Ormiston Academies Trust

(Academy Name)  
Adoption policy

Policy version control

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| Policy type | OAT Mandatory  *The Trust will regularly monitor and review this policy to ensure that it is appropriate, effective, and compliant with both employment legislation and the Equality Act 2010* |
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1. About this policy
   1. This policy sets out the arrangements for adoption leave and pay for employees who are adopting a child through a UK adoption agency. If the employee is adopting through an overseas adoption agency see paragraph 5 below.
   2. If a child is placed with the employee under a local authority "fostering for adoption" or "concurrent planning" arrangement, or they are entering into a surrogacy arrangement under which they will be applying for a parental order, the employee may also be entitled to adoption leave and pay. Speak to their principal/line manager for further information.
   3. Arrangements for time off to attend adoption appointments are set out at paragraph 6 below.
   4. In some cases the employee and their spouse or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives them more flexibility to share the leave and pay available in the first year after the child is placed with them. However, one of them must take at least two weeks' adoption leave first. Details of shared parental leave are set out in our Shared Parental Leave (Adoption) Policy.
   5. This policy only applies to employees. It does not apply to agency workers or self-employed contractors. It does not form part of any employee's contract of employment and is based on statutory entitlement. This policy should be read in conjunction with other relevant documents such as the School Teachers' Pay and Conditions Document (STPCD), Conditions of Service for School Teachers in England and Wales (Burgundy Book) and/or the National Agreement on Pay and Conditions of Service for support staff (the Green Book).
2. Definitions
   1. **Adopter:** A child’s adopter is either the employee who has been matched with the child for adoption or, where two people have been matched jointly, the employee 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.
   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.
   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. **Child:** A child is a person who is under the age of 18 when they are placed with the adopter for adoption.
   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).
   6. **Matched for adoption:** An employee 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.
  1. **Notification of being matched for adoption:** An employee 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.
  1. **Notification of being placed for adoption:** An employee 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.
  1. **Foster to Adopt:** If the employee is a local authority foster parent who is also approved as a prospective adopter and a child is placed with the employee in a "foster to adopt" situation.

1. Personnel responsible for implementing the policy
   1. Ormiston Academies Trust has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The principal has delegated day-to-day responsibility for operating the policy.
   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.
2. Entitlement to adoption leave
   1. The employee has the right to adoption leave from day one of their employment if they meet all the following conditions:
      1. The employee is adopting a child through a UK or overseas adoption agency.
      2. The adoption agency has given them written notice that it has matched them with a child for adoption and tells the employee the date the child is expected to be placed into their care with a view to adoption (expected placement date).
      3. The employee has notified the agency that they agree to the child being placed with them on the expected placement date.
      4. The employee’s spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave).
   2. The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).
3. Notification requirements
   1. Not more than seven days after the agency notifies the employee in writing that it has matched them with a child (or where that is not reasonably practicable, as soon as reasonably practicable), the employee must give their principal/line manager notice in writing of the expected placement date, and the intended start date for adoption leave.
   2. The employee will then be written to within 28 days to inform them of their expected return date assuming they take the full entitlement to adoption leave.
   3. Once the employee receives the matching certificate issued by the adoption agency, they must provide the academy with a copy.
4. Overseas adoptions
   1. If the employee is adopting a child from overseas, the following will apply, in addition to the rest of this policy:
   2. The employee must have received notification that the adoption has been approved by the relevant UK authority official notification form SC6.
   3. The employee must give their principal/line manager notice in writing of:

* The intention to take adoption leave
* The date they received Official Notification, and
* The date the child is expected to arrive in Great Britain.
  1. This notice should be given as early as possible, but in any case within 28 days of receiving Official Notification or, if the employee has less than 26 weeks' employment with the academy at the date of Official Notification, within 30 weeks of starting employment.
  2. The employee must also give us at least 28 days' notice in writing of the 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.
  3. The employee must also notify their principal/line manager of the date the child arrives in Great Britain within 28 days of that date.
  4. The employee will also ask for a copy of the Official Notification and evidence of the date the child arrived in Great Britain.

