

Children and Young People's Service

Policy for Schools

Adoption Policy for School Staff

September 2008

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1 Scope

This policy applies to all school employees, both teaching and support staff (full and part time).

2 The right to adoption leave

The provision of the right to adoption leave was introduced in the Employment Act 2002. The right was introduced for newly matched adopters to support the 'settling-in' period.

To qualify for adoption leave an employee must:

- have been continuously employed by the same employer for at least 26 weeks by the end of the notification week. This is the week in which the employee is informed by the adoption agency that s/he has been matched with a child.
- be the child's adopter (i.e. have been newly matched with the child for adoption). A person is matched with a child when an adoption agency decides that s/he would be a suitable adoptive parent for the child.
- have agreed with the adoption agency that the child should be placed with her/him and the date the placement should occur.
- notify the school of the intention to take adoption leave no more than 7 days after s/he is notified that s/he has been matched with a child.

If adopting jointly, there is a single entitlement to adoption leave and pay. Therefore, upon receipt of notification of matching, one person must elect to be the adopter for this purpose. If both adoptive parents work for the same employer, the other person may be able to take paternity leave (for adoption purposes) under the 'Leave of Absence Policy for School Staff'.

In addition, to receive Statutory Adoption Pay (SAP), the employee must have average weekly earnings in the eight weeks ending with the notification week of not less than the lower earnings limit in force at the end of the notification week. For details, please refer to your payroll provider.

3 Statutory adoption rights

All employees who meet the above criteria have the right to:

- not be treated less favourably than other employees because they are planning to adopt, or have adopted a child;
- adoption leave;
- adoption pay.

4 Leave before a child is placed

After an employee has been matched with a child, s/he is entitled to paid time off for the introduction stage prior to the placement. Such leave is subject to a maximum of five sessions (pro-rata for part-timers) and employees must agree this leave with the headteacher, or chair of governors in the case of a headteacher. Employees must also provide evidence of appointments or meetings if requested.

5 Adoption leave

An employee who qualifies for adoption leave will be entitled to be absent for a total of 52 weeks made up of 26 weeks' ordinary adoption leave (OAL) and 26 weeks' additional adoption leave (AAL).

During adoption leave most employees will be eligible for Statutory Adoption Pay (SAP) of up to 39 weeks.

Adoption leave and SAP can start on any day of the week. The earliest it can start is 14 days before the expected date of placement of the child and the latest it can start is on the date of placement itself.

For an overview of an employee's adoption benefit entitlements, please refer to Appendices A and B.

5.1 Extended adoption leave (SUPPORT STAFF ONLY)

Support staff who qualify for adoption leave also have the right to request extended adoption leave which is unpaid and allows employees up to a further 2 weeks' leave. This gives eligible employees up to a total of 54 weeks' adoption leave.

In order to benefit from the full 54 weeks, employees must commence their adoption leave 14 days before the expected date of placement. This is because a maximum of 52 weeks can be taken after the placement.

In effect an employee will commence her/his adoption leave and pay ahead of placement and the unpaid period will be added to the end of the additional adoption leave period.

NB: Extended Adoption leave is only available for support staff.

6 Adoption Pay (see Appendices A and B)

6.1 Teaching Staff

Teaching staff with less than 26 weeks' service with Milton Keynes Council at the end of the notification week will not be entitled to Statutory Adoption Pay (SAP).

Teaching staff with 26 weeks' service with Milton Keynes Council at the end of the notification week, and whose average weekly earnings are at least equal to the lower earnings limit for national insurance contributions, will be eligible for Statutory Adoption Pay (SAP). The first six weeks will be paid at 90% of an employee's average weekly earnings calculated over the period of eight weeks up to and including the notification week. The remaining 33 weeks will be paid at the current rate of SAP as determined by the Government (or 90% of an employee's average weekly earnings, if this amount is less).

Teaching staff with at least one year's continuous service as a teacher, with one or more local authorities at the end of the notification week are also entitled to Occupational Adoption Pay (OAP). This means that for the first four weeks of absence, a teacher shall be entitled to full pay, followed by two weeks at 90% pay offset against payments made by way of SAP.

- Where an employee declares in writing that s/he intends to return to work at the same school (either on a full or part time basis) for a minimum period of 13 weeks (including school closure periods), payment for the subsequent 12 weeks will be paid at half pay, plus an employee's entitlement to SAP. Where the total amount

of half pay and SAP exceeds normal full pay, an employee's pay will be capped at normal full pay. An employee must make it clear on the Adoption Application Form whether s/he opts to receive the half pay element on a monthly basis or as a lump sum when s/he returns. The remaining 21 weeks will be paid at the current rate of SAP as determined by the Government (or 90% of an employee's average weekly earnings, if this amount is less).

