

# All Saints Schools Trust



## Guidance on Adoption Entitlements 2023 - 27

	Date	Signed
Agreed by Trust Board:	July 2023	Chair of Board James Hargrave
Lead:	HR Committee	
Review date:	July 2027	

# Guidance on Adoption Entitlements

## Rationale:

The law with respect to adoptions and the rights of prospective adoptive parents in the UK has changed a number of times in recent years. It is therefore essential that both the Trust and prospective adoptive parents have a guide available to outline the statutory rights and entitlements of all employees in this area.

## Aims:

The aim of this guide is to outline the statutory rights which apply to all employees and contractual rights which apply to teachers and support staff working for All Saints Schools Trust in relation to adoption pay and leave.

It covers only the leave and pay rights where a child is matched and placed for adoption within the UK. The scheme will differ slightly where a child is being adopted from overseas for practical reasons. Further guidance on the rights in cases of intercountry adoptions should be obtained from the Trust's HR team/caseworker.

There are a number of things an employee needs to know about their rights and obligations at work when they first become an adoptive parent. The main areas covered in this policy are:

- Adoption Leave Entitlements
- Adoption Pay Entitlements
- Returning to Work
- Annual Leave
- Pension Implications

## Adoption Leave and Pay Entitlements:

For the primary adopters of children matched for adoption, the rights to adoption leave and pay mirror maternity leave and pay.

Adopters also must meet the same criteria for entitlement to Shared Parental Leave and Pay. Some of the notification requirements will however be different, for example, the relevant dates will be linked to the time of the match and the adoption relationship is evidenced by providing details from the adoption agency. For further information see the Shared Parental Leave Policy.

The rights to adoption leave and pay allow an eligible employee who is adopting a child to take time off when a child is placed with them for adoption. An eligible employee is entitled to 26 weeks' ordinary adoption leave and a further 26 weeks' additional adoption leave, running from the end of ordinary adoption leave. During the period of ordinary adoption leave the employee may also be entitled to Statutory Adoption Pay and Occupational Adoption Pay (see further information about pay below).

Paternity leave and pay and Maternity Support Leave may be available to the partner of an individual who adopts, or the other member of a couple who are adopting jointly.

Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's child.

Please refer to the attached Glossary of Terms at Appendix 1 for definitions used in this policy.

If an employee requires any further information regarding their adoption rights, they should either ask their line manager or a member of the Trust's HR Team. Statutory rights can also be checked through the government's own web resource at [www.gov.uk](http://www.gov.uk).

### **Statutory Adoption Leave:**

There is no longer a continuous service requirement for eligibility to Statutory Adoption Leave.

Where a couple is adopting jointly, the couple may choose which one of them takes adoption leave and which takes paternity\* leave.

Employees will be entitled to a total of 26 weeks' ordinary adoption leave, followed immediately by 26 weeks' additional adoption leave. Employees may choose to start their leave:

- . 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 (and no later than expected date of placement).

Leave can start on any day of the week. Only one period of leave will be available, irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

\* Paternity leave can be taken by a spouse, civil partner or other partner of either sex of the child's mother.

### **Statutory Adoption Pay:**

During their adoption leave, most adopters will be entitled to Statutory Adoption Pay (SAP).

SAP is paid for up to 39 weeks. The first six weeks will be paid at 90% of the employee's average gross weekly earnings, bringing it into line with Statutory Maternity Pay. The remainder will be paid at the standard rate set by the Government. For further information, see the [Directgov website](#).

Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from the local Jobcentre Plus office or Social Security office.

### **Occupational Adoption Pay:**

For employees who have completed not less than 1 year's continuous service, the occupational adoption provisions at the commencement of adoption leave will apply as follows:

#### **For Teachers:**

- For the first 4 weeks of absence, they are entitled to full pay (SAP offset)
- For the next 2 weeks they are entitled to 9/10ths. (90%) of a week's pay (SAP offset)
- They are then entitled to 12 weeks at half pay plus any entitlement to SAP (not exceeding normal full pay)
- For the final 21 weeks, they are entitled to Statutory Adoption Pay

Teachers are required to return to work for 13 weeks (or pro rata equivalent if they reduce their working hours on their return to work) at the end of their leave to receive - and not have to repay - Occupational Adoption Pay (SAP is non-refundable).