1. Time off for an adoption appointment
   1. An adoption appointment is an appointment arranged by an adoption agency (or at the agency's request) for the employee to have contact with a child who is to be placed with them for adoption, or for any other purpose related to the adoption.
   2. The employee may take time off to attend an adoption appointment once the agency has notified them that a child is to be placed with them for adoption but before the child is actually placed with the employee. They must not take more than six and a half hours off for each appointment, including travel and waiting time
   3. If the employee is eligible for adoption leave (primary adopter) they have the right for paid time off for up to 5 appointments after they have been matched with a child. The employee may be required to show an appointment card or other proof.
   4. If the employee is the secondary adopter, they have the right to go up to 2 paid adoption appointments after they have been matched with a child. The employee may be required to show an appointment card or other proof.
   5. The secondary adopter should refer to additional benefits under the OAT Paternity Leave and Pay Policy
   6. How to book time off
      1. The employee should give as much notice of the appointment as possible. The employee must provide their 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 they are adopting a child alone or jointly with another person.
      * if they are adopting with another person, whether they are electing to be the primary or secondary adopter
      1. An agency worker should notify their agency of the appointment times and dates as well as the principal/line manager.
      2. Only in exceptional circumstances would the principal/line manager refuse a request for a particular appointment.
2. If the employee is adopting a child with another person
   1. Where the employee and their partner are adopting a child, they must decide between them who will be treated as the primary adopter and who will be treated as the secondary adopter.
   2. The employee will usually choose to be the primary adopter if they intend to take adoption leave when the child is placed with them.
   3. The employee will usually choose to be the secondary adopter if they intend to take paternity leave when the child is placed with them.
   4. Both primary and secondary adopter may also be able to use shared parental leave for time off
3. If the employee is adopting a child alone
   1. If the employee is adopting a child alone, they are treated as the primary adopter.
4. If the employee is adopting more than one child
   1. If the agency is placing more than one child with the employee as part of the same arrangement, this is treated as one adoption and will not increase the number of appointments they can take time off to attend. Any time off under this policy must be taken before the first child is placed with them.
5. Starting adoption leave
   1. Adoption leave 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.
   2. If the employee wants to change the Intended start date, they must tell their line manager in writing. The employee should give their principal/line manager as much notice as they can, but wherever possible they must tell principal/line manager at least 28 days before the original Intended Start Date (or the new start date if they are bringing the date forward). The principal/line manager will then write to them within 28 days to tell them the new expected return date.
   3. Before the employee’s adoption leave starts, they will be encouraged to discuss their preferred arrangements for remaining in contact with the principal/line manager during adoption leave. The principal/line manager may reserve the right, in any event, to maintain reasonable contact with the employee from time to time during their leave, to see how they are and to provide any important updates at work they should be aware of. This may be to discuss their plans for return to work, to discuss any arrangements to be made or training to be offered to ease the return to work, or simply to update them on developments at work during their absence.
   4. Performance Management and Pay Progression
      1. The employees review should be undertaken prior to them going on adoption leave, any discussions around performance management/pay progression should take their adoption leave into account; objectives could/should be adjusted, and any pay progression should be awarded as if the absence did not take place.
      2. It is not appropriate for the employer to use keep in touch (KIT) days for appraisal purposes.
6. Adoption Pay
   1. Statutory adoption pay (SAP) is payable for 39 weeks. It stops being payable if the employee returns to work sooner or if the placement is disrupted. The employee is entitled to statutory adoption pay if:
      1. They have been continuously employed for at least 26 weeks ending with the end of the matching week
      2. The 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
      3. They have given us the relevant notifications under paragraph 4.
   2. Statutory adoption pay is calculated as follows:
      1. First six weeks: statutory adoption pay is paid at the Earnings-related Rate of 90% of the average earnings over the Relevant Period.
      2. Remaining 33 weeks: statutory adoption pay 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.
   3. Statutory adoption pay accrues with each complete week of absence and payments are made on the next normal payroll date. Income tax, National Insurance and pension contributions are deducted as appropriate.
   4. If the employee leaves their employment with the Academy/Trust for any reason (for example, if they resign or are made redundant) they are still eligible for statutory adoption pay if they have already been notified by an agency that they have been matched with a child. In such cases, statutory adoption pay starts:

* 14 days before the expected placement date; or
* the day after their employment ends, whichever is the later.
  1. Payment of adoption pay is conditional upon the employee returning to their job for at least 13 weeks (including periods of school closure).

For all categories of employees with more than 1 calendar years’ service

* 1. For those employees with more than 1 years’ service in addition to the above adoption leave and pay entitlements there is an entitlement to receive contractual adoption pay in line with the conditions of service for either teaching staff or support staff.
  2. A summary of the entitlements and obligations to adoption leave and pay for employees is set out in Appendices 1 and 2.

If the employee is not entitled to statutory adoption pay

* 1. If the employee does not meet the qualifying conditions for statutory adoption pay their employer will issue them with a SAP1 form. They may be able to get an adoption allowance from their local authority if they are unable to work for a period, but this is discretionary and highly variable between local authorities.

1. Terms and conditions during adoption leave
   1. All the terms and conditions of the employee’s employment remain in force during ordinary adoption leave and additional adoption leave, except for the terms relating to pay. In particular:

* Annual leave entitlement under the contract shall continue to accrue and
* Pension benefits shall continue.