- Where an employee does not intend to return to work at the same school, payments during the subsequent 33 weeks shall be an employee's entitlement to SAP only.
- In the event that an employee has received OAP and does not return to work at the same school or returns for less than 13 weeks, s/he is required to repay the half pay element of the OAP to the school. The SAP element of the pay will not be recovered.

For an overview of teaching staff adoption benefit entitlements, please refer to Appendix B.

6.2 Support Staff

Support staff with less than 26 weeks' service with Milton Keynes Council at the end of the notification week will not be entitled to Statutory Adoption Pay (SAP).

Support staff with 26 weeks' service with Milton Keynes Council at the end of the notification week, and whose average weekly earnings are at least equal to the lower earnings limit for national insurance contributions will be eligible for Statutory Adoption Pay (SAP). The first six weeks will be paid at 90% of an employee's average weekly earnings calculated over the period of eight weeks up to and including the notification week. The remaining 33 weeks will be paid at the current rate of SAP as determined by the Government (or 90% of an employee's average weekly earnings, if this amount is less).

Support staff with at least one year's continuous local government service at the end of the notification week are also entitled to Occupational Adoption Pay (OAP). This means that for the first six weeks of absence, an employee shall be entitled to 90% of a week's pay offset against payments made by way of SAP.

- Where an employee declares in writing that s/he intends to return to work at the same school (either on a full or part time basis), payment for the subsequent 12 weeks will be paid at half pay, plus an employee's entitlement to SAP. Where the total amount of half pay and SAP exceeds normal full pay, an employee's pay will be capped at normal full pay. Employees must make it clear on the Adoption Application Form whether they opt to receive the half pay element on a monthly basis or as a lump sum when they return. The remaining 21 weeks will be paid at the current rate of SAP as determined by the Government (or 90% of an employee's average weekly earnings, if this amount is less).
- Where an employee does not intend to return to work at the same school, payments during the subsequent 33 weeks shall be an employee's entitlement to SAP only.
- In the event that an employee has received OAP and does not return to work at the same school or returns for less than 3 months, s/he is required to repay the half pay element of the OAP to the school. The SAP element of the pay will not be recovered.

SAP can start on any day of the week in accordance with the date the employee starts her/his adoption leave.

For an overview of support staff adoption benefit entitlements, please refer to Appendix A.

7 Applying for adoption benefits

Employees are encouraged to inform the headteacher that adoption is being considered at the earliest opportunity.

In order to receive adoption benefits, employees must complete an Application Form for Adoption Leave and Pay (Appendix C). This form requires employees to confirm the:

- expected date of placement as stated on the matching certificate and/or letter from the adoption agency;
- last working date;
- date the adoption pay/leave is due to commence.

The form asks an employee to consider her/his intentions regarding her/his return to work, and if eligible, the payment terms for Occupational Adoption Pay.

Once completed, the application form must be submitted to the headteacher along with the original matching certificate and/or letter from the adoption agency. The headteacher (Community Schools only) should then return this form to People Services (Schools Team), Human Resources, Milton Keynes Council, Saxon Court, 502 Avebury Boulevard, Central Milton Keynes, MK9 3HS.

The school must also notify its payroll provider.

The school must be notified of the intention to take adoption leave no more than seven days after the member of staff is notified that s/he has been matched with a child. However, an employee is encouraged to submit her/his form and document(s) as early as possible in order to receive notification of her/his adoption benefits at the earliest opportunity.

Upon receipt of the completed Adoption application form and document(s), People Services (Schools Team), on behalf of Milton Keynes Council, will write to the employee within 28 days to confirm his/her adoption leave/pay entitlements.

Should the start date of adoption leave change (whether the new date is earlier or later than the date originally notified), employees must inform the headteacher and People Services (Schools Team) Milton Keynes Council of the revised date at least 8 weeks before the date originally notified, or as soon as is reasonably practicable. People Services will then issue a second letter confirming the amended details.

8 Notification of placement

It is an employee's duty to inform the headteacher of the actual date of placement as soon as is reasonably practicable to ensure adoption benefits are applied accurately. It should be noted that where an employee is still at work or on annual leave and the placement takes place, an employee's adoption leave and pay (if eligible) will commence the following day.

9 Maintaining contact during adoption leave

Before an employee commences adoption leave, s/he must complete a 'Maintaining Contact whilst on Adoption Leave' form to inform the headteacher of her/his

preferences for maintaining contact during the adoption leave period. The form can be found at Appendix D and should be submitted to the headteacher. The headteacher should notify People Services if the employee wishes to receive a regular vacancy list.