The employee may choose to have the Occupational Adoption Pay paid as it falls, or held until they return.

### **For Support Staff:**

- For the first 4 weeks of absence, they are entitled to 9/10ths. (90%) of a week's pay (SAP offset)
- They are then entitled to 9 weeks at half pay, as well as the standard rate of SAP, provided that the two added together do not exceed normal pay.
- For the final 26 weeks, they are entitled to Statutory Adoption Pay

If they do not intend to return to work, payments during weeks 5 to 39 will be entitlement to standard rate of SAP only.

Support Staff are required to return to work for a minimum of 3 months to secure entitlement to Occupational Adoption Pay (9 weeks half pay). If they do not, then the half pay entitlement must be repaid (SAP is non-refundable).

They may choose to have the 9 weeks' half pay paid as it falls due or held until they return.

### **Shared Parental Leave and Pay:**

If the primary adopter chooses to curtail his/her right to adoption leave early, after the initial period of 2 weeks that must be taken, both parents may be eligible for up to 50 weeks shared parental leave and up to 37 weeks' pay.

See the Shared Parental Leave Policy for further information, including the eligibility criteria.

### **Notice of Intention to Take Adoption Leave:**

Employees must inform their line manager in writing and the Trust's HR Team/caseworker of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Adopters will need to confirm:

- the date on which the child is expected to be placed with them
- the date on which they want their adoption leave to start

Employees will be able to change their mind about the date on which they want their leave to start, providing they tell their line manager and the Trust's HR Team/case worker at least 28 days in advance (unless this is not reasonably practicable). They will have to tell their line manager and the Trust's HR Team/case worker the date they expect any payments of SAP to start at least 28 days in advance unless this is not reasonably practicable.

The Trust's HR Team will respond to employees' notification of their leave plans within 28 days.

### **Matching Certificate:**

Employees will have to, on request, give their line manager and the Trust's HR Team/case worker a 'matching certificate' from their adoption agency as evidence of their entitlement to SAP. This certificate will also serve as proof of entitlement to adoption leave. Employees should ask their adoption agency for a matching certificate, which will include basic information on matching and expected placement dates.

### **Contractual Benefits:**

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary, throughout their 26-week ordinary adoption leave period and any period of shared parental leave. Most adopters will be entitled to SAP during this period.

During additional adoption leave, the employment contract continues, and some contractual benefits and obligations remain in force, for example, compensation in the event of redundancy and notice periods.

### **Contact During Adoption Leave:**

Shortly before an employee's adoption leave starts, their line manager should discuss the arrangements for him/her to keep in touch during his/her leave, should he/she wish to do so. The Trust will also reserves the right, in any event, to maintain reasonable contact with the employee from time to time during adoption leave. This may be to discuss plans for return to work, to discuss any special arrangements to be made, training to be given to ease the return to work, or simply to update the employee on developments at work during his/her absence.

In order to ensure that the employee is kept updated on developments within the workplace, it is advisable that either their line manager or a designated representative should ensure that the employee is forwarded by post the following:

- copies of any team meeting notes
- job vacancies
- redundancy proposals
- SOR related issues and/or
- general information on a regular basis

### **Keeping-in-Touch (KIT) Days:**

Keeping-in-touch (KIT) days allow an individual to work for up to 10 days (pro-rated for part-timers) during their adoption leave, without the loss of statutory adoption leave. Both parties must be in agreement on any such work and the dates must be mutually agreed.

KIT days do not have to be consecutive and can be used for work activities, training or any other activity, such as a staff meeting, that enables the employee to keep in touch with the workplace. Working for part of a day will count as one whole day of the 10 days.

