



PLYMSTOCK SCHOOL ADOPTION LEAVE POLICY

Adoption Leave Policy

Governors Committee: Personnel
Lead Officer: Headteacher
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1. POLICY OVERVIEW

1.1 Policy statement

This policy sets out the rights and responsibilities of employees who are adopting a child/children, the help and support that the school will give them, and the law relating to adoption entitlements.

Adoption leave and pay are available to:

- Individuals who adopt
- One member of a couple where a couple adopts jointly (the couple must choose which partner takes adoption leave).

The partner of an individual who adopts, or the secondary adopter if a couple who are adopting jointly, may be entitled to statutory paternity leave and pay and/or shared parental leave subject to meeting qualification requirements.

1.2 Scope

This policy and procedure applies to all staff. This includes temporary, part time and fixed term employees, but excludes agency and self-employed workers with under 12 weeks continuous service.

It applies only to legal adoption through an approved adoption agency. It does not apply to:

- Short term fostering, e.g. where a person undertakes regular short term fostering assignments for a local authority or temporarily cares for a relative's child
- Cases where legal adoption is being arranged after a period of fostering has already taken place
- A private adoption, e.g. where the child of a close relative is being adopted and is known by the prospective parent, or in some cases of surrogacy.

In the last two cases, it will be assumed the child(ren) will already be familiar with the applicant, who will have made adequate arrangements for their care. In these cases employees may be eligible to take parental leave, or a career break. There may be exceptional circumstances where the occupational benefits of the scheme are extended to other staff. Examples include where the natural parents have recently died and the adopting parents know the children. Requests for adoption leave in these circumstances should be made in writing to the Headteacher.

1.3 Protection from detriment and dismissal

Employees seeking to take or taking adoption leave have the right not to be dismissed or discriminated against for any reason connected with their adoption leave.

All the rights described in this policy apply equally to all staff, provided they satisfy any qualifying conditions, such as length of service.

2 THE RIGHT TO TAKE ADOPTION LEAVE

All employees have an occupational entitlement to up to 52 weeks adoption leave.

2.1 Ordinary adoption leave (OAL)

Ordinary adoption leave (OAL) is 26 weeks.

2.2 Additional adoption leave (AAL)

Employees with more than 26 weeks continuous service at the end of the notification week are entitled to a further period of 26 weeks additional adoption leave, making a total of 52 weeks leave.

3 IMPACT ON EMPLOYMENT CONTRACT

During the whole 52 weeks adoption leave, employees have the right to the continuation of all terms and conditions of employment, including benefits such as car allowance, accrual of holiday entitlement and bank holidays, but excluding normal pay and sick pay.

3.1 Ordinary adoption leave

An employee returning from OAL is entitled to return to the same job as before on the same terms and conditions of employment, unless a redundancy situation arises (in which case they are entitled to be offered a suitable and appropriate vacancy if one exists).

3.2 Additional adoption leave

AAL immediately follows OAL and there must be no gap between the two. An employee returning from AAL is entitled to return to the same job unless it is not reasonably practicable for the employer to allow them to do so. In such circumstances, the employee is entitled to be offered a suitable and appropriate position. Again, if the employee's position is made redundant, they are entitled to be offered a suitable vacancy where one exists.

3.3 Other terms and conditions that apply during OAL and AAL

The contract of employment will continue throughout OAL and AAL unless either party to the contract expressly ends it or it expires.

4 ADOPTING A CHILD FROM THE UK

4.1 Eligibility

To be eligible for adoption leave and pay an employee must:

- Have a contract of employment with Plymstock School
- Have 26 weeks service by the notification week
- Produce documentary evidence of adoption
- Be newly matched with a child for adoption by an adoption agency
- Have notified the adoption agency that they agree that the child should be placed with them and that they agree with the date of placement.

Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

Employees must give their employer documentary evidence from their adoption agency as evidence of their entitlement to statutory adoption pay (SAP). Employees should ask their adoption agency for this documentary evidence, which may be provided in the form of a matching certificate, which includes basic information on matching and expected placement dates.

4.2 Notification requirements

The employee must notify the Headteacher of their intention to take adoption leave within 7 days of being notified of a match by the adoption agency, unless this is not reasonably practicable. Evidence of adoption must be provided within 28 days to qualify for SAP, usually a matching certificate. The agency must be recognised in the UK.

