



## **ADOPTION LEAVE AND PAY POLICY**

### **Introduction**

This policy sets out the statutory rights and responsibilities of employees who are planning to adopt within the UK. This policy is written in accordance with the latest legislation and has been updated to comply with changes to adoption laws which took effect on 5<sup>th</sup> April 2015. Ardingly College recognises that employees may have questions relating to their adoption rights. It is College policy to encourage open discussion with employees to ensure that any queries can be resolved as quickly as possible.

### **Adoption Leave**

On or after 5<sup>th</sup> April 2015, an employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave irrespective of length of service. This is made up of 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave, subject to their following correct notification procedures as set out below.

Parents who will become the legal parents of a child under a surrogacy arrangement or a "foster to adopt" arrangement are also entitled to take statutory adoption leave.

The right to adoption leave is available to men and women (whether married or single) who adopt a child through an approved adoption agency

Where a couple jointly adopt a child, one may take adoption leave and the other parent may be able to take paternity leave or shared parental leave. Further details are provided in the Paternity Leave and Pay policy and the Shared Parental Leave policy.

### **Employment rights and adoption leave**

Employees who request or take adoption leave have the right to return to the same job after 26 weeks adoption leave and after 52 weeks the same or a suitable alternative job must be found.

The contract of employment continues throughout adoption leave unless the employee expressly ends it or it was due to expire during the adoption leave period.

Adoption Leave counts towards an employee's period of continuous employment.

### **Notification of adoption leave**

Employees should inform their direct line supervisor if they are currently in the process of being considered for adoption. Employees should aim to give 28 days written notice of commencement of adoption Leave where possible. They should write and inform their

manager and the HR department of the date that they intend to start their adoption leave, together with the relevant paperwork, which is usually a matching certificate from the adoption agency. The adoption agency must be recognised in the UK. Following receipt of this notification the HR Department will write with confirmation of the Statutory Adoption Pay entitlement and the dates of the adoption leave.

Employees can start their Statutory Adoption Leave either:

- from the date the child starts living with them
- up to 14 days before the date they expect the child to start living with them
- when the child arrives in the UK or within 28 days (overseas adoption)

Employees need to tell their manager that they want to take Statutory Adoption Leave within seven days of being told that they have been matched with a child for adoption. If it is not possible to tell the employer within seven days, they must tell them as soon as possible.

### **Changing the start date of adoption leave**

After giving notification, employees can change their intended start date as long as they notify their manager of the new start date as soon as possible.

### **Failure to give the required notice**

If employees do not give the required notification, they could lose their right to start adoption leave on their chosen date. The only exception to this is where it was not reasonably practicable for the employee to give notice any earlier.

### **Time off for appointments**

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.

### **Statutory Adoption Pay**

Statutory Adoption Pay (SAP) is payable whether or not the employee intends to return after adoption leave, but is subject to meeting the eligibility requirements. Statutory adoption pay is payable for the first 39 weeks of adoption leave.

To be eligible to receive adoption pay, employees must:

1. have worked for the College continuously - full or part-time - for at least 26 weeks as at the week in which notification of matching was given by the adoption agency
2. have average earnings at least equal to the lower earnings limit for national insurance contributions (which until April 2016 is £112 a week).
3. have provided the right paperwork confirming the adoption, this being the "matching certificate" from the adoption agency

Employees who are not entitled to Statutory Adoption Pay (SAP) may be entitled to receive adoption allowance payable by the Government. Further information on this can be found at [www.direct.gov.uk](http://www.direct.gov.uk), Jobcentre Plus or by contacting the Citizens Advice Bureau.

SAP is paid for 39 weeks. The first 6 weeks are paid at 90% of average weekly earnings, the subsequent 33 weeks are paid at either the statutory rate (which until April 2016 is currently £139.58 per week), or 90% of average earnings whichever is the least.

SAP can start anytime from 14 days before the placement date until the day of the placement. SAP is treated as earnings and is therefore subject to PAYE and national insurance contributions.

