



Thinking Schools Academy Trust
“Transforming Life Chances”

Adoption Policy and Procedure

This policy was adopted on	September 2016
The policy is to be reviewed on	September 2020

Contents Page

<i>Abbreviations</i>	2
Part A - Policy.....	3
1 Policy Statement	3
2 Scope.....	3
3 Adoption Arrangements and Date	3
4 Responsibilities of the Trust.....	4
5 Responsibilities of the Employee	4
Part B: Procedure	4
6 Adoption Leave and Pay – Summary of Entitlement.....	4
7 Notification	4
8 Evidence of Adoption Leave	5
9 Adoption Leave Entitlements	5
10 Adoption Leave.....	6
11 Time Off Prior to Adoption	6
12 Statutory Adoption Pay	6
13 Contractual Adoption Pay	7
14 Employee Contractual Adoption Pay.....	7
15 Conditions relating to the payment of contractual adoption pay	8
16 Adoption Allowance.....	8
17 Deductions From Adoption Pay.....	8
18 Unsuccessful or Disrupted Placements	8
19 Annual Leave	9
20 Pension Contributions.....	9
21 Contact during adoption leave.....	10
22 Keeping in Touch Days.....	10
23 Returning to Work	10
24 The Right to Return	11
25 Returning to Work Early	11
26 Sickness.....	11
27 Requests to change working hours	11
28 Leaving Employment	12
29 Shared Parental Leave.....	12
30 Changing Employers Prior to Adoption Leave	12
31 Childcare Vouchers	12

Abbreviations

SAL	Statutory Adoption Leave
SAP	Statutory Adoption Pay
CMP	Contractual Adoption Pay
OML	Ordinary Adoption Leave
AML	Additional Adoption Leave

Part A - Policy

1 Policy Statement

The Thinking School's Academy Trust recognises its legal obligations with regards to adoption entitlements and is committed to supporting best practice in relation to provision for adoptive parents.

Employees have certain statutory adoption rights, including the right to adoption leave, adoption pay and to return to work after a period of leave. In addition to the statutory provisions the Academy Trust operates a contractual adoption scheme for eligible teachers and support staff.

The Trust recognises that Employees have protection against detriment, disadvantage and unfair treatment or dismissal arising from adoption leave.

This policy and procedure explains:

- The entitlements and benefits for adoptive parents
- The requirements and procedures Employees will need to comply with in order to obtain adoption benefits

Employees are advised to read this document carefully as failure to comply with certain requirements and procedures could impact on their benefits.

2 Scope

This Policy and Procedure applies to all Employees of The Thinking Schools Academy Trust.

Adoption rights apply equally to full and part-time, permanent and fixed term, Employees regardless of how many hours worked, provided qualifying conditions are satisfied

Certain entitlements may be dependent on length of service within a Trust School.

Where a couple are jointly adopting only one partner can receive Adoption Leave and Pay. The partner may be entitled to take Adoption Support Leave (formerly paternity leave).

Where more than 1 child is placed for adoption as part of the same arrangement, only one period of adoption leave may be taken.

Adoption provisions only apply where a child is newly matched for adoption – where a child is not newly adoption (eg adopting the children of a partner) there is no entitlement to adoption leave and pay.

3 Adoption Arrangements and Date

This procedure was adopted by the Board of Directors of The Thinking Schools Academy Trust on 1st September 2016 and supersedes any previous Adoption Policy and Procedure.

This policy will be reviewed by the Board of Directors every 4 years or earlier if there is a need. This will involve consultation with the recognised unions.

4 Responsibilities of the Trust

- To comply with statutory and contractual provisions relating to adoption leave and pay
- Not to disadvantage an Employee for exercising their adoption rights

5 Responsibilities of the Employee

- To comply with the notification arrangements and timescales set out within this document
- To maintain reasonable contact with the headteacher / line manager and advise the school as soon as is practicable should their intentions regarding adoption leave change.