The purpose of maintaining this contact is for an employee and the headteacher to have reasonable contact with each other throughout the adoption leave period. The headteacher needs to ensure that the employee is kept up to date with school developments, vacancies and any other relevant information, and the employee is required to keep the headteacher informed about her/his return to work plans and to discuss any special arrangements to be made or training to be given to ease an employee's return to work. The headteacher may delegate these duties to a 'nominated person' within the school.

10 Keeping in touch (KIT) days

An employee can agree to work for the school for up to 10 days during the ordinary, additional or extended adoption leave period without bringing her/his adoption benefits to an end. The school is not obliged to offer any work and an employee does not have to accept any work offered to her/him, but in some cases it may be a good opportunity to maintain professional involvement during adoption leave

For the purpose of KIT days, work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purpose of keeping in touch with the workplace. Working for any part of the day, will count as one day's work, to be deducted from the total 10 KIT days.

Each day worked will be paid at an employee's normal daily rate. During the paid period of adoption leave a day's pay will be offset against SAP to ensure payment received does not exceed normal pay. Employees will need to discuss and agree any such arrangements, including payment, directly with the headteacher.

If an employee works for the school in excess of the 10 KIT days s/he will lose a week's SAP for each occasion worked.

11 Terms and conditions during adoption leave

During adoption leave, an employee remains employed within the school.

The terms binding on employees include:

- the employee's obligation of good faith towards the school;
- any terms relating to notice of termination;
- the disclosure of confidential information;
- the acceptance of gifts or other benefits; or
- the employee's participation in any competing business.

The terms binding on the school/employer include:

- the school's obligation to the employee of trust and confidence;
- notice of termination;
- redundancy compensation;
- disciplinary or grievance procedures.

11.1 Remuneration

Employees will receive normal remuneration up until the date they begin their adoption leave. Where an employee is on adoption leave at the time of an annual salary review, her/his salary will be reviewed in accordance with the provisions of the current salary scheme.

11.2 Pension contributions

If the employee is a member of the Local Government Pension Scheme, superannuation contributions will be deducted from any pay received during the adoption leave, including Statutory Adoption Pay, at the usual percentage rate. In return the employee will be credited with full service for superannuation purposes.

During any unpaid period of adoption leave, no contributions will be payable by either the employee or the employer and this period will not count as membership of the scheme. However, the employee can choose to pay retrospective contributions for the period which avoids a loss of reckonable service.

If the employee is a member of the Teachers' Pension Scheme and receiving contractual or statutory adoption pay, pension deductions will be based on the pay received and the employee will be credited with full service for superannuation purposes. Any period of unpaid adoption leave will not be counted as pensionable service.

11.3 Annual Leave

Teaching and support staff should refer to the question on annual leave under the questions and answers section of the relevant maternity booklet, either 'Maternity Provisions for Teaching staff' or 'Maternity Provisions for Support Staff', available on the internet at <http://www.milton-keynes.gov.uk/schools/DisplayArticle.asp?ID=14582>

12 Effect on continuous service

The period of OAL, AAL and extended adoption leave will count as continuous service for statutory and contractual purposes, including the accrual of annual leave and sick pay entitlements.

For statutory purposes, the period of adoption leave counts for calculating redundancy figures, giving notice and unfair dismissal basic award entitlement.

13 Notice of return

It is anticipated that all employees on adoption leave will take their full 52 week entitlement, and an employee's expected return date will be confirmed in writing by People Services (Schools Team). An employee is encouraged to confirm as soon as is convenient during her/his adoption leave that s/he will be returning as expected and are asked to inform the headteacher as soon as possible if s/he intends not to return to work.

If an employee wishes to return to work earlier than 52 weeks, s/he must notify the headteacher in writing at least eight weeks before the day on which s/he intend to return.

If an employee fails to provide the necessary notice, the headteacher may postpone an employee's return to such a date that will give the Headteacher eight weeks' notice, provided that this does not exceed the original expected return date.

When an employee returns to work, the headteacher should ensure that both People Services (Schools Team) and the school's payroll provider are informed.

Where an employee is unable to attend work at the end of her/his adoption leave period due to sickness or injury, the school's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If an employee has previously notified her/his headteacher that s/he does not intend to return to work after adoption, then her/his contract of employment will be terminated with effect from the date s/he advised to be the last day of their adoption leave, whether that be paid or unpaid.