### **Occupational Adoption Pay**

To qualify for enhanced Occupational Adoption Pay (OAP) an employee must have been employed for a minimum of 26 weeks by the notification of matching date and intend to return to work at Ardingly College after their period of adoption leave.

OAP is paid as follows:

- Full pay for the first four weeks of adoption leave
- 90% pay for the next two weeks of adoption leave
- Half pay for the next 12 weeks of adoption leave plus lower rate SAP \*
- Lower rate SAP for the next 21 weeks of adoption leave\*

\* or 90% pay if this is lower.

Employees who do not intend to return to work after adoption leave are only entitled to Statutory Adoption Pay. If OAP is paid and then the employee decides not to return to work for a period of two terms then the difference between OAP and SAP will become repayable by the employee in full.

### **Salary sacrifice**

A salary sacrifice arrangement is in place where an employee agrees to sacrifice part of their salary in exchange for a non-cash benefit. Ardingly College currently offers Childcare Vouchers and Ardingly College School Fees payment and pension contribution payment under salary sacrifice arrangements.

The reduction in pay associated with a salary sacrifice arrangement may impact entitlement to Statutory Adoption Pay and Occupational Adoption Pay. Sacrificed cash will not count as part of average earnings for the calculation of adoption benefits, so benefits may be reduced as a result of salary sacrifice.

However the benefit provided by salary sacrifice will remain throughout adoption leave, even where Occupational Adoption Pay and Statutory Adoption Pay has been exhausted.

### **Shared Parental Leave**

Employees with an expected week of childbirth on or after 5<sup>th</sup> April 2015 are entitled to share up to 52 weeks of leave and up to 39 weeks of statutory pay on the birth or adoption of a child, allowing statutory adoption pay to be shared with a spouse or partner. Further details can be found in the Shared Parental Leave policy.

### **Annual Leave**

Employees are entitled to accrue annual leave throughout the adoption leave period. Where possible, it is advisable to take any outstanding annual leave before the commencement of

adoption leave. Any outstanding annual leave accrued whilst on adoption leave can then be either taken before returning to work or paid on return to work.

### **Keeping in Touch (KIT) days during Adoption Leave**

Before adoption leave starts, employees should discuss arrangements for covering work and contact arrangements during leave.

Employees may with agreement do up to ten days' work - known as KIT days – under their contract of employment during their adoption leave period. These days can be taken and paid at full pay without affecting the right to adoption leave or pay.

This work can be normal day to day work or could be attending conferences, training or team meetings.

Payment for these days will be full contractual pay for a whole day or based on the number of hours worked. If the employee is within the paid part of their adoption leave, payment should be offset against adoption pay. During unpaid adoption leave the employee will receive payment for actual hours/days worked.

Keeping in Touch Days must be agreed with the employee's line manager before any work is undertaken. Keeping in Touch Days do not extend the period of adoption leave.

### **Returning to work**

Unless the employee has notified their manager otherwise, the date on which they return to work will normally be the first working day 52 weeks after their adoption leave began.

Employees wishing to return to work prior to this date must give at least eight weeks' notice in writing.

Employees wishing to return later than the end of the adoption leave period should request paid annual leave (if any annual leave is outstanding) or unpaid parental leave, according to the Time Off Work policy.

Any requests for flexible working following adoption leave should be addressed via the Flexible Working Policy

Employees not wishing to return to work after their adoption leave they must give at least eight weeks' notice of this decision.

### **Disrupted placement**

If a child's placement is terminated during the employee's adoption leave, he or she will continue to be entitled to adoption leave and pay (if applicable) for up to eight weeks after the placement ends.

### **Adopting more than one child**

If more than one child is placed as part of the same arrangement, entitlement to adoption leave and pay will remain unchanged.

### **Further information**

For any questions regarding this policy please contact the HR department.

Last Reviewed: 01.09.15

Next Review: 01.04.16

Policy Owner: Human Resources

### **Other Relevant Policies**

Paternity Leave and Pay Policy

Maternity Leave and Pay Policy

Shared Parental Leave and Pay Policy

Flexible Working Policy

Time Off Work Policy