



Transforming Lives



EAST RIDING  
OF YORKSHIRE COUNCIL

# **Adoption Pay and Leave Policy**

## **Teaching Staff**

### **THE HUB SCHOOL**

<b>Policy Owner:</b>	ERYC
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<b>Adopted by Governors:</b>	RCM	<b>Date:</b> February 2019
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**Adoption Pay and Leave Policy and Procedure  
(School Based and Centrally Employed Teaching Staff)**

<b>Lead Directorate and service:</b>	Corporate Resources - Human Resources
<b>Effective Date:</b>	April 2018
<b>Contact Officer/Number:</b>	Employment Services Centre / 391221
<b>Approved By:</b>	Personnel Sub Committee 16.9.1999, min 3318, The Cabinet: 27.2.2007, Min 2879, Full Council: 4.4. 2007, CMT: 12.2009, Min: 12135, DR: 10502, CMT: 2.4.12, Min: 14010, DR: 13193, 18.4.12 ,CMT: 27.4.15, Min:16342, DR:17108, CMT: 12.12.16, Min:17296, DR: 18980, CMT: 26.3.18, Min: 17794, DR: 20613, 18.4.18

## **1. Adoption Pay and Leave Policy**

### **1.1 Background and Scope**

1.1.1 This policy is in line with statutory legislation. It applies to all employees of the Council who are adopting a child, except those employed to work in Voluntary Aided or Foundation Schools where the Governing Body is the employer unless adopted by the respective school governing body. Where the employee adopting is the Headteacher, any reference made to Headteacher throughout this policy and procedure should be read as Chair of Governors.

### **1.2 Definitions for the Purposes of this Policy**

1.2.1 The definitions used in this policy and procedure can be seen in the glossary at app. 1.

### **1.3 Policy Statement**

1.3.1 The East Riding of Yorkshire Council recognises and supports the right of all eligible employees to take adoption leave and be paid in accordance with statutory legislation.

### **1.4 Policy Implementation**

1.4.1 The policy will be implemented by Headteachers in consultation with Human Resources. For centrally employed Teachers, any reference to Headteacher throughout this document should be read as Line Manager.

### **1.5 References**

Children and Families Act 2014 Employment Rights Act 1996:  
Maternity and Parental Leave Regulations 1999/  
Paternity and Adoption Leave Regulations 2002  
Maternity and Parental Leave and Adoption Leave (Amendment) Regulations 2006  
Maternity and Parental Leave and Paternity and Adoption Leave (Amendment) Regulations 2008  
Additional Paternity Leave Regulations 2010, Additional Statutory Paternity Pay (General) Regulations 2010

Conditions of Service for School Teachers in England and Wales (Revised August 2000)  
Burgundy Book

Maternity Pay and Leave Policy and Procedure/Paternity Leave Policy and Procedure  
Shared Parental Leave Policy

## **2. Adoption Pay and Leave Procedure**

### **2.1 Eligibility**

2.1.1 An employee is covered by this policy if:-

- (a) they are accepted as an adoptive parent by a recognised adoption agency and have been matched with a child to be placed with them by a UK adoption agency (this policy does not apply to an employee formally adopting the child of their partner);
- (b) they have notified the adoption agency that they agree that the child should be placed with them and agreed the date of placement;
- (c) they are the intended parent of a child born through a surrogacy arrangement who expects to be entitled to and intends to apply for a parental order in respect of that child.
- (d) they are a local authority foster parent who is also a prospective adopter ('foster for adopt') who has been notified of a child's placement.

### **2.2 Entitlements to Leave and Pay**

#### **2.2.1 Adoption Leave**

2.2.2 All employees are entitled to 26 weeks Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

2.2.3 OAL starts on the day the employee has specified in their request, unless the employee wanted their leave to start on the date the child was placed and they were at work on that day. If this is the case the employees leave will start on the following day.

2.2.4 AAL starts on the day immediately following the date on which OAL ends, making a total of 52 weeks statutory adoption leave. However, AAL will not apply if the ordinary adoption leave ended prematurely.

