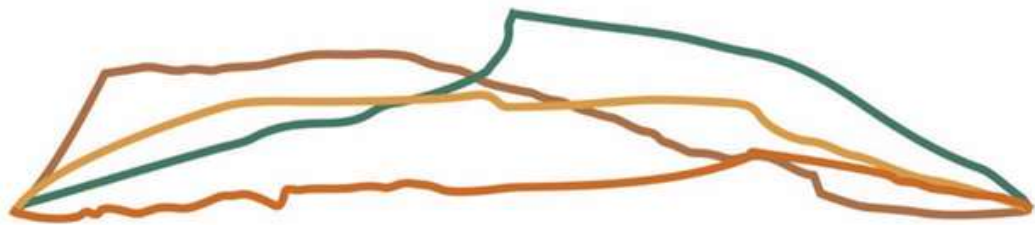


ADOPTIVE PARENTS LEAVE POLICY

For Academy Staff



IRONSTONE ACADEMY TRUST

Ironstone Academy Trust
July 2016

Review Date	Type of Review	Comments
27.5.2015	HR	Legislation changes effective from 5.4.2015
18.01.19		Reviewed & Updated

ADOPTIVE PARENTS LEAVE POLICY

1.0 Introduction

This policy has been developed in line with legislation and applies where the date of placement for adoption (or in the case of Parental Order Parents the expected week of birth) is on or after 5th April 2015.

2.0 Scope and Aim

All employees where the expected date of a child's placement is on or after 5th April 2015 will be entitled to receive benefits in accordance with the scheme below.

If two people employed by the Council / Governing Body jointly adopt a child, they must decide who will be the Primary Adopter for the purpose of this policy.

Employees who are an intended parent in a surrogacy arrangement where they have applied for or intend to apply for a Parental Order and Dual Approved Prospective Adopters (fostering for adoption) may also be eligible for adoption leave and pay.

This policy aims to give Head Teachers and employees clear guidance on procedures and legal requirements prior to, during and following adoption leave.

3.0 Primary Adopter

3.1 To qualify for Adoption Leave, the employee must:

- Be newly matched with a child for adoption by an adoption agency (i.e. there is no eligibility for a step parent adopting a partner's child); and
- Have notified the agency that he/she agrees that the child should be placed with him/her and on the date of placement;

or

- in the case of surrogacy arrangements – have applied for or intend to apply for a Parental Order for the child (must be within 6 months of the child's birth);

and in both situations –

- Given the correct notice; and
- Complied with evidence requirements, where they apply; and
- Stopped working.

3.2 To qualify for adoption pay, the employee must satisfy the conditions above and

- Earn an amount equal to, or in excess of, the lower earnings limit for National Insurance as averaged over an eight-week period. This is the 8 weeks ending with the week in which they were notified of being matched with a child for adoption or in the case of Parental Order Parents the 8 week period leading up to the end of the 15th week before the expected week of birth; and
- Have worked continuously for their current employer for 26 weeks ending in the week in which they were notified of being matched with a child for adoption or the 15th week before the expected week of birth for Parental Order Parents to qualify for Statutory Adoption Pay; and
- Have at least one years' continuous service (service from other Local Authorities/Governing Bodies can be counted) ending in the week in which they were notified of being matched with a child for adoption or the 15th week before the expected week of birth for Parental Order Parents to qualify for Occupational Adoption Pay.

3.3 An employee can choose to start their leave and pay from either the date of the child's placement, or a fixed date which can be up to 14 days before the expected date of placement. Leave can start on any day of the week.

3.4 Adoption Leave

All employees who are eligible for adoption leave can take up to 52 weeks adoption leave irrespective of length of service. This is made up of:

26 weeks' **Ordinary Adoption Leave**

and

26 weeks' **Additional Adoption Leave**

Additional Adoption Leave follows immediately on from Ordinary Adoption Leave and there must be no gap between the two.