Part B: Procedure

6 Adoption Leave and Pay – Summary of Entitlement

Employees are entitled to take up to 52 weeks adoption leave regardless of their length of service. This is comprised of the following:

- Statutory Adoption Leave (SAL) – up to 26 weeks ordinary leave immediately followed by 26 weeks additional leave – 52 weeks in total.
- Statutory Adoption Pay (SAP) – an Employee may be entitled to receive 6 weeks at 90% of average weekly earnings and a further 33 weeks at SAP rate (SAP is £139.58 as of June 2016) or 90% of average weekly earnings, whichever is less, for the first 39 weeks during adoption leave.

In addition to the above statutory adoption provisions, Employees may be entitled to contractual adoption pay provisions.

Contractual Adoption Pay

- 4 weeks at full contractual pay (90% where applicable will be made up of SAP), followed by
- 2 weeks at 90% of contractual pay or SAP (where applicable) at the earnings related rate (90% of average weekly earnings) whichever is the greater, followed by
- 12 weeks at contractual half pay (payable only if returning to work) which is paid concurrently (where applicable) with
- 33 weeks at standard rate SAP or 90% of average weekly earnings. The total contractual half pay and standard rate SAP must not exceed full pay.

This entitlement is subject to the Employee meeting the qualification requirements detailed later in this document.

7 Notification

As soon as possible after the Employee knows that they have been matched for adoption they should notify the Headteacher / Principal.

Early notification will assist the Headteacher/ Principal time to make arrangements to cover the absence during adoption leave.

In all instances notification must be made no later than the following:

- If adopting a child from within the UK - the Employee must notify the Headteacher within 7 days of the date the adoption agency advise them that they have been matched with a child (or if this is not possible as soon as reasonably practicable).
- If adopting a child from Overseas, the Employee must notify the Headteacher within 28 days of the date they receive official notification of the date that the child is expected to enter Great Britain.

Notification must be confirmed in writing and should include:

- Confirmation that the Employee has been matched with a child for adoption and the date this was received
- The expected date that the child will be placed / enter the UK
- Date the Employee wishes to start adoption leave
- Confirmation of the Employee's intention to return to work

An Employee may change the start date of their leave but must give the Headteacher 28 days' notice of the revised dates.

The school / personnel provider will write to the Employee within 28 days of receiving formal notification, to confirm:

- leave and pay entitlement
- the date the Employee is expected to return to work

8 Evidence of Adoption Leave

The Employee should provide the school with the original of the 'Matching Certificate' (provided by the adoption agency) confirming the matching and expected placement dates.

Where a child from overseas is adopted – the Employee must provide the school with any official notification documentation together with evidence of the child's date of entry into the UK.

This documentation is required to confirm entitlement to adoption leave and pay.

If the Employee does not provide the required notification and evidence, adoption pay cannot be paid and will be withheld until correct notification is received. To avoid overpayment - normal pay will cease from the start of the period of adoption leave.

9 Adoption Leave Entitlements

To be entitled to adoption leave Employees must have at least 26 weeks service with the Trust by the end of the week in which they are notified they have been matched for adoption.

Adoption Leave is comprised of:

- 26 weeks ordinary adoption leave (OAL)

- 26 weeks additional adoption leave (AAL)

Additional adoption leave immediately follows ordinary adoption leave with no gap in between.

10 Adoption Leave

Adoption leave and pay may start on any day of the week.

Where an Employee is adopting a child from within the UK, leave can start from:

- The date of the child's placement
- From a fixed date which can be up to 14 days before the expected date of placement.

Where an Employee is adopting a child from overseas, leave can start from:

- The date the child enters the UK
- An agreed start date no later than 28 days after the child enters the UK.

11 Time Off Prior to Adoption

Employees have the right to paid time off work to attend 5 adoption appointments where they are adopting. Further leave may be granted at the discretion of the Headteacher/Principal. In addition, unpaid leave may also be agreed on request.

In the case of joint adoptions one partner must elect to have the first right and the other the second.

The maximum time off which can be taken for each appointment is 6 ½ hours.