2.2.5 Throughout the period of Adoption Leave an employee is entitled to the benefit of all their terms and conditions, which would have been applied if they had not been absent, with the exception of remuneration which is defined as wages or salary.

2.2.6 Likewise during OAL and AAL an employee will be bound by any obligations in their terms and conditions unless they are inconsistent with the right to take adoption leave.

#### **2.2.7 Adoption Pay**

2.2.8 Payment for employees who have less than 1 years' continuous teaching service with one or more Local Authorities (LA's) at the date the child is placed with them shall be the employee's entitlement to Statutory Adoption Pay (SAP) where eligible.

### 2.2.9 Statutory Adoption Pay (SAP)

2.2.10 Eligible employees (ie. those with 26 weeks continuous service with East Riding of Yorkshire Council ending with the week in which the employee is notified they are matched with a child) and have average weekly earnings of not less than the lower earnings limit for National Insurance Contributions) are entitled to 39 weeks Statutory Adoption Pay (SAP).

2.2.11 SAP will be paid at the rate of 90% of an employee's average weekly earnings for the first 6 weeks of adoption leave.. The remaining 33 weeks of SAP are paid at the SAP flat rate or 90% of average weekly earnings if this is less than the SAP rate.

2.2.12 Statutory adoption pay will start on the day the employee starts statutory adoption leave. This can be on any day of the week.

### 2.2.13 Occupational Adoption Pay (OAP)

2.2.14 Payment for employees who have completed 1 years' continuous teaching service with one or more Local Authorities (LA's) at the date the child is placed with them shall be as follows:-

- (a) For the first four weeks of absence an employee shall be entitled to full pay followed by the next two weeks at 90% of a week's pay offset against payments made by the way of SAP.
- (b) Any employee who declares in writing that they intend to return to work will for the subsequent 12 weeks absence (weeks 7-18) receive half pay plus SAP, where eligible, without deduction except by the extent to which the combined pay and SAP exceeds full pay. Alternatively the equivalent amount (ie. 6 weeks' pay) may be paid on any other mutually agreed distribution.

For the remainder of the adoption leave period (weeks 19-39) the employee will receive their entitlement to SAP (currently 39 weeks in total) where eligible.

- (c) For employee's not intending to return to work payments during their adoption leave following the first six weeks (weeks 7-39) will be their entitlement to SAP (currently 39 weeks in total), where eligible,
- (d) Payments made by the authority during adoption leave under (b) above will be made on the understanding that the employee will return to their post for a period of at least 13 weeks full time service or equivalent part time service (including periods of school closure) and in the event of not doing so, shall refund the monies paid. Payments made by the authority by the way of SAP are not refundable. Any employee who is unsure if they will

return to work can select on the A1 form to defer the OAP payment and if they return to work can be paid the amount net following their return.

## **2.3 Disrupted Placements**

2.3.1 Where, after starting their leave, an employee is notified that the child will not be placed, or after the child is placed, the child is returned to the adoption agency, or where in extreme circumstances the child dies, the employee will not be entitled to the full adoption leave period. In this situation adoption leave will end 8 weeks after the end of the week in which the disruption occurred. The employee should give their Headteacher 28 calendar days notice if they wish to return to work before the end of the 8 week period.

2.3.2 There is no extension of AAL if disruption occurs with less than 8 weeks to go.

## **2.4 Other Conditions**

2.4.1 In any couple jointly adopting, only one person can take adoption leave (primary or main adopter). The partner of an individual who adopts, or the secondary adopter if the couple are jointly adopting will normally be entitled to take paternity leave, provided that he or she meets the relevant criteria.

2.4.2 There is an entitlement to only one period of adoption leave regardless of the number of children placed at any one time.

## **2.5 Starting Leave**

2.5.1 The employee can choose to start their adoption leave on:

- The date the child is placed; or
- A predetermined date, no more than 14 calendar days before the date the child is expected to be placed with the employee and no later than the date the child is placed.

2.5.2 Leave under this policy must be taken in a continuous block.

## **2.6 Notice**

2.6.1 When an employee has been accepted as an adoptive parent they must notify their Headteacher in writing of their intention to take adoption leave and provide evidence from the Adoption Agency.

