




**ADOPTION LEAVE AND PAY
FOR NON-TEACHING SCHOOL BASED STAFF v1.0**

Date of last review	October 2023	Review Board	2 years
Date of next review	October 2025	AC or Board Approved	Board
Type of policy	Trust	Signed (Chair)	

The below policy is based on Sandwell MBC PERS105b policy.

1. Aims

1.1 This policy aims to:

- Set out the Victoria Academies Trust approach to adoption leave
- Make sure Victoria Academies Trust is a family-friendly place to work by supporting staff members who need to take time off work for adoption.
- Support all staff in managing family-related leave effectively and consistently, to ensure a fair and transparent approach across the Trust that complies with our duties under the Equality Act 2010 and Employment Rights Act 1996

2. Scope

2.1 This policy applies to all full-time and part-time employees based in school who are employed directly by the Trust with the exception of Teachers.

2.2 This scheme is open to both male and female employees and also open to single persons from adopting children where it is considered appropriate and acceptable.

2.3 Only the nominated primary carer of the child will be entitled to time off under this scheme. However, employees who are secondary carers are eligible to 10 days' leave in accordance with the Paternity Leave Scheme, (as per Trust HR policy). The employee is required to indicate in writing which partner has been nominated as the primary carer.

3. Definitions used in this guidance

Adopter

An adopter is a person who has been matched with a child for adoption or, if the couple have been matched jointly, the member of the couple who has chosen to take adoption leave.

Adoption Agency

An adoption agency has the meaning given to it in section 1(4) of the Adoption Act 1976 in England and Wales.

Matched/Matching

A person is matched with a child for adoption when an adoption agency decides that the person would be a suitable adoptive parent for the child, either individually or with another person.

Notification of matching

A person is notified of having been matched with a child for adoption from the adoption agencies.

Placement

A child is placed for adoption when the child goes to live with the adopter or adopters with a view to being adopted by them in the future.

Part-time employee

All the rights described in this guidance apply to both full-time and to part-time employees, no matter how many hours they work, provided that they satisfy any qualifying conditions, such as length of service.

4. Employees who work for more than one employer

- 4.1 Employees who work for more than one employer will be able to exercise their adoption or paternity entitlements and will be subject to obligations separately in relation to each. Employees should be careful to follow the notification for the start of leave and notification for any change in return-to-work dates, for each employer.

5. Adoption Pay

- 5.1 There are two types of Adoption Pay - Statutory Adoption Pay (SAP) and Occupational Adoption Pay (OAP). The employee will have to meet the qualifying conditions to receive any SAP or OAP. An employee may be entitled to both payments. The following information outlines the qualifying conditions and how it is paid.

5.2 Statutory Adoption Pay (SAP)

If an employee meets all of the following conditions they will qualify for SAP.

- employee must have been continuously employed with the Trust for 26 weeks ending with the week in which you are notified of having been matched with the child. SAP can start on any day of the week.
- employee must have average weekly earnings of not less than the lower earnings limit set for National Insurance Contributions. (Average earnings are calculated over the last 2 payments made before the end of the Qualifying Week referred to above).
- employee has been matched with a child to be placed with them by a UK adoption agency.
- employee has notified the agency that they agree that the child should be placed with them and agree the date of placement.
- employee notifies the Trust of when they want to take adoption leave no more than seven days after the employee is notified that they have been matched with a child.
- employee notifies the Trust of when they want to receive SAP at least 28 days before the date they want it to begin.

5.4 Statutory Adoption Payments

The earliest that SAP and leave can begin is 14 days before the expected date of placement of the child and latest it can start is on the date of the placement itself. Pay and leave can start on any pre-determined date between these two dates.

SAP is paid over a period of 39 weeks. SAP can start on any day of the week.

If the employee meets the qualifying conditions for SAP you will be entitled to 39 weeks flat rate SAP that is paid for the whole of the period. It will be based on either:

- a) The flat rate which is reviewed annually, or
- b) 90% of average weekly earnings if this is less.