The employee must provide the following details in writing:

- That they would like to take adoption leave
- When the child is expected to be placed with them
- When they would like their leave and statutory adoption pay to begin

4.3 How to start adoption leave

Adoption leave can start either:

- From the date of the child's placement (whether this is earlier or later than expected), or
- From a fixed date which can be up to 14 days before the expected date of placement.
- When an employee has been matched with a child to be placed with them by a UK adoption agency
- When the child arrives in the UK or within 28 days of this date (overseas adoptions)
- The day the child's born or the day after (parents in surrogacy arrangements)

It starts on the day the employee specifies in their notice. If the employee is at work on the day the placement starts, the adoption leave will start the next day.

4.4 Changing the start of adoption leave

Employees can change their mind about when they would like to commence leave, provided they give at least 28 days' notice of change, unless this is not reasonably practicable.

If an employee starts their adoption leave before the child is placed, they need to be sure that the placement is going to go ahead. If the placement is delayed once the employee has started their leave, they cannot stop their leave and start it again at a later date.

4.5 Pre-adoption leave/time off for appointments

Single adopters are entitled to five paid appointments or if jointly adopting the main adopter will be entitled to 5 paid adoption appointments and the secondary adopter to 2 paid appointments prior to the placement, which may include one court appearance, related to the adoption order.

4.6 Termination of employment

Once an employee has satisfied the qualifying conditions for SAP they will continue to be eligible for it even if their employment ends, i.e. they resign or are dismissed for whatever reason.

If employment ends before the employee has started their adoption leave, SAP will start 14 days before the expected day of placement, or on the day after the last day of employment where this is within that 14 days period. The employee will not need to have complied with the notice requirements in these cases. However, the employee should still provide evidence of their entitlement.

5 ADOPTING A CHILD FROM OVERSEAS

As above, except the official notification (permission from a UK authority) that they can adopt from abroad.

The declaration on form SC6 must be completed if they are adopting a child with a partner.

5.12 Notification requirements

The employee must provide the following information at least 28 days (where reasonably practicable) before an employee wants their adoption leave to start:

- A copy of the official notification
- The date they received the official notification
- Their name and address

- The date the child is expected to enter Great Britain (within 28 days after the date they received their official notification. If the child has already entered Great Britain, the date they entered plus evidence (e.g. plane tickets) within 28 days of that date.
- The date they expect their adoption leave to begin (at least 28 days before they want their leave to begin)
- A declaration that they have elected to receive SAP and not SPP.

5.2 How to start adoption leave

Employees may choose to start their leave:

- On the date the child enters Great Britain, or
- On a specified date within 28 days after the child enters Great Britain.

When an employee adopts a child from overseas their adoption leave cannot begin until the child enters Great Britain. The employee must notify their employer as soon as reasonably practicable if the child is no longer going to enter Great Britain.

5.3 Changing the start of adoption leave

To remain entitled to statutory adoption leave, where the child has not entered Great Britain on the expected date the employee must inform their employer of the new date they expect their leave to start. This can either be the new date the child is expected to enter Great Britain or a specified date within the 28 days of when the child is expected.

5.4 Termination of employment

Once an employee has qualified for SAP they keep their entitlement even if their employment ends, i.e. they resign or are dismissed. In these circumstances adoption leave will start on a day chosen by the employee. The employee must give their ex-employer 28 day's notice and start their leave within 28 days of the child entering Great Britain.

If the employee's adoption leave has still not started after six months the liability to pay SAP will transfer to the Inland Revenue, unless and until the employee qualifies for SAP through working for another employer.

6 ADOPTION PAY

There are two types of adoption pay:

- Statutory adoption pay (SAP)
- Occupational adoption pay (OAP) is a contractual benefit for staff.

Details of Adoption Pay is shown in a separate schedule as this will be updated annually to reflect Statutory changes.

Once an employee has satisfied the qualifying conditions for SAP they will continue to be eligible for it even if their employment ends, ie they resign or are dismissed for whatever reason.

See the section on working during adoption leave for additional days that may be available to work.

7 DISRUPTION TO THE PLACEMENT

If, after the adoption has started, the placement ends for whatever reason, the employee's adoption leave will end eight weeks after the week in which the placement ends or at the end of the adoption leave if this is sooner.