2.6.2 When an employee has been matched with a child, they must inform their Headteacher and notify Human Resources (Employment Services), using the application form at appendix 2 (Form A1), of the date on which the child is expected to be placed for adoption and the

date when they want to commence their adoption leave. This notice should be provided no later than 7 calendar days after the date on which the employee is notified of having been matched with the child for the purposes of adoption (or as soon as is reasonably practicable).

2.6.3 The employee must give their Headteacher at least 28 calendar days written notice whenever possible (or as soon as reasonably practicable if this is not possible) of the date they intend to start adoption leave using form A1 which should be submitted to Human Resources (Employment Services). The employee's original matching certificate, letter from the adoption agency or Early Permanence Plan (EPP) letter if fostering for adoption, should be checked by their Headteacher and enclosed with the application form. Please check that **Section A** has been completed with dates and that **Section B** includes the agency stamp on the original matching certificate before sending a copy of this information to Human Resources (Employment Services), as it will not be accepted without this information.

2.6.4 The application form can be completed and emailed to Human Resources (HR.AdviceCentre@[castriding.gov.uk](mailto:castriding.gov.uk)). A scanned copy of the matching certificate or other evidence is accepted as long as the original document has been seen and signed by the Headteacher. If the original document is received in Human Resources, a copy will be taken and the original will be returned to the employee.

2.6.5 If an employee wishes to vary their adoption leave start date they must provide their Headteacher with at least 28 calendar days notice.

## 2.7 Notification of Return to Work

2.7.1 It is expected that the employee will take their full entitlement to OAL and AAL providing they are eligible. If an employee intends to return prior to this date, they must notify their manager with at least 8 weeks written notice of their intended date of return and complete and forward form A2 (see appendix 3) to Human Resources (Employment Services).

2.7.2 If an employee changes their mind about their return date and wants to return even earlier then they must advise their Headteacher at least 8 weeks before the new date.

2.7.3 If an employee wants to postpone their early return date then they must advise their Headteacher at least 8 weeks before the original early return date.

2.7.4 If the employee fails to give sufficient notice of their return to work date (ie 8 weeks) the Headteacher has a right to postpone an employee's return to work for a period of 8 weeks provided that this is not later than the expected return date by notifying the employee of its intention. The employee will not receive pay during this period, if they are not within their paid period of OAL or AAL.

## 2.8 Shared Parental Leave

2.8.1 Shared parental leave enables the primary adoptive parent to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave with their partner.

2.8.2 Shared parental leave must be taken in blocks of at least one week. Employee's can request to take shared parental leave in one continuous block (in which case the school is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the school's agreement).

2.8.3 To be able to take shared parental leave, the employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirement. This includes the employee who is the primary adopter curtailing their adoption leave.

2.8.4 Employees should refer to the School's Shared Parental Leave Policy, where they will find full details of the eligibility requirement as well as instructions as to how the employee's adoption leave can be curtailed. The Shared Parental Leave Policy sets out the notice periods with which employees must comply and what evidence they must provide to the school as well as entitlements to statutory shared parental pay.

2.8.5 Adoptive parents should ensure that they are each liaising with their own employer when making requests for shared parental leave.

## **2.9 Return to Work**

2.9.1 An employee has the right following ordinary adoption leave to return to the position (subject to paragraph 2.9.2 below) to which they are employed under their existing contract of employment. If an employee returns to work following additional adoption leave his or her entitlement is to return either to the same job, or if that is not reasonably practicable from the School or Council's perspective, to another suitable job which is on terms and conditions not less favourable.

2.9.2 Where it is not practicable for an employee to return to their original position because of redundancy or reorganisation the provisions of the School's Current Retraining and Redeployment Policy will apply. Where such changes are due to take place within the Council, the Headteacher will undertake consultation with the employee, and will ensure they are treated no less favourably than they would have been, had they not been on adoption leave.

2.9.3 Where the employee does not return to work for a period of at least 3 months the 12 weeks half pay (ie. contractual adoption pay) must be repaid to the Council. The employee must give written consent for such repayment in advance of commencing the adoption leave.