1. Annual leave
   1. Teachers are entitled to a minimum of 28 days paid leave per year, the employees’ line manager can direct this to be taken during school closure periods. Due to the number of school closure days in each academic year it is unlikely that there would not be sufficient time for these to be taken in the same/following academic year.
   2. Full year support staff continue to accrue all their paid annual leave (including bank holidays where applicable) while on adoption leave. An employer must ensure that an employee is able to take all their annual leave which can be added to the end of their adoption leave or added to the next years entitlement.
   3. Term Time Only Support Staff are paid holiday pay within their monthly wage, when they are on adoption leave any accrued holiday will be calculated and paid on a monthly basis.
2. Pensions
   1. Members of the Teachers’ Pension Scheme (TPS) and Local Government Pension Scheme (LGPS) who decide they will return after the 39 weeks paid adoption leave will pay contributions based on the actual adoption pay received during the first 39 weeks.
   2. During unpaid additional adoption leave the employer shall not make any payments into the pension and the employee will no longer continue paying contributions into the pension. An employee who resigns at the start of their adoption leave will cease to pay pension contributions on the day on which the termination of the contract of employment takes effect.
   3. If the employee is a teacher, and are a member of the TPS, they 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 their pension. Further details are available on www.teacherspensions.co.uk.
   4. If the employee is a member of support staff, and are a member of the LGPS, they may wish to pay contributions in respect of the period of unpaid adoption leave and they should contact the Pensions Scheme Administrators who will provide further details on request.
3. Disrupted adoption
   1. Adoption leave is disrupted if it has started but:

* The employee is notified that the placement will not take place;
* The child is returned to the adoption agency after placement; or
* The child dies after placement.
  1. In case of disruption the 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 entitlement to leave or pay would have ended earlier in the normal course of events.

1. Keeping in touch
   1. Employees may, by agreement with their employer, attend work for up to ten days under their contract of employment during the adoption leave period. These days are known as “Keeping in Touch days” (KIT days). Such days are different to the reasonable contact that employers and employees may make with one another, as during KIT days employees can carry out work for the employer, for which they may be paid.
   2. Any work done on any day during the adoption pay or adoption leave period will count as a whole KIT day, up to the 10 day maximum. In other words, if an employee comes in for a one-hour training session and does no other work that day, she will have used one of her KIT days.
   3. The type of work that the employee undertakes on a KIT day is a matter for agreement between the two parties. They may be used for any activity which would ordinarily be classed as work under the employee’s contract.
   4. The employee may be paid for the work undertaken during KIT days without loss of statutory adoption pay. The rate of pay is a matter for agreement with the principal/line manager. However, when determining the rate of pay for each KIT day, the employer must be mindful of equal pay considerations. Please contact the HR adviser for further information if required.
2. Returning to work
   1. Employees should notify the principal/line manager of the date they intend to return to work. Unless we are otherwise notified, the return to work date will be the first working day after the end of the 52 weeks adoption leave.
   2. This date will be confirmed before commencing adoption leave. An employee will not receive any further notification and it is expected that they will return to work on this date

Returning to Work Early

* 1. If an employee wishes to return to work early or change the previously notified date of return – they must give at least 28 days’ notice of this alternative date.
  2. Should an employee fail to give the required notice, the principal/line manager may postpone the date of return until the required notice has been served. However, the notice period cannot extend the period of leave beyond the original maximum duration of the adoption leave.
  3. An employee may return to work during the Trust closure period – subject to giving the required notice.

Returning to work later than expected

* 1. If the employee wishes to return later than the expected return date, they should either:
* Request unpaid parental leave [in accordance with our Parental Leave policy], giving principal/line manager as much notice as possible but not less than 28 days; or
* Request paid annual leave in accordance with their contract, which will be at the principal/line manager’s discretion.
  1. If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence and the Sickness Absence Policy will apply.
  2. In any other case, late return will be treated as unauthorised absence.

The Right to Return

* 1. After the period of ordinary leave, an employee has the right to return to the same job on terms and conditions no less favorable than if they had not been absent.
  2. After additional adoption leave, an employee will have the right to return to the same job or, if not reasonably practical, an appropriate alternative job.
  3. Exceptions may occur where there is for instance, a redundancy or at the end of a fixed term or temporary contract. In these circumstances appropriate consultation will take place with the employee, and they will be offered suitable alternative work, where available.

1. Leaving Employment
   1. Should an employee determine after careful consideration that they no longer wish to return to work following the end of adoption leave, they should formally resign in writing giving the required contractual notice.
   2. Employment will terminate at the end of the period of contractual notice, or, at the end of the statutory adoption pay period, whichever is later.
   3. Should an employee return to work and then decide to resign, they must give the appropriate contractual notice.
   4. If an employee leaves employment before completing 13 weeks service upon return from adoption leave and has received payment of the 12 weeks half pay, they will be expected to repay the contractual element of any adoption pay.
2. Requests to change working hours
   1. The employee may make a flexible working request to alter their pattern/hours of work at the point of return from adoption leave.
   2. The principal/line manager will give careful consideration to any request. Should the request not be accommodated in the business reasons for this will be explained to the employee.
   3. Please refer to the Trust’s Flexible Working policy and procedure for further details.