KIT days (in addition to SAP) will generally be unpaid except in exceptional circumstances, when agreed with the Head Teacher. Whatever the decision, this will be discussed with the employee prior to agreeing any KIT days they attend.

If exceptionally, the decision is made to pay for a KIT day, this will be calculated using the weekly rate of SAP is divisible by 7 to arrive at a daily rate – not by the hours worked to get an hourly rate, or by 5 to represent 5-day weeks.

The School Office should email the Chief Financial Officer (CFO) with details of the employee's name, employment number, the hours worked and when they were worked, together with details of how much they should be paid, according to it's policy. The CFO will calculate the payment due and payment will be made in the next available payslip. No payment is made for travel or childcare costs.

It is the Head Teacher's responsibility to write to the employee, both inviting them to attend a KIT day and/or acknowledging their request to attend a KIT day. It is also their responsibility to ensure that a record of KIT days the employee has attended is kept.

### **Return to Work After Adoption Leave:**

Employees who intend to return to work at the end of their full adoption leave entitlement will not have to give any further notification, although it is often helpful to do so.

Employees who want to return to work before the end of their adoption leave period must give the Trust's HR Team/case worker 8 weeks' notice (for support staff) or 28 days' notice (for teachers) of the date they intend to return.

There is no absolute right to return to work on different terms as the right to return after adoption leave is linked to the position held before the leave began. If employees feel they may like to change their hours (or other conditions), they should discuss the matter with their line manager in the first instance. As it may take some time to consider/implement changes; it would be helpful if employees could raise the matter with their line manager as soon as possible.

Returning on a different basis (e.g. part-time from full-time) will affect some contractual entitlements such as annual leave, pension provisions, etc, depending on the change being made, normally pro-rata to the new hours being worked. Further advice can be obtained from the Trust's HR Team/case worker.

There are also conditions that employees must satisfy if they take Shared Parental Leave. Full details are set out in the Shared Parental Leave Policy but key elements are set out below.

If the adoption leave and shared parental leave amount to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of adoption leave and shared parental leave do not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of adoption leave and shared parental leave do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

Adopters who decide during their period of adoption leave that they will not be returning to work should give the notice required under their contract. If sickness prevents an adopter's return, the absence will be covered by the sickness scheme in the normal way, such as notifying their line manager.

For shared parental leave, if employees wish to return to work earlier than the expected return date, they should provide at least 8 weeks' written notice to vary the leave and specify the date of early return. This will count as one of the employee's 3 notifications (see the Shared Parental Leave Policy for more details about notifications).

### **Protection from Detriment and Dismissal:**

Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Employees who believe they have been treated unfairly should use the grievance procedure.



## **Annual Leave (If Entitled):**

Employees will accrue annual leave throughout the adoption leave period, if they are entitled to this. Employees who return to work on a part-time basis will have leave accrued pro-rata from the effective date in the changed contract.

It is normally advised that individuals take annual leave pro-rata for the year before adoption leave starts, but this should be agreed with their line manager in advance. As far as possible, leave should be taken in the current leave year and if employees are taking additional adoption leave, employees may take holiday during that period, as long as it is arranged with their line manager. Leave which cannot be taken may be carried forward into the subsequent leave year at the Head Teacher's discretion, in consultation with the CEO, whose responsibility it is to ensure consistency across the Trust.

Subject to their line manager's approval, annual leave can sometimes be taken in the first weeks back at work; effectively extending the adoption leave period. However, any such period of annual leave will be subject to operational requirements.

## **Public Holidays during Adoption Leave:**

Employees who are placed with a child will be entitled to take paid leave for the bank holidays which fall during their adoption leave.

## **Pension:**

During any period of paid adoption leave (including any period when only Statutory Adoption Pay is paid), and during any unpaid adoption leave during the 26 week Ordinary Adoption Leave period, and during any period of unpaid statutory paternity leave, the employee must continue to pay pension contributions on the actual pay, if any, being received. Benefits will continue to accrue as if the employee were working normally on full pay.