An Employee is required to give the Headteacher / Principal as much notice as is practicable of any such appointments and may be required to provide evidence.

12 Statutory Adoption Pay

All statutory and contractual adoption payments are paid via the school payroll in the same way / frequency as their normal salary payments.

Statutory Adoption Pay (SAP) is payable to all eligible Employees for a maximum period of 39 weeks. SAP pay will start the on first day of adoption leave.

To be eligible for SAP an Employee must:

- Be adopting a child on their own or jointly adopting with their partner
- If adopting within the UK - Have 26 weeks continuous service with the School by the end of the week in which the Employee is notified that they have been matched for the purposes of adoption
- If adopting from overseas - Have 26 weeks continuous service with the School by the end of the week in which the Employee receives official notification of the adoption, or by the date the Employee wishes the adoption to start, whichever is the later
- Have average weekly earnings over a set period above the lower earnings limit for NI purposes
- Provide a matching certificate and any other official notification (in the case of overseas adoption)

SAP is paid for a period of 39 weeks made up of:

- 6 weeks at 90% of average weekly earnings, followed by
- 33 weeks at standard rate SAP

Where an Employee is currently taking advantage of any salary sacrifice scheme, including childcare vouchers, average weekly earnings is calculated after deductions have been made.

There are two rates of SAP:

- Higher rate – equivalent to 90% of average weekly earnings, which are based on the 8 week period immediately preceding the 15th week before the EWC,
- Standard rate – For current standard SAP please refer to the government website (www.gov.uk) or 90% of average weekly earnings, whichever is the lowest.

Average weekly earnings will be based on the 8 week period immediately preceding the 15th week before the matching date and will be offset against contractual adoption pay for the first 6 weeks.

13 Contractual Adoption Pay

In addition to SAP eligible Employees may also receive contractual adoption pay. This runs alongside SMP provisions.

To be eligible for CAP an Employee must:

- Be adopting a child on their own or jointly adopting with their partner
- If adopting a child within the UK - Have at least 1 year's continuous service with a Trust School, an Local Authority; or other maintained school / sixth form college, by the end of the week in which the Employee is notified they have been matched with a child for adoption
- If adopting a child from overseas – have at least 1 year's continuous service with a Trust School, Local Authority; or other maintained school / sixth form college, by the end of the week the Employee receives official notification of the adoption
- Continue to be employed immediately before the adoption leave starts and at the date the child is placed with the Employee or enters the UK.

Contractual adoption pay will be calculated on the salary at the point when adoption leave is due to commence. Contractual half pay plus standard rate statutory adoption pay should not exceed normal weekly earnings.

14 Employee Contractual Adoption Pay

This is comprised of:

- 4 weeks at full pay (90% is made up from SAP)
- 2 weeks at 90% of contractual pay or SAP at the earnings related rate whichever is the greater
- 12 weeks at half pay (payable only where the Employee intends to return to work) in addition to SAP entitlement*
- 21 remaining weeks SAP entitlement at the standard rate (where applicable).

*Contractual half pay plus standard rate statutory adoption pay should not exceed normal weekly earnings

15 Conditions relating to the payment of contractual adoption pay

Contractual adoption pay is paid on the basis that an Employee will return to work following the adoption. Consequently if an Employee does not return to work they may be liable to repay the half pay element of their CAP.

Where an Employee indicates that they will return to work – the 12 weeks half pay will be paid during their adoption leave.

Where the Employee indicates on their adoption notification that they have no intention of returning from adoption leave - the 12 weeks half pay will not be paid.

An employee must return to work with the Trust for at least 13 calendar weeks (including periods of school closure). The requirement to repay CAP may be waived at the discretion of the governing body.

Where an employee who has previously worked full time returns on a part time basis – they must return to work for a period which equates to 13 weeks full time service.

Similarly where a part time employee returns to work revised part time hours – they must return to work for a period which equates to 13 weeks service under their previous part time hours.