Appendix 1

Support staff adoption entitlement

|  |  |  |  |
| --- | --- | --- | --- |
| What service do I have? | What options are available to me? | How much adoption leave am I entitled to? | What adoption pay am I entitled to? |
| **From first day of employment Less than 26 weeks service,** irrespective of hours worked, | **A** I would like to return to work | Up to 52 week's absence in total, starting on the first day of adoption leave | Form SAP 1 should be provided from the employee’s payroll provider to be submitted to their local authority, where they MAY get an adoption allowance |
| **B** I would like to resign | Not applicable | As above |
| **26 weeks or more,** irrespective of hours worked**, and less than 1 years’ service** | **C** I would like to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | Depending on salary and average earnings:  6 weeks higher rate SAP at 90% of average earnings followed by 33 weeks lower rate SAP and the remainder unpaid |
| **D** I would like to keep my options open as I may choose to resign or to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | Depending on salary and average earnings:  6 weeks higher rate SAP at 90% of average earnings followed by 33 weeks lower rate SAP and the remainder unpaid |
| **E** I would like to resign | Not applicable | Depending on salary and average earnings:  6 weeks higher rate SAP at 90% of average earnings followed by 33 weeks lower rate SAP and the remainder unpaid |
| **At least 1 year’s continuous service,** irrespective of hours worked, as at the placement date | **F** I would like to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | 6 weeks at 100% of contractual full pay followed by 12 weeks half pay.  The employee must return to work for a minimum of 13 weeks otherwise the 12 weeks half pay must be repaid.  Plus, depending on salary and average earnings:  33 weeks lower rate SAP to be paid alongside the 12 weeks at half pay |
| **G** I would like to keep my options open as I may choose to resign or to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | Depending on salary and average earnings:  6 weeks at 100% of full pay followed by 33 weeks lower rate SAP and the remainder unpaid  12 weeks at half pay will only be paid if they return to work for a minimum of 13 weeks |
| **H** I would like to resign | Not applicable | Depending on salary and average earnings:  6 weeks at 100% of full pay followed by 33 weeks lower rate SAP |

SAP - Service for SAP is continuous service with the current employer only

Appendix 2

Teacher staff maternity entitlements

|  |  |  |  |
| --- | --- | --- | --- |
| **What service do I have?** | **What options are available to me?** | **How much adoption leave am I entitled to?** | **What adoption pay am I entitled to?** |
| **Less than 26 weeks service,** irrespective of hours worked, | **A** I would like to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | Form SAP 1 should be provided from the employee’s payroll provider to be submitted to their local authority, where they MAY get an adoption allowance |
| **B** I would like to resign | Not applicable | As above |
| **26 weeks or more**,irrespective of hours worked, **and less than 1 year’s service** | **C** I would like to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | Depending on salary and average earnings:  6 weeks higher rate SAP at 90% of average earnings followed by 33 weeks lower rate SAP and the remainder unpaid |
| **D** I would like to keep my options open as I may choose to resign or to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | Depending on salary and average earnings:  6 weeks higher rate SAP at 90% of average earnings followed by 33 weeks lower rate SAP and the remainder unpaid |
| **E** I would like to resign | Not applicable | Depending on salary and average earnings:  6 weeks higher rate SAP at 90% of average earnings followed by 33 weeks lower rate SAP and the remainder unpaid |
| **At least 1 year’s continuous service,** irrespective of hours worked, as at the placement date | **F** I would like to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | 4 weeks at full pay and 2 weeks at 90% of full pay followed by 12 weeks half pay.  The employee must return to work for a minimum of 13 weeks otherwise the 12 weeks half pay must be repaid.  Plus, depending on salary and average earnings:  33 weeks lower rate SMP to be paid alongside the 12 weeks at half pay |
| **G** I would like to keep my options open as I may choose to resign or to return to work | Up to 52 weeks absence in total starting on the first day of adoption leave | 4 weeks at full pay and 2 weeks at 90%  Plus depending on salary and average earnings:  33 weeks lower rate SMP and the remainder unpaid  The 12 weeks at half pay will only be paid if they return to work for a minimum of 13 weeks |
| **H** I would like to resign | Not applicable | 4 weeks at full pay and 2 weeks at 90%  Plus depending on salary and average earnings:  33 weeks lower rate SMP |

SAP - Service for SAP is continuous service with the current employer only