An employee who returns to work after Ordinary Adoption Leave (up to 26 weeks) is entitled to return to the same job on the same terms and conditions as if he or she had not been absent, unless a redundancy situation has arisen

An employee who returns to work after Additional Adoption Leave (more than 26 weeks) is also normally entitled to return to the same job on the same terms and conditions as if he or she had not been absent,

unless a redundancy situation has arisen. However, if there is a reason other than redundancy, which means that it is not reasonably practicable for the employer to take the employee back to the same job, they will be entitled to be offered suitable alternative work.

Employees do not need to give advance notice if they are intending to return to work immediately after the period of Ordinary Adoption Leave plus Additional Adoption Leave (52 weeks). However, if an employee wishes to return to work before the end of this period they must inform their Head Teacher in writing at least 21 days before the intended return date.

If the employee fails to give the appropriate notice the Head Teacher may postpone the return for up to the 21 days notice period as long as this does not exceed the 52-week period.

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

If the placement is delayed for any reason and the employee has already begun their Adoption Leave, they cannot suspend leave in order to start it again at a later date.

3.5 Adoption Pay

If eligible for Statutory Adoption Pay (SAP) employees are entitled to 6 weeks at 90% of their average pay followed by 33 weeks at flat rate SAP (or 90% of average earnings if this is lower). Average pay is calculated from the pay the employee received in the 8 weeks prior to the date of placement or 15th week before the expected week of birth for Parental Order Parents. The flat rate is subject to annual review in April.

There is no entitlement to SAP in the following circumstances –

- In a week in which the person receives statutory sick pay
- Following the death of the person claiming SAP
- When the person claiming pay is detained in custody or in prison following sentencing.

The Head Teacher must inform the employee before their Adoption Leave commences that if any of the above occurs it will result in Statutory Adoption Pay ceasing.

(a) Employees with less than one year's continuous Local Government Service and less than 26 weeks with their current employer*

There is no entitlement to Occupational or Statutory Adoption Pay.

(b) Employees with less than one year's continuous Local Government Service and more than 26 weeks' with their current employer*

Employees are entitled to 39 weeks Statutory Adoption Pay, but there will be no entitlement to Occupational Pay.

(c) Employees with more than one year's continuous Local Government Service and less than 26 weeks with their current employer*

There is no entitlement to Statutory Adoption Pay, however the Occupational Scheme applies. Support Staff are entitled to 6 weeks at 90% of an average weeks' pay, followed by 12 weeks at 50% of an average weeks' pay**. Teachers are entitled to 4 weeks full pay then 2 weeks at 90% of an average weeks' pay followed by 12 weeks at 50% of an average weeks' pay**.

(d) Employees with more than one year's continuous Local Government service and more than 26 weeks with their current employer*

The Occupational and Statutory Adoption Pay schemes apply. Support Staff are entitled to 6 weeks at 90% of an average week's pay, followed by 12 weeks' at 50% of an average weeks' pay** plus statutory adoption pay (as long as it does not exceed full pay), then a further 21 weeks at flat rate statutory adoption pay. Teachers are entitled to 4 weeks full pay then 2 weeks at 90% of an average weeks' pay followed by 12 weeks at 50% of an average weeks' pay** plus statutory adoption pay (as long as it does not exceed full pay), then a further 21 weeks at flat rate statutory adoption pay.

*Ending with the week in which they were informed of being matched with a child for adoption or the 15th week before the expected week of birth for Parental Order Parents.

** An employee who is entitled to half pay under the Occupational Scheme will be required to complete a Form of Undertaking, Form HR/SCH/EP5G. The Undertaking should be completed and countersigned by a witness, e.g. Head Teacher.

3.6 Notification Procedure

- (a)** An employee wishing to apply for Adoption Leave and Pay as a Primary Adopter must complete Form HR/SCH/EP5D and attach documentary evidence, such as a Matching Certificate or Statutory Declaration for Parental Order Parents. The completed form should be forwarded to their Head Teacher within 7 days of being notified that they have been matched with a child for adoption. The employee must give at least 28 days notice of the date they want adoption pay to start

unless this is not reasonably practicable. In the case of Parental Order Parents notice of entitlement must be given by the 15th week before the expected week of birth.