Any repayments will be of the gross rather than net amount paid. There is no requirement to repay any statutory adoption payments.

16 Adoption Allowance

Where an Employee is not entitled to SAP they may be entitled to Adoption Allowance which is payable directly from Jobcentre Plus / DWP.

In this instance the payroll provider will provide the Employee with SAP1, which will set out the reason why they do not qualify for SAP.

17 Deductions from Adoption Pay

Both SAP and CAP are subject to PAYE tax, National Insurance and Pensions contributions.

Where an Employee has a period of unpaid leave it is possible that they may be eligible for a tax refund at the end of the tax year, or may pay lower PAYE for the initial period after return to work.

Any other voluntary deductions will be taken from pay as usual.

18 Unsuccessful or Disrupted Placements

If, after an employee has begun their adoption leave:

- The expected placement does not occur
- The newly adopted child dies
- The child is returned to the adoption agency

- The child ceases to live with the adopter

The employee's adoption leave period ends eight weeks after the start of the ordinary adoption leave period (if the placement did not occur), or eight weeks from the end of the week in which death occurred or the child was returned to the agency (if the placement did take place and the disruption occurred later).

19 Annual Leave

Annual Leave and Bank Holiday leave entitlement continues to accrue during any period on adoption leave. This is accrued on a pro rata basis for part time and term time only Employees.

Annual leave and bank holiday entitlement should, wherever possible, be used in the leave year in which it is due. Any leave should be taken with the agreement of the headteacher / line manager. It is often most convenient for the Employee and the school for leave to be taken immediately before or at the end of adoption leave. However where this is not practicable – leave may be carried forward to the following leave year.

Where an Employee does not return after adoption leave – annual leave is accrued up to the final date of employment.

Term Time Only Employees

In instances where an Employee is contracted term time only, leave is expected to be taken during the school closure periods when the Employee does not work. A pro rata payment in respect of annual leave and bank holidays is included within the salary. The entitlement to annual leave will usually be off-set against any non-working periods falling before or after the Employee's period of adoption leave. However if due to the timing of adoption leave the entitlement to annual leave is not fully met – an Employee may be able to take this leave during term time following their return to work with the agreement of the headteacher / line manager.

Teachers

Teachers are entitled to 28 days (pro rata) statutory annual leave. This is usually taken during the period outside of term time when a teacher is not expected to attend work.

This entitlement will be off set against any non-working periods falling before or after the Employee's period of adoption leave. However if due to the timing of adoption leave the entitlement to annual leave is not fully met – an Employee may be able to take this leave during term time following their return to work with the agreement of the Headteacher / line manager. Annual leave entitlement can be complex for teachers and employees are advised to contact HR to discuss if their possible entitlement.

20 Pension Contributions

Employees in receipt of adoption pay will be required to pay pension contributions and these will be deducted salary payments in the normal way. Pension contributions will be based on the actual amount of salary received during adoption leave.

Support Staff

Member of the LGPS will be given the option to pay pension contributions for the period of unpaid period of adoption leave when they return to work.

Teachers

Pension contributions will be paid during the period and Employee is in receipt of SAP and CAP. However once adoption payments cease this period will not be regarded as pensionable service and the Employee will not be able to make contributions for this period. Employees may choose to protect their pension by buying in additional pension to compensate for that absence. Full details are available from the Teachers' Pensions or Local Government Pension website

21 Contact during adoption leave

During adoption leave it is often helpful to keep in contact with the school and vice-versa. Before starting adoption leave it is advisable for the Employee and headteacher / line manager to discuss and agree preferred means of contact.

The school may make reasonable contact with an Employee during adoption leave. This may be to update the Employee on significant changes in the workplace, make them aware of job / promotion opportunities or to discuss plans regarding a return to work.

22 Keeping in Touch Days

An Employee may work up to 10 'Keeping in Touch Days' (KIT Days) during their adoption leave. These are intended to help the Employee keep up to date with the work environment, attend training and development activities or to help prepare for return from leave.

There is no obligation upon any employee to work or attend KIT days and these are entirely voluntary.

