other conditions for applying for Adoption Pay and Leave are the same except regarding the need to use a 'matching date'.
- 4.3 If an employee uses a surrogate to have a baby, they must confirm the due date and start date of the leave at least 15 weeks before the expected week of birth. Adoption Leave can commence on the day the baby is born or the day after. Legal proof of their intention to become the baby's legal parent will also be required.
- 4.4 The School can also ask for a written statement ('statutory declaration') to confirm that an employee has applied or will apply for a [parental order](#) in the 6 months after the child's birth. This must be signed in the presence of a legal professional.
- 4.5 Parental Order parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to 2 antenatal appointments {up to 6.5 hours per appointment}.
- 4.6 Parents who have a child with the assistance of a surrogate mother and who do not meet the conditions for a Parental Order or who meet the conditions, however don't intend to apply for a Parental Order are not eligible for Adoption Leave and Pay.
- 4.7 If the employee is genetically related to the child the employee can choose to receive Paternity Leave and pay instead, however the employee cannot claim both.

5.0 Shared Parental Leave

- 5.1 Shared Parental Leave (SPL) is a new legal entitlement for eligible parents of children placed for adoption on or after 5 April 2015. It provides both parents with the opportunity to consider the best arrangement to care for their child during the child's first year. SPL enables parents to share the caring responsibilities evenly or have one parent taking the main caring role, depending on their

preferences and circumstances. Unlike Adoption Leave, eligible employees can 'stop and start' their Shared Parental Leave and return to work between periods of leave with each eligible parent able to submit three notices booking periods of leave.

- 5.2 The regulations give parents the right to take Shared Parental Leave and place a duty on employers to ensure that their employees are not penalised for using their entitlement or placed under pressure to cancel/change a leave notification.
- 5.3 The amount of leave available is calculated using the main adopter's entitlement to Adoption Leave, which allows them to take up to 52 weeks' leave. If the main adopter reduces their Adoption Leave entitlement then they and/or their partner may opt-in to the Shared Parental Leave system and take any remaining weeks as Shared Parental Leave.
- 5.4 Please refer to the School's Shared Parental Leave Procedure for further information on the School's arrangements.

6.0 Pension contributions whilst on Adoption Leave

- 6.1 Pension contributions are payable for the first 39 weeks during Statutory Adoption Pay period, if applicable, however will be based on the rate of payment actually received during this period.
- 6.2 Service will accrue and the *notional pensionable remuneration will be as if the absence had not occurred. {*Notional pension means the imagined / assumed pension contribution that would have been earned had the employee not been absent.}
- 6.3 If the employee also decides to continue their leave into the unpaid Adoption Leave period employees, have the choice as to whether they wish to make the further unpaid period count for pension purposes. If no further contributions are paid, no further rights accrue. Arrears of contributions can be paid for the unpaid absence and service continues to accrue as before, the employee may elect to continue or discontinue their contributions. Eligible employees will be issued with a document called Pension Scheme contributions during Adoption Leave, which eligible employees must complete, indicating the option they wish to select. This completed form must be returned to HRTT, who will forward this to Capita {Pensions administrator} for implementation.

7.0 Terms and conditions whilst on Adoption Leave

The following terms and conditions will be applicable:

7.1 Redundancy during Adoption Leave

- 7.1.1 If a redundancy situation occurs at any stage during an employee's Adoption Leave period the School may not be able to continue to employ them under their existing contract.
- 7.1.2 If a redundancy situation has occurred within the existing post, while the employee is on Adoption Leave, then the employee will be offered an alternative suitable vacancy, where one exists. The employee will have the right to consider such work, even though they are on Adoption Leave. The offer will be made before the previous employment ends and the new employment will commence immediately. It must involve suitable work and the terms and conditions no less favourable than their substantive contract. If there is no alternative employment available then the employee will be made redundant, and receive redundancy pay in line with their statutory and contractual entitlements. In this situation, the School will follow the appropriate Organisational Change and Redundancy Policy.

8.0 Keep in touch days (KIT days)

- 8.1 Employees while on Adoption Leave can elect to have up to ten 'keeping in touch' (KIT) days without bringing their leave entitlement to an end or without losing any Statutory Adoption Pay (SAP) entitlement. Employees may wish to attend training events or appraisals during these days. Employees do not have to participate in 'keeping in touch' days and likewise the employee cannot insist on working if this is not suitable to service requirements. Please note that if an employee works for the School during the Adoption Leave period for only one hour, this will count as one full KIT day. The Manager and the employee must discuss the pay arrangements in relation to the 'keeping in touch days'. Please note that employees will be reimbursed up to their full daily rate for each KIT day worked.
- 8.2 If an employee elects to work their 'Keeping in Touch' days, the employee will be paid the difference between the actual rate of pay that they are receiving for that day and their daily rate of normal pay.

9.0 Reasonable contact

- 9.1 The School may make reasonable contact with the employee, or vice versa, while they are on Adoption Leave, as long as the amount of contact is not unreasonable, for example to discuss their plans to return to work, to keep them informed of important developments, promotional opportunities and / or vacancies. Please note that Managers must discuss with the employees the level and type of communication that the employee wishes to receive. Managers will be responsible for distributing the agreed correspondence requested.

10.0 The right to return to work

- 10.1 All employees on Adoption Leave will be given written confirmation of the latest date that they can return to work following Adoption Leave. If the employee wishes to return to work prior to this date then they must give the School at least **8 weeks' notice**, if returning from Adoption Leave.
- 10.2 If an employee elects not to return to work following their Adoption Leave they will be required to give their appropriate contractual notice. Any entitlement to Statutory Adoption Pay will continue during the notice period. Employees **are not** required to pay back any Statutory Adoption Pay, if they do not return to work following their Adoption Leave.
- 10.3 An employee is expected to return to work as soon as the Adoption Leave period has expired. If an employee is unable to return to work after the Adoption Leave period has expired due to sickness then normal sickness procedures will apply.