SAP is treated as income and is therefore subject to deductions for income tax, national insurance and pension.

An SAP1 Exclusion Form will be issued to you if you are not entitled to Statutory Adoption Pay.

6. Occupational Adoption Pay

6.1 In addition to an employees statutory right to adoption leave and pay, if the employee has 1 year's continuous local government service at the time of commencement of the leave, they will also qualify for Occupational Adoption Leave and Pay.

6.2 Entitlement

Under the Occupational Adoption Scheme, an employee is entitled to:

- **Week 1-6-** 90% of your current contractual weekly earnings
- **Week 7-18-** 12 weeks at half pay, providing the employee returns to work for three months following their adoption leave. **(If the employee does not return to work, the 12 weeks' half pay will be reclaimed back).**

6.3 The Adoption Team has to undertake at least 10 assessments in a prospective adopter's home and these take approximately between 2 to 3 hours each. As these normally have to take place during the day, the Occupational Adoption Scheme entitles an employee to 4 half days' paid leave for these assessments. The remainder of the time taken off for these assessments will be in the employee's own time i.e. Annual Leave.

7 Adoption Leave

7.1 An employee is entitled to a total of 52 weeks leave, of which, if they qualify, some of this leave will be paid in accordance with the Statutory Adoption Scheme or the Occupational Adoption Scheme.

8 Notice for Adoption Leave

- 8.1 An employee will be required to give notice using the **Adoption Leave Notification Form** of their intention to take adoption leave within 7 days after the day they are notified of having been matched with the child or, if this is not possible, as soon as is reasonably practicable. An employee can tell their Manager/Head Teacher earlier than this if they wish using the Adoption Notification Form.
- 8.2 Adoption leave can commence from any day of the week and can start from the child's placement date or from a fixed date that can be anything up to 14 days before the expected date of placement.
- 8.3 An employee can change their mind about the date on which they want their leave to start want providing they notify the Trust at least 28 days in advance (unless this is not reasonably practicable).
- 8.4 An employee will have to apply for Adoption Leave 28 days before the date Adoption Leave is due to start.
- 8.5 The Trust respond within 28 days to an employee's request on adoption leave. The employee will be notified, setting out the date on which they are expected to return to work if the full entitlement to adoption leave is taken.

9 Matching Certificate

- 9.1 An employee will receive a 'matching certificate' from the adoption agency, which the employee would need to submit as evidence of their entitlement to Statutory Adoption Pay. Employees should ask their adoption agency for a matching certificate, which will include basic information on matching and expected placement dates. The following information must be included on the matching certificate.
 - Name and address of employee
 - Name and address of adoption agency
 - Date child is expected to be placed for adoption.
 - The date the adopter was told by the adoption agency that they had been matched with a child

10 Which Adoption Scheme is an employee entitled to?

If an employee:

- has been continuously employed by the Trust for 26 weeks ending with the week in which the employee is notified of having been matched with the child;
- have one year or more continuous Local Government service at 11 weeks before the week in which an employee is notified of having been matched with the child;
- satisfy the qualifying conditions for SAP.



[Adoption Scheme 1](#)

If an employee:

- has less than 26 weeks' continuous service with the Trust at the week in which the employee is notified of having been matched with the child;
- has one year's continuous Local Government service at 11 weeks before the week in which the employee has notified of having been matched with the child.



[Adoption Scheme 2](#)

If an employee:

- has 26 weeks' continuous service with the Trust at the week in which the employee is notified of having been matched with the child;
- have less than one year's continuous Local Government service at 11 weeks before the week in which the employee is notified of having been matched with the child;
- satisfy the qualifying conditions for SAP.



[Adoption Scheme 3](#)

If an employee:

- has no previous Local Government Service and is a new employee to the Trust with less than 26 weeks' service at the qualifying week in which the employee is notified of having been matched with the child.