8 REPAYING ADOPTION PAY

Employees must return to work for a period of not less than three months following the period of adoption leave or repay the 12 weeks half-OAP received. If an employee returns part time, they may be required to work longer than the three months, please seek guidance from the HR Manager. There is no requirement to refund SAP.

9 PATERNITY LEAVE/MATERNITY SUPPORT LEAVE

Paternity leave is available to eligible employees not taking adoption leave and pay. Please see Paternity leave policy for details.

10 SHARED PARENTAL LEAVE

Employees wish to share their adoption leave, please see the Shared Parental Leave Policy for further details.

11 RETURNING TO WORK

Employees who intend to return to work at the end of their full adoption leave period do not have to give any further notification before returning.

Employees who want to return to work before the end of their adoption leave period must give 28 days' written notice of the date they intend to return. If the employee attempts to return early without notification the line manager may delay the return by up to the 28 days' notice period, provided this does not extend beyond the end of additional adoption leave.

If an employee is unable to return to work on the expected date due to sickness, they must follow the required notification procedure. The employee will then commence a period of sickness absence and will be treated as any other employee who is absent due to sickness, including payment of sick pay.

Employees are strongly encouraged to exercise their right to return to work. If an employee resigns instead of taking adoption leave, they will forfeit their right to return to work at a later date.

11.1 Returning to work after adoption leave followed by parental leave

An employee returning to work after ordinary adoption leave followed by a four weeks parental leave (maximum in any leave year 01 April to 31 March) or less, is entitled to return to their original job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen in which case the employee is entitled to be offered a suitable alternative vacancy where one exists.

An employee returning to work after additional adoption leave followed by four weeks parental leave (maximum in any leave year) or less, is entitled to return to their original job, unless it is not reasonably practicable for the employer to allow them to do so. In such circumstances, the employee is entitled to be offered a suitable and appropriate position. If the employee's position is made redundant, they are entitled to be offered a suitable vacancy where one exists.

12 OFFER OF A SIMILAR JOB

Where it is not practicable for the employee to return to their original job a similar job must be offered. The job must be such that:

- The work undertaken by the employee is both suitable and appropriate for the employee to do in the circumstances, and
- The capacity and place in which the employee is to be employed and the other terms and conditions of their employment are no less favourable.

However it is important to note that if the offer made is a suitable alternative and the employee refuses they will have effectively resigned.

'Return to work' means to the job to which the employee was employed under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable, had he or she not been absent.

'Job' for this purpose means the nature of the work that the employee is employed to do and the capacity and place in which he or she is so employed.

13 CHOOSING NOT TO RETURN TO WORK

You must still resign providing written notice in accordance with the notice periods as per your contract of employment.

14 RIGHT TO REQUEST FLEXIBLE WORKING

Please see details contained within our Flexible Working Policy

15 CONTACT DURING ADOPTION LEAVE

During the adoption leave period the school encourages either the manager or another member of the team to keep reasonable contact with the employee. For example, the line manager may contact the employee to discuss their plans to return to work or to be

brought up to date with a project. The line manager will also contact the employee to keep them informed about other relevant issues such as any job vacancies, workplace development, organisational changes etc. if the employee wishes.

Both parties should agree when and how the employer will keep in contact, this may be via email, telephone contact etc.

15.1 Keeping in Touch days

As well as staying in contact with your employer during your adoption leave, if you and your employer both agree you can do up to 10 days' work during your adoption leave. These are known as 'Keeping in Touch Days'. They aren't limited to your usual job – they could be used for training or other events. You may want to use some of these days to ease your return to work. You and your employer must both agree that you will work these days and agree the arrangements including what you will be doing and how you will be paid.

These are working days so whilst we would love to see you and the baby they are not meant to be used for social visits. You are also not obliged to use them at all if you do not want to, nor is the employer obliged to offer them. KIT days will not extend the adoption leave period.

16 TEACHERS PENSION SCHEME

If you are a member of the Teachers Pension Scheme (TPS), the first 26 weeks (Ordinary Adoption Leave) will count in full for pension purposes, irrespective of whether you receive any pay. If you receive pay, then both you and the school will pay pension contributions on the pay you are receiving. Benefits will continue to accrue to you as if you were working and receiving normal pay.

No contributions will be paid, by either the school or you, during any period of unpaid adoption leave.

For further information please contact the pensions department.