If the employee has the right to return to work, he/she may choose to pay contributions for any period of unpaid adoption leave beyond the 26 weeks Ordinary Adoption Leave period so that the period of absence will count in full for pension purposes. The contributions will be calculated on the rate of pay (or reduced pay) the employee was entitled to receive immediately before they commenced the period of unpaid adoption leave.

If the employee chooses to pay the contributions, he/she will be given the opportunity to pay at the end of the period of unpaid leave. Repayments are usually made over the same period as the length of the missing service e.g. unpaid adoption leave of six months would mean recovery of the pension contributions over the following six months. Instalments are subject to agreement between the employee and the CFO.

If, before going on adoption leave, the employee was paying additional contributions to increase his/her membership, these remain payable. Contributions are calculated on the rate of pay the employee would have received if they were not on adoption leave. The additional membership continues to accrue in full.

For employees who do not pay contributions, the period does not count as service for pension purposes. For those who do pay contributions for the period of nil pay, it will count as service for pension purposes.

The contributions payable during the nil pay period are subject to the pensions regulations. These are currently based on pay entitlement immediately before going into nil pay, which will be Statutory Adoption Pay. If an employee elects to make contributions, but decides to leave work, an account will be sent for the contributions due.

## **Flexible Working:**

An employee may wish to return to work on fewer hours than he/she worked before taking adoption leave or on a job share or term time working basis. There is no absolute right to return to work on different terms, as the right to return after adoption leave relates to the position held before the leave began (see also Return to Work After Adoption Leave above). However, if an employee is considering a change of working hours (or other conditions), it should be discussed with their line manager in the first instance.

Returning on a different basis, e.g. part-time from full-time, will affect some entitlements such as annual leave, pension provisions, etc, depending on the change being made, normally pro-rata to the new hours being worked.

## **Redundancy:**

Adoption leave counts as continuous service for redundancy purposes and does not adversely affect an employee's right to redundancy.

## **Pre-Adoption Care:**

This is an estimate of the amount of time an employee would be expected to take by the adoption agency in preparation for the adoption:

- a) Preparation course - 4 days + 1 day follow up approximately 3 months later.
- b) Assessments with the social workers - 6-8 half days
- c) Meeting with the adoption panel - 1/2 day
- d) Meeting with the Performance Panel - 1/2 day
- e) Introduction to the child - 1-2 weeks, depending on the age of the child (older children may need longer).

The Trust will grant time off with pay for (a) to (d) above, up to a maximum of 10 days. In respect of (e), the employee will be expected to use annual leave for this purpose, or to take time outside of term time, if practical. If this is not feasible, consideration will be given to paid or unpaid leave at the Trust's discretion. The Trust will normally ensure that requests for this leave will be granted, as the timing is dependent upon the adoption agency.

### **Adoption Checklist:**

In order to ensure that the Trust addresses all the issues prior to, during and after the employee's adoption leave period, it is advisable that their line manager meets with the employee to ensure completion of the Manager's Adoption checklist, as detailed at Appendix 3.

Please be reminded that the employer is required to notify the employee of any changes to the employee's contract of employment requiring formal consultation at the time of the event i.e. restructure, redundancy, SOR etc. In this instance, assistance with this process will be sought from the Trust's HR Team/caseworker.

### **Related Policies:**

This policy should be read in conjunction with other Trust policies.

### **Period of Review:**

This policy will be reviewed every 4 years or sooner should legislation change.

## **Appendix 1 – Glossary**

### **OAL - Ordinary Adoption Leave**

Statutory entitlement for employees who are adopting or for one member of a couple who are adopting jointly (the second member of the couple may be eligible for Statutory Paternity entitlements). During this period employees may be eligible for SAP.

### **AAL - Additional Adoption Leave**

Statutory entitlement for employees who are adopting or for one member of a couple who are adopting jointly (the second member of the couple may be eligible for Statutory Paternity entitlements). During this period employees will not be eligible for payments.

### **SPL – Shared Parental Leave**

Statutory entitlement for eligible employees, enabling available leave to be shared flexibly between partners.