[Adoption Scheme 4](#)

Scheme 1 - Entitled to Occupational Adoption Pay and Statutory Adoption Pay

If an employee has been continuously employed by the Trust for 26 weeks and has one year or more continuous Local Government service at 11 weeks before the week in which the employee is notified of having been matched with the child they are entitled to Scheme 1 set out below.

Entitlements

Adoption Pay - (OAP and SAP)

Week 1-6	6 weeks at 90% of the employee's contracted weekly pay or average pay (whichever is the greater).
Weeks 7-18	12 weeks' half pay based on the employee's contractual weekly pay plus lower rate SAP or 90% of average pay if this is less.
Weeks 19-39	21 weeks' lower rate SAP or 90% of average pay if this is less.

* Half pay will be reduced if, together with SAP, it exceeds full pay.

In the event the employee fails to return to work, or fails to work for three months, the Trust will reclaim the 12 weeks' half pay. If the employee is unsure of returning to work or not after their adoption leave, they can choose to claim the 12 weeks' half pay upon their return.

An SAP1 Exclusion Form will be issued to the employee if they are not entitled to Statutory Adoption Pay.

Adoption Leave

An employee is entitled to 52 weeks' Adoption leave, of which 39 weeks is paid as detailed above. The remainder of the Adoption leave will be unpaid.

Scheme 2 - Entitled to Occupational Adoption Pay

Entitlements

If an employee has less than 26 weeks' continuous service with the Trust and have one year's continuous Local Government service at 11 weeks before the week in which the employee was notified of having been matched with the child, they are entitled to the adoption scheme set out below.

Adoption Pay - (OAP)

Week 1-6	6 weeks at 90% of your contractual weekly pay.
Week 7-18	12 weeks at half your contractual weekly pay.

***In the event the employee fails to return to work, or fails to work for three months, the Trust will reclaim the 12 weeks' half pay. If the employee is unsure of returning to work or not after your adoption leave, they can choose to claim the 12 weeks' half pay upon their return.**

Adoption Leave

An employee is entitled to 52 weeks' adoption leave, of which 18 weeks is paid as detailed above. The remainder of adoption leave will be unpaid.

Scheme 3 - Entitled to Statutory Adoption Pay

If an employee has 26 weeks' continuous service with the Trust at the week in which the employee is notified of having been matched with the child but have less than one year's continuous Local Government service at 11 weeks before the week in which the employee is notified of having been matched with the child, they are entitled to the adoption scheme set out below.

Entitlements

Adoption Pay - (SAP)

Weeks 1-39

The flat rate SAP is paid for the whole of the 39 weeks. It will be based on either:

- a) The flat rate which is reviewed annually or
- b) 90% of average weekly earnings if this is less.

SAP is treated as income and is therefore subject to deductions for income tax, national insurance and pension.

A SAP1 Exclusion Form will be issued to an employee if they are not entitled to Statutory Adoption Pay.

Adoption Leave

An employee is entitled to 52 weeks' adoption leave, of which 39 weeks is paid as detailed above. The remainder of adoption leave will be unpaid.

Scheme 4 - No Service

All employees with the minimum length of Local Government Service are entitled to Scheme 4, ie you are a new employee to the Trust with less than 26 weeks service at the week in which an employee is notified of having been matched with the child and have no previous Local Government Service.

Entitlements

Adoption Pay

An employee is not entitled to any OAP or SAP, as they do not meet the qualifying requirements.

A SAP1 Exclusion Form will be issued to an employee if they are not entitled to Statutory Adoption Pay.

Adoption Leave

An employee is entitled to 52 weeks' unpaid Adoption leave.