## **2.10 Keeping in Touch Days**

2.10.1 An employee may request, or be requested by their Headteacher to come into work for up to 10 days whilst on adoption leave in order to keep in touch without losing their right to adoption pay or leave. These are known as "Keeping in Touch (KIT) Days". They are not limited to the employee's substantive post and can be used for training, attending other events, or for being updated on key work issues etc.

2.10.2 Attendance is not compulsory, will be by mutual agreement of both parties, and employees will not be penalised if they do not wish to take up a KIT day. Similarly, a Headteacher does not have to agree to an employee's request for taking up a KIT day. However employers and employees may find it beneficial to use some KIT days to ease their return to work. There is no statutory right to be paid KIT days, however the Council has agreed that if an employee is requested to attend work for KIT days, they will be:

- a) paid at their standard hourly rate of pay for any hours worked if they are not in receipt of adoption pay when they attend work or;
- b) given paid time off in lieu at a later stage for the hours worked if they are in receipt of adoption pay when they attend work.

Please note that if an employee agrees to work at any time during the period when they are in receipt of adoption pay, any SAP paid will be offset against any additional salary payments made for KIT days, ie the employee will not receive both SAP and normal pay.

## **2.11 Reasonable Contact**

2.11.1 Whilst an employee is on adoption leave, the employee and Headteacher may wish to maintain contact with them to discuss any issues that may affect the employee, and plan the employee's return to work. Employees may also receive copies of team meeting (or other) minutes, The Grapevine and/or Teacher's Vacancy Bulletin and any other relevant documents if they so wish. The Headteacher and employee should seek to mutually agree the nature and frequency of this contact before the start of the employee's adoption leave. The amount and type of contact should not be excessive or intrusive.

## **2.12 Time Off to Attend Adoption Appointments**

2.12.1 An employee who is the primary adopter is entitled to take paid time off work to attend up to five adoption appointments up to the date of the placement of the child. For example, to have contact with the child, meet the child's social worker or current carer. The time off is capped at six and a half hours for each appointment.

2.12.2 The partner of the primary adopter is entitled to unpaid time off work to attend up to two adoption appointments as above. The time off is capped at six and a half hours for each appointment.

2.12.3 The employee, whether primary adopter or partner should advise their Headteacher of the date and time of the appointments, giving as much notice as possible, and may be asked to sign a declaration confirming this and that the appointments are at the request of the adoption agency.

## **2.13 Time Off to Accompany a Pregnant Woman to Ante-Natal Appointments in a Surrogacy Arrangement**

2.13.1 An employee who is the intended parent of a child in a surrogacy arrangement who expects to be entitled to and intends to apply for a parental order in respect of the child is entitled to take unpaid time off work to accompany the pregnant woman to up to two of her ante-natal appointments. The time off is capped at six and a half hours for each appointment.



2.13.2 The employee should advise their Headteacher of the date and time of the appointments, giving as much notice as possible, and may be asked to sign a declaration confirming this and that the time off is to accompany the pregnant woman to an ante-natal appointment that has been made on the advice of a medical practitioner, midwife or nurse, and that they are in a qualifying relationship with the pregnant woman.

2.13.3 There is no qualifying period for the employee. The right applies from day one of employment.

## **2.14 Other Issues**

2.14.1 Adoption leave does not constitute a break in service and counts as reckonable service for conditions of service purposes.

2.14.2 Pay for the purpose of this policy is defined as the amount payable under the current contract of employment for working normal hours. Where there are no normal working hours, pay is the average remuneration over the previous 12 weeks provided that the 12 weeks is a fair and reasonable representation of pay under the contract of employment.

2.14.3 Should an employee be sick whilst on adoption leave the contractual sickness provisions will not apply unless the employee makes a specific request in which case all adoption leave will cease and cannot be reclaimed at a later date. Where an employee chooses to end their adoption leave and take sickness leave, their absence will be managed under the Attendance at Work Policy and Procedure (Schools). Further advice can be sought from Human Resources as required.

2.14.4 Lease cars/car loans will continue to be charged during the period of leave. An account will be sent directly to the employee.