If an employee decides not to return to work following adoption leave, s/he must give the headteacher notice of her/his resignation as soon as possible and in accordance with the terms of her/his contract of employment. If the notice period would expire after adoption leave has ended, the school may require the employee to return to work for the remainder of the notice period.

14 Rights on or after return to work

On resuming work after OAL, an employee is entitled to return to the same job that s/he occupied before commencing their adoption leave on the same terms and conditions of employment had they not been absent.

On resuming work after AAL or extended adoption leave, an employee is entitled to return to the same job that s/he occupied before commencing her/his adoption leave on the same terms and conditions of employment as if s/he had not been absent. However, if it is not reasonably practicable for the school to allow the employee to return to the same job, the school may offer the employee suitable alternative work, on terms and conditions that are no less favourable than would have applied had s/he not been absent.

14.1 Flexible working

If an employee wishes to come back to work part-time, s/he should discuss this with the headteacher **before** s/he commences her/his adoption leave, or at the earliest possible opportunity. The request should be made and considered under the statutory rules on flexible working, however the application may not be granted where sufficient reason for not doing so exists. See the school's policy on flexible working.

The headteacher would need to agree whether part-time or job share is appropriate for the post. If it is not, the employee may be offered a part time post elsewhere although there is no guarantee that a suitable alternative may be available. The criteria on whether it is feasible for the post to be a job share will depend on operational requirements including:

- the nature of the job – whether it is feasible to share the duties of the job, and;
- the pattern of work required for the job and requested by the job holder.

15 Multiple adoptions

The number of children that an employee adopts at any one time does not affect an employee's entitlement to adoption leave. This means that an employee is only entitled to one period of ordinary and additional adoption leave, even if s/he adopts two or more children under the same arrangement.

16 Disrupted placements

In a case where a child is not placed after the adoption leave period has begun, or, following placement the child is returned or dies, the adoption pay period ends eight weeks after the end of the week in which the disruption occurs. In this case a week runs from Sunday to Saturday.

If the disruption occurs after the end of the adoption pay period, the employee will not receive any additional pay, but s/he will be able to take a further eight weeks' leave or her/his remaining entitlement to additional leave, if this is less.

17 Special Guardianships

Under the Adoption and Children Act 2002, Special Guardianships are intended to provide another option for legal permanence for children who cannot grow up with their birth families. A Special Guardianship Order gives the special guardian legal responsibility for the child, which is expected to last until the child is 18. Unlike Adoption Orders, they do not remove parental responsibility from the child's birth parents, but their ability to exercise it is extremely limited.

Please note that although Special Guardianships do not 'qualify' for adoption leave and pay under the Employment Act 2002, the school endeavours to support its employees wherever possible and will consider each case on an individual basis. Such leave must be discussed between the individual and the headteacher and agreed by the governors following consultation with the school's Human Resources provider

18 Policy misuse

Any deliberate misuse of the provisions in the Adoption Policy for School Staff will be treated as a disciplinary matter and will be subject to the school's Disciplinary Policy and Procedure and may result in dismissal.

19 Glossary

Terms	Definition
'Matched with a child'	When the adoption agency confirms suitable adopter(s) for the child(ren). When this occurs a matching certificate will be produced by the agency.
Notification	A document from the adoption agency confirming the date of placement.
Date of placement	The date the child is placed with the adoptive parents.

20 Abbreviations

Abbreviation	
AAL	Additional Adoption Leave
KIT	Keep in Touch
OAL	Ordinary Adoption Leave
OAP	Occupational Adoption Pay
SAP	Statutory Adoption Pay

Overview of Support Staff Adoption Benefit Entitlements

Support Staff		
Continuous Service	Leave Entitlement	Pay Entitlement
<p>Less than 26 weeks service with MKC by the end of the notification week</p>	<p>No entitlement to adoption leave</p>	<p>No entitlement to SAP</p>
<p>At least 26 weeks service with MKC by the end of the notification week.</p>	<p>Adoption Leave = 52 weeks</p> <p>Made up of:</p> <ul style="list-style-type: none"> • 26 weeks Ordinary Adoption Leave (OAL) • 26 weeks Additional Adoption Leave (AAL) <p>Employees can also request up to 14 days of Extended Adoption Leave.</p>	<p>Adoption Pay = 39 weeks</p> <p>Made up of:</p> <ul style="list-style-type: none"> • 6 weeks @ 90% of average earnings • 33 weeks SAP only
<p>At least one years' continuous local government service at the end of the notification week</p>	<p>Adoption Leave as above</p>	<p>Adoption Pay = 39 weeks</p> <p>Made up of:</p> <ul style="list-style-type: none"> • 6 weeks @ 90% of weekly pay • 12 weeks half pay * plus SAP • 21 weeks SAP only

* To qualify for the 12 weeks' half pay, an employee must return to school for a minimum of three months following her/his adoption leave. If s/he decides not to return to her/his job for this required period, s/he will have to repay this amount.