The Employee and headteacher / line manager should discuss and mutually agree appropriate KIT days. There is no expectation for the headteacher / line manager to offer work during adoption leave or for the Employee to accept any request to work.

KIT days may be paid without affecting statutory adoption pay or leave. However, where a KIT day is worked during the paid part of adoption leave, the KIT hours/days will be offset against any pay. This means that unless the pay for the hours worked in that week exceeds the pay the Employee is currently receiving, there will be no payment made for the hours worked.

If an Employee works a KIT day in the unpaid part of adoption leave they will receive payment for the hours worked.

Taking KIT days does not extend the duration of the adoption leave.

Working for any part of a day will count as one KIT day.

23 Returning to Work

Employees should notify the Headteacher of the date they intend to return to work. Unless otherwise notified, the return to work date will be the first working day after the end of the 52 weeks adoption leave.

This date will be confirmed before commencing adoption leave. An Employee will not receive any further notification and it is expected that they will return to work on this date.

If an Employee does not return by the latest date of return, they may risk losing the right to return.

24 The Right to Return

After the period of ordinary leave, an Employee has the right to return to the same job on terms and conditions no less favourable than if they had not been absent.

After additional adoption leave, an Employee will have the right to return to the same job or, if not reasonably practical, an appropriate alternative job.

Exceptions may occur where there is for instance, a redundancy or at the end of a fixed term or temporary contract. In these circumstances appropriate consultation will take place with the Employee and they will be offered suitable alternative work, where available.

25 Returning to Work Early

If an Employee wishes to return to work early or change the previously notified date of return - they must give at least 8 weeks' notice of this alternative date.

Should an Employee fail to give the required notice the headteacher / line manager may postpone the date of return until the required notice has been served. However the notice period cannot extend the period of leave beyond the original maximum duration of the adoption leave.

An Employee may return to work during a school closure period – subject to giving the required notice.

26 Sickness

Where an Employee is ill whilst on a period of adoption leave they will not be entitled to sick leave.

Where an Employee is unable to return to work due to illness, adoption leave is not extended but normal sickness procedures apply.

If an Employee is unable to return to work due to sickness – this period will not count towards the requirement to return to work for 13 weeks to retain contractual adoption pay.

27 Requests to change working hours

An Employee may make a flexible working request to alter their pattern / hours of work at the point of return from adoption leave. Please refer to the Trust's flexible working policy and procedure for further details.

The Headteacher / Principal will give careful consideration to any request. Should the request not be accommodation the business reasons for this will be explained to the Employee.

28 Leaving Employment

Should an Employee determine after careful consideration that they no longer wish to return to work following the end of adoption leave, they should formally resign in writing giving the required contractual notice.

Employment will terminate at the end of the period of contractual notice, or, at the end of the Statutory Adoption Pay period, whichever is later.

Should an Employee return to work and then decide to resign, they must give the appropriate contractual notice.

If an Employees leaves employment before completing 13 weeks service upon return from adoption leave and has received payment of the 12 weeks half pay, this must be immediately repaid. Please refer to section 21.

29 Shared Parental Leave

For details on Shared Parental Leave (SPL) provisions please refer to the Trust Shared Parental Leave Policy. This enables eligible employees to end their adoption leave early and opt into SPL arrangements. These provisions enable any unused adoption leave to be shared between the First Parent and Second Parent.

30 Changing Employers Prior to Adoption Leave

Changing Employers prior to taking adoption leave may affect the Employee's entitlement to statutory and contractual adoption benefits. Employees are advised to discuss their individual entitlements with their new employer

31 Childcare Vouchers

The Trust offers childcare vouchers, which entitles Employees to savings on child care costs. The vouchers can be used to pay for most types of childcare.

The scheme operates by way of a salary sacrifice arrangement where an amount is deducted from the Employee's gross salary in return for vouchers of equivalent value. They are non-taxable and exempt from National Insurance contributions.

This arrangement may continue during further periods of adoption leave