### **SAP - Statutory Adoption Pay**

This is adoption pay due to the employee from the Department of Work & Pensions, paid by the Trust using normal payment methods at the current standard rate per week (contact the Trust's HR Team to be sure of the current rate) or 90% of normal weekly earnings whichever is lower.

### **OAP – Occupational Adoption Pay**

This is the adoption pay from the Trust due to the employee under their contract of employment.

### **ShPP – Shared Parental Pay**

This encompasses both statutory and occupational rates of pay.

### **LEL - Lower Earnings Limit**

This is the limit below which National Insurance is not due.

### **Qualifying Week**

The qualifying week is the week beginning with the Sunday that the adopter receives notification of having been matched with the child and ends on the following Saturday.

### **Qualifying Period**

The qualifying period is the period of time from the beginning of the 26 week period before the qualifying week to the end of the qualifying week.

### **Notification Period**

The notification period is the period of time, which begins on the date the adopter receives notification of having been matched with the child and for the following seven days.

## Appendix 2 - Flowchart of Adoption leave– overview

*When the employee tells the Trust that they are intending to adopt:*

Ensure written notification of intention to take adoption leave is received no later than 7 days after the date on which notification of match with the child was provided by the Adoption Agency.

Your employee should notify you of the planned dates for adoption leave using form AP3 (available with this guidance document or from the Trust's HR Team).

HR will write to your employee within 28 days confirming entitlements to adoption leave/pay and the return to work date.

*Before the employee goes on adoption*

Discuss and agree arrangements for keeping in touch with your employee during adoption leave. You may also want to discuss initial plans for returning to work, such as part-time hours.

Your employee may contact you to bring their return to work date forward – they must give at least 8 weeks' notice (28 days for teachers) to you of the new date. Please contact the Trust's HR Team immediately confirming any changes.

*Before the employee returns to work*

Your employee may contact you to say that they have decided not to return to work. Ask them to send a resignation letter and commence the usual leaver process.

If your employee has not contacted you four weeks prior to their scheduled return date, get in touch to discuss their return to work plans.

*On returning to work*

Ensure that any changes to contractual arrangements have been made and issued to the employee, e.g. where an employee has decided to return on part-time hours.

Undertake a return to work induction with your employee, using the Manager's Adoption Checklist.	

## Appendix 3

### Manager's Adoption\* Checklist

The following checklist is designed to ensure that a consistent approach is taken to

General Rights and Responsibilities - on Initial Notification of Adoption	Tick when complete
Notify HR - ensure employee has sent correct notification (Form AP3) to Trust's HR Team	
Ensure employee is in receipt of acknowledgement letter from Trust's HR Team (with details of entitlement supplied by Payroll)	
Level of contact during Adoption Leave – What has been agreed between employee and employer	Tick when complete
Keeping-in-touch days discussed and employee in agreement with KIT Days (for training, team meetings, etc)	
Level of contact agreed during adoption/shared parental leave: <input type="checkbox"/> Fortnightly <input type="checkbox"/> Monthly <input type="checkbox"/> Other (please state)	
Type of contact? <input type="checkbox"/> Phone calls <input type="checkbox"/> Home Visits <input type="checkbox"/> Emails <input type="checkbox"/> Combination	
Contact with whom? Please specify a name:	

supporting an employee before, during and after the adoption leave period and to ensure that a structured return to the workplace is completed. Whilst it is not the manager's responsibility to perform each of the tasks listed, it is their responsibility to ensure that the member of staff is sufficiently guided and supported during this time. This checklist should be retained by the manager until the employee returns to work.