- (b) The Head Teacher will then complete the appropriate section on the form, and send it to Employee Services (or your own payroll provider) along with the documentary evidence.
- (c) The Head Teacher will write to the employee within 28 days of receiving the application, informing them of their eligibility to leave and pay. The letter will also detail the date on which the employee is expected to return to work if the full entitlement to adoption leave is taken. An employee can change the date on which they want their Adoption Leave to start, by giving at least 28 days written notice to their Head Teacher. The Head Teacher must advise Employee Services (or your own payroll provider) immediately of any changes. If the 'adopter' is not eligible for adoption leave or pay the Head Teacher will inform them why.
- (d) The employee should advise their Head Teacher and Employee Services (or your own payroll provider) as soon as the actual date of the child's placement is known/ date of birth in the case of Parental Order Parents.

3.7 Keeping in Touch days

An employee on adoption leave may agree with their Head Teacher to carry out up to 10 days' work, whether consecutive or not, without bringing the leave period to an end. These are known as "keeping in touch days". For the purposes of this entitlement, any work carried out on any day shall constitute one day's work.

Work in this context includes training or any other activity to assist the employee in "keeping in touch with the workplace". Any days that are worked do not have the effect of extending the total duration of the leave period. Furthermore, Statutory Adoption Pay (SAP) is not affected and will continue to be paid. In addition, payment will be made for each hour the employee works, at the employee's normal hourly rate of pay. Any pay received for this work will be in addition to statutory adoption pay.

Such work may only be carried out by agreement between the employee and the Head Teacher. There is no right for the employer to provide 10 days' work, or for an employee to do such work.

Employers are also entitled to make "reasonable contact" with an employee while they are on adoption leave.

3.8 Guidance

For information about returning to work, the treatment of annual leave and pension arrangements during, and sickness immediately following Adoption Leave, see the information and provisions given under the Maternity Scheme Provisions since both are the same.

If an employee does not fulfil their obligation to return to work at the end of Adoption Leave on either a full or part time basis for a period of at least 3 months, they will be required to refund any non-statutory Adoption Pay that they may have received (i.e. the 12 weeks at half pay). If an employee returns to work on less hours than they worked before the start of their Adoption Leave they **will not** have to repay Occupational Adoption Pay, as long as they work for at least 3 months from the date of their return.

If there are extenuating circumstances as to why the employee has not returned to work for the specified period, an amount less than 100% of gross Occupational Adoption Pay may be recovered. In such cases, the Head Teacher should consult with Human Resources.

Adoption leave and pay will end if the placement does not occur, breaks down or where the child dies (leave and pay will end 8 weeks after the event)

In all cases Employee Services (or your own payroll provider) must be notified of the employee's return to work date.

3.9 Shared Parental Leave

Eligible employees may be able to convert a period of adoption leave or pay into a period of shared parental leave or pay. Please refer to the Shared Parental Leave Policy for further information.

4.0 Secondary Adopter

Where a couple is adopting a child together, only one will be entitled to adoption pay and leave. The person who does not take adoption leave may be entitled to paternity leave and/or pay. In the case of single adopters their spouse/partner may be eligible for paternity leave and/or pay.

The partner of a Dual Approved Potential Adopter (or in the case of joint Dual Approved Potential Adoptions, the parent who will not take adoption leave and pay) and in the case of Parental Order Parents the parent who does not take adoption leave and pay may also be eligible for paternity leave.

Please refer to the Paternity Leave Policy for further information.

5.0 Adoption Appointments

Eligible employees are entitled to paid time off to attend up to 5 adoption appointments to be taken in the period between being notified of a match with a child and the date that the child joins the family. In the case of joint adopters only one will be entitled to attend up to 5 appointments, the other adopter may be entitled to attend up to 2 adoption appointments (unpaid) (the partner is not eligible if they are not a joint adopter).

NB The adopter who takes paid time off to attend adoption appointments cannot claim paternity leave and pay therefore the parent who intends to take adoption leave is likely to take the paid time off.

6.0 Fostering Leave

For Fostering Leave, please refer to the Special Leave Policy.