2.14.5 Business car user allowances will continue to be paid during the whole period of the Adoption Leave.

2.14.6 If the adoption process is delayed or curtailed the employee must notify his/her Headteacher at the earliest opportunity.

2.14.7 A checklist for managers is available at appendix 4.

## **3. Pension Contributions - Teachers' Pension Scheme**

3.1 Whilst in receipt of OAP or SAP, pensionable service will accrue at the same proportion as the employee's teaching post. Any adoption leave without pay will not count as pensionable service.

3.2 Members of the Teachers' Pension Scheme can opt in or out at any time. Employees can opt out in advance of their adoption leave by completing the Opting Out Form, available from the Employment Services Advice Centre or online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk). This means that no contributions are paid on any payments received during adoption leave.

- 3.3 Employees who opt out and then return to work are able to rejoin the Teachers' Pension Scheme by completing the Election to Join the Scheme Form available from the Employment Services Advice Centre or online at [www.teacherpensions.co.uk](http://www.teacherpensions.co.uk). There is no limit to the number of times employees can opt out and rejoin the Teachers' Pension Scheme but employees should note the significance of opting out for a period of 5 years or more, whereby they will be treated as a new Scheme member when they opt back in.
- 3.4 Employees who are paying additional voluntary contributions (AVCs) must continue to make payments on pay received, unless the employee opts to stop this payment.
- 3.5 Employees who are paying additional regular contributions (ARCs) to purchase additional annual pension or purchase added years of membership must make contact with the Teachers' Pension Scheme, the Union's Pension section or a Financial Advisor.
- 3.6 PLEASE NOTE - Employees considering the options above are strongly advised to consult with their trade union representative or a financial adviser before taking any action.

<b>Glossary of Definitions</b>	
SAL	Statutory Adoption Leave
OAL	Ordinary Adoption Leave
AAL	Additional Adoption Leave
SAP	Statutory Adoption Pay
OAP	Occupational Adoption Pay (for teaching staff)
Matching certificate	The adoption certificate issued by the Adoption Agency confirming that the adoptive parents have been matched with a child
A1	The Council's application form for adoption leave and pay (to be completed and returned with the matching certificate)
A2	The Council's return to work form (to notify the Council of the employee's date of return to work)
Placement Date	The date on which the child is expected to be placed with the adoptive parents.
KIT	Keeping in Touch Days
Partner	Partner includes the spouse or civil partner of the primary adopter and a person, of either sex living with the primary adopter in an enduring family relationship.

**Appendix 2**  
**Form A1**

<b>Application for Adoption Leave and Pay (Teaching Staff)</b>		
<b>How to complete this form:</b>		
1. Read the information contained in the Council's Adoption Policy and Procedure so that you understand your entitlement.		
2. Fill in this form and give it to your Headteacher who will send it to Human Resources (Employment Services), at least 28 days (or as soon as is reasonably practicable) prior to the date you wish to take your leave.		
3. Please attach the original matching certificate (or other evidence). Check that <b>Section A</b> has been completed with dates and that <b>Section B</b> includes the agency stamp on the original matching certificate before sending a copy of this information to Human Resources (Employment Services), as it will not be accepted without it		
<b>Section 1: Please complete the following</b>		
1	Name:	
2	Personal Email Address:	
3	Address:	
4	Directorate:	Children, Family and Adult Services
5	Post and Name of School:	
6	Employee Reference Number: (this is shown on your pay advice)	
7	Date you began work with the Council:	
8	Normal weekly hours of work	
9	Expected date of adoption:	
<b>Section 2: Please complete as appropriate</b>		
1	Date you wish to start adoption leave:	
2	Do you intend to return to work?	Yes <input type="checkbox"/> No <input type="checkbox"/>
3		

	Do you wish to defer your 12 weeks half pay?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
4	I understand that if I am eligible for and receive <b>12 weeks</b> half pay, I am required to repay this if I do not return to work for the required minimum 13 week period.				
6	I understand that if I defer the 12 weeks half pay and am in receipt of SAP or Nil pay then any childcare vouchers received via salary sacrifice will cease until sufficient contractual pay is resumed.				
7	I understand that if I want to return before the end of my adoption leave, I will need to give 8 weeks notice of the date I want to return to work (using Form A2).				
8	I claim adoption pay.				
Signed:			Date:		