\*the checklist can also be used for additional paternity leave / shared parental leave

Employee		Date	

Ensure nominated representative appointed to forward copies of internal staff vacancies/ announcements	
Any specific wishes/requirements during adoption/shared parental leave? Please specify:	
Changes at work (restructure, new opportunities, work process changes) – check changes have been communicated to employee, preferably in person or via the telephone.	
<b>Planning a return to work</b>	
<ul style="list-style-type: none"> <li><input type="checkbox"/> Job may have changed</li> <li><input type="checkbox"/> Hours to be worked? Change in contract (e.g. flexible working request / change of hours)</li> <li><input type="checkbox"/> Consider training requirements and incorporate into appraisal/PDR</li> <li><input type="checkbox"/> Arrange visit to school before day one/re-introduction to the team (if appropriate)</li> </ul>	
<b>Returning to work – day 1</b>	
Carry out return-to-work meeting Have a 're-introduction to work' timetable which should cover first few days	
<p><b>Progress reviews</b> (between line manager and employee. To be kept informal. Frequency to be agreed at return to work meeting, but weekly progress meetings are recommended. Need to be clear on required objectives.</p> <p>Week 1 Week 2 Week 3 Week 4 Month 2</p> <p>Further regular reviews required? (add details and dates below)</p>	



## Notification of Adoption

**Please complete and sign this form and forward it to the Trust's HR Team as soon as possible once the adoption is approved and before your adoption leave is planned.** The Trust's HR Team will verify the information as indicated and forward the form to the CFO. You will receive written confirmation of your rights and obligations.

The information you give will be used to assess:

- a) Your adoption entitlements (conferred by Conditions of Service)
- b) Your eligibility to receive Statutory Adoption Pay (SAP)

This form will be accepted as notification:

- a) Of your intended adoption
- b) Of your wishes concerning returning to work after the adoption
- c) Of your wishes concerning the receipt of your half pay entitlements (if applicable)
- d) Of the date of commencement of your adoption leave

Section 1		
1.1	Name and Forename(s):	
1.2	Personnel Number (from latest payslip)	/
1.3	Job Title:	
1.4	Place of work:	
Section 2		
2.1	Date you commenced employment with the Trust	/ /
2.2	Contracted hours per week:	

2.3	Are you on a fixed term contract?	Yes	No
2.4	Do you pay contributions into the Pension Scheme?	Yes	No
<b>Section 3</b>			
3.1	Is it your intention to return to work following the adoption?	Yes	No
3.2	If YES, How would you like to receive your half pay entitlement, if eligible? (please tick one box)		
	a. Paid as falls due		
	b. As a lump sum on return to work		
	c. As a lump sum after returned to work for 3 months		
<b>Section 4</b>			
4.1	Do you have an Adoption Matching Certificate (AMC) or other written evidence that you are adopting?	Yes	No
4.2	If YES: Enter date of expected adoption from certificate (Attach the certificate securely to this form, or send to Payroll as soon as it is available)	/	/
4.3	If NO: Enter your personal estimate of the date of expected adoption?	/	/

<b>4.4</b>	<b>Give reason certificate is not available:</b>	
<b>Section 5</b>		
<b>5.1</b>	Have you already commenced your adoption leave?	Yes No
<b>5.2</b>	If <b>YES</b> : Enter date you commenced adoption leave?	/ /
<b>5.3</b>	<b>If you could not give notice please explain why:</b>	
<b>5.4</b>	If <b>NO</b> : Enter date you intend to commence adoption leave?	/ /
<b>5.5</b>	<b>If you are giving less than 7 days' notice, please explain why:</b>	

This form is NOT acceptable as a resignation from your post; you need to write a separate letter to your line manager if you wish to resign.

Signed: (Employee): \_\_\_\_\_

Date: \_\_\_ / \_\_\_ / \_\_\_

**NB:** The Adoption Matching Certificate must be forwarded to [the CFO](#) immediately it becomes available.

**Written evidence of the adoption is required prior to the payments being released**

## Document History

<b>Version</b>	<b>Date</b>	<b>Comments</b>
Issue 1	June 2018	Based on SCC Model Guidance
Issue 2	April 2019	Clarified conditions related to KIT days. Amended to ensure that provisions on continuous service are identical to the Maternity Guidance.
Issue 3	July 2023	Removal from table on Form AP3 of "Department verification".