Overview of Teachers' Adoption Benefit Entitlements

Teachers		
Continuous Service	Leave Entitlement	Pay Entitlement
Less than 26 weeks service with MKC by the end of the notification week	No entitlement to adoption leave	No entitlement to SAP
At least 26 weeks service with MKC by the end of the notification week.	Adoption Leave = 52 weeks Made up of: <ul style="list-style-type: none"> • 26 weeks Ordinary Adoption Leave (OAL) • 26 weeks Additional Adoption Leave (AAL) 	Adoption Pay = 39 weeks Made up of: <ul style="list-style-type: none"> • 6 weeks @ 90% of average earnings • 33 weeks SAP only
At least one years continuous local government service at the end of the notification week	Adoption Leave as above	Adoption Pay = 39 weeks Made up of: <ul style="list-style-type: none"> • 4 weeks @ full pay • 2 weeks @ 90% pay • 12 weeks @ half pay * plus SAP • 21 weeks SAP

* To qualify for the 12 weeks' half pay, an employee must return to the same school for a minimum of 13 weeks (including periods of school closure) following her/his adoption leave. If s/he decides not to return to her/his job for this required period, s/he will have to repay this amount.

Application Form for Adoption Leave and Pay

1. Personal Details:			
Employee Name:			
Title: (e.g. Mrs, Mr)		Payroll Reference Number (see payslip):	
School:	Headteacher:		
Address whilst on Adoption Leave:	Contact Telephone Number:		
2. Have you attached a copy of your matching certificate and/or letter from the adoption agency to this form?			
<input type="checkbox"/> Yes <input type="checkbox"/> No – please note that your application will not be processed without this.			
3. According to your matching certificate and/or letter from the adoption agency, what is your expected date of placement?			
Date:			
4. On what date do you intend to start your adoption leave?			
Date:			
6. Payment options for Occupational Adoption Pay (OAP):			
<p>It is my intention to return to work at the same school for the period stipulated in this policy (see section 6 above) and therefore I am applying for 12 weeks half pay in addition to Statutory Adoption Pay. I accept that if I am unable to return to work for at least the required period, I will have to repay the half pay element of the adoption pay.</p> <p>You have a choice regarding the payment of Contractual Adoption Pay. Please tick one of the options below:</p> <p>A. <input type="checkbox"/> I would like to 12 weeks half pay paid in full as it becomes due</p> <p>B. <input type="checkbox"/> I would like the half pay to be paid when I return to work</p> <p>Option B should be ticked by those not absolutely sure as to whether or not they will be returning for the required 3 months.</p>			
7. Employee signature:			
Signed:		Date:	
8. Headteacher authority:			
Signed:		Date:	

Please complete this form and return it to People Services (Schools Team), Human Resources, Saxon Court, 502 Avebury Boulevard, Milton Keynes MK9 3HS.

Maintaining Contact whilst on Adoption Leave

1. Personal Details:	
Employee Name:	
Address whilst on adoption leave:	
Intended start date of adoption leave:	
2. How often would you like your headteacher or nominated person to contact you? (please tick one box only)	
<input type="checkbox"/> Once a month <input type="checkbox"/> Every 3 months <input type="checkbox"/> Every 6 months <input type="checkbox"/> I would prefer not to be contacted, unless it is absolutely necessary, or to discuss my return to work. <input type="checkbox"/> Other (please specify)	
3. What is your preferred method of communication? (please tick all that apply)	
<input type="checkbox"/> Telephone <input type="checkbox"/> Text message <input type="checkbox"/> Face to face <input type="checkbox"/> Letter <input type="checkbox"/> E-mail (please provide your home e-mail address below: <input type="checkbox"/> Other (please specify)	
5. Would you like to be kept informed of job vacancies?	
<input type="checkbox"/> Yes <input type="checkbox"/> No If you answered yes, please tick one of the boxes below: <input type="checkbox"/> I will access the Council website directly for information on vacancies www.milton-keynes.gov.uk/schools/home.asp or <input type="checkbox"/> I would like to receive a copy of the schools vacancy bulletins at the e-mail address above *	
6. Employee signature	
Signed:	Date:

* The schools vacancy list is sent out on e-mail by Human Resources at Milton Keynes Council during term time. Please contact Schools HR on 01908 253893 if you require your name to be added to the distribution list.