### **Section 3: Headteachers Declaration**

I declare that I have seen the employee's original matching certificate (or other evidence) and have signed and dated the form to confirm. A signed copy is attached.  
(Please check that **Section A** has been completed with dates and that **Section B** includes the agency stamp on the original matching certificate before sending a copy of this information to Human Resources (Employment Services), as it will not be accepted without it)

### **Section 4: For Employment Services Use Only**

All dates confirmed	<input type="checkbox"/>	Normal weekly hours confirmed	<input type="checkbox"/>
	<input type="checkbox"/>	Copy of form to Pensions Section	<input type="checkbox"/>
	<input type="checkbox"/>	Date original Matching Certificate/ letter returned to employee (if received)	<input type="checkbox"/>
Signed:		Date:	
Print Name:		Extn:	

<b>Notification of Proposed Date of return to Work from Adoption Leave (Teaching Staff)</b>		
If you intend to return to work at the end of your full adoption leave entitlement (52 weeks), you will NOT be required to give any further notification.		
However, if you wish to return to work BEFORE the end of your adoption leave, you should inform your Headteacher <u>and</u> notify Human Resources (Employment Services) by completing and returning this form, giving at least 8 weeks notice of your proposed date of return. Failure to give the required minimum notice may lose you the right to return to work on your requested date.		
If you change your mind about your return date and want to return even earlier then you must advise your Headteacher at least 8 weeks before the new return date.		
If you want to postpone your early return date then you must advise your Headteacher at least 8 weeks before your original early return date.		
1	Name:	
2	Personal Email Address:	
3	Address:	
4	Directorate:	Children, Family and Adult Services
5	Post and Section/Location:	
6	Employee Reference Number (this is shown on your pay advice):	
7	Proposed Date of Return to work	
8	Please detail if your contracted hours have changed	
9	For employees who deferred 12 weeks half pay this will be paid back to you on the first pay day following return.	Did you defer 12 weeks half pay? Yes <input type="checkbox"/> No <input type="checkbox"/>
Signed:		Date:
<b>Please note that if you do not return to work for a period of a minimum of 3 months you will be required to repay the 12 weeks half pay you have received.</b>		
<b>For Employment Services Use Only</b>		
Return date confirmed		

Signed:	Date:
Print Name:	Extn:

**Appendix 4**

<b>Checklist for Managers to Use for Adoptive Parents</b>	
As soon as you are informed that an employee is matched with a child you must:	
Provide the employee with a copy of the Adoption Pay and Leave Policy and Procedure (available on the intranet).	<input type="checkbox"/>
Ensure the employee provides you with their original Matching Certificate, letter from the adoption agency or Early Permanence Plan (EPP) letter if fostering for adoption and Form A1 ( <i>retain copies for your files and give originals back to employee</i> ). Sign the Headteachers declaration that you have seen the original matching certificate or other evidence. ( <i>The <b>Matching Certificate or other evidence and Form A1</b> must be copied and sent to Human Resources (Employment services) at County Hall, BG19.</i> )	<input type="checkbox"/>
Check that <b>Section A</b> has been completed with dates and that <b>Section B</b> includes the agency stamp on the original matching certificate before sending a copy of this information to Human Resources (Employment Services), as it will not be accepted without it	<input type="checkbox"/>
Agree with the employee what contact they will have with the Council regarding information (eg Grapevine, team minutes etc) and work related issues.	<input type="checkbox"/>
If the employee is returning earlier than the 52 weeks entitlement, ensure the Form A2 is completed by the employee and returned to the Employment Services.	<input type="checkbox"/>
If the employee is returning and has requested a change in their hours of work, provide them with the <b>Right to Request Flexible Working Procedure and form</b> which is available on the intranet. If a change of hours is agreed an eform should be completed by the support section.	<input type="checkbox"/>
Signed: Manager	Date:
Print Name:	Extn:
For all enquires please email HR.AdviceCentre, or telephone (01482) 391221.	