11 Keeping in Touch Days

- 11.1 As well as an employee staying in contact with their workplace during their adoption leave, if the employee and the Line Manager/Head Teacher both agree, the employee can work up to a maximum of 10 days' during their adoption leave.
- 11.2 These are known as 'Keeping in Touch Days'. These can be 10 single days or in a block. They could be used for training days or other events. An employee may want to use some Keeping in Touch Days to ease your return to work.
- 11.3 Employees who work during their adoption leave will only be paid for the number of hours they have worked and not their contracted hours. Also, each attendance at work will count as 1 'Keeping in Touch Day' regardless of the number of hours worked.
- 11.4 The employee and Head Teacher/Line Manager must both agree that the employee will work these days and agree the arrangements, including what the employee will be doing.
- 11.5 It is up to the employee to choose whether to participate in a Keeping in Touch Day, equally the Head Teacher does not have to offer them to the employee. The Head Teacher cannot demand that the employee go into work at any time during their adoption leave period nor can the employee be penalised for refusing to take up a Keeping in Touch Day.

12 Payment for Keeping in Touch Days

- 12.1 An employee will be paid their standard day's pay on any Keeping in Touch Day you attend. If the employee is receiving any Adoption Pay during this time, the adoption pay will be increased to make up the employee's standard day's pay. The employee will not receive adoption pay and a standard day's pay. To claim payment for Keeping in Touch Day the employee will need to complete a form (from HR)

13 Local Government Pension Scheme

- 13.1 If an employee is a member of the Local Government Pension Scheme there are several options they need to consider when taking adoption leave. Detailed below are the various circumstances, which could apply.

1. If an employee retains the right to return to work:

- (a) Pension contributions will be deducted on the actual pay received during the employee's adoption leave period.
- (b) When no SAP or OAP is paid, contributions are deemed to have been paid for the 39-week notional adoption pay period. The employee will be given the option to pay for any period from the 40-week onward until the employee returns.

If OAP is not due, pension contributions will be deducted from all SAP payments made.

2. If an employee terminates their employment at the start of their adoption leave:

The last day of pensionable service is the day before an employee commences adoption leave. No further pension contributions will be deducted after this date.

When paid adoption leave ceases:

1. An employee may opt to pay pension contributions for any unpaid adoption leave. The employee should indicate their choice on a form (available from HR) when the employee notifies the Trust of their adoption matching. HR will contact the employee upon their return to work with full instructions of how to buy back lost pension.
2. An employee may opt not to pay pension contributions for any unpaid adoption leave. This service during the unpaid period will not count in any calculation of pension benefits.

Please see the below Questions and Answers section for more details referring to Pensions.

14 Returning to work

Notification of Return

- 14.1 A letter will be sent to the employee within 28 days upon receipt of their adoption notification form from HR Services stating the employee's latest return date.
- 14.2 If the employee wishes to return before their adoption leave expires the employee will need to give at least 21 days notice in writing to return to work early.

15 Interruption of Work

- 15.1 An employee can postpone their return to work if there is an interruption of work, i.e. industrial action. An employee can return when work resumes or as soon as is reasonably practicable afterwards. The employee does not need to give a new notification of return to work.

16 Not Returning to Work

- 16.1 If an employee decides not to return to work the employee should notify their Manager/Head Teacher, in writing, as soon as possible giving the correct period of notice, as detailed in their Statement of Particulars.
- 16.2 If an employee has received 12 weeks Occupational Adoption ½ Pay the employee will be required to repay this immediately.
- 16.3 If an employee does not return to work at the end of their adoption leave and has not notified their Manager/Head Teacher of any reason for not returning, their absences will be regarded as 'unauthorised' and treated accordingly.
- 16.4 In either event the Line Manager/Head Teacher will write to the employee asking the employee to confirm their intentions.

Frequently asked Questions and Answers

1. **When is the earliest I can start adoption leave?**

The earliest you can start your adoption leave is a pre-determined date no earlier than 14 days before the expected date of placement and no later than the expected date of placement.

2. **Will my adoption pay be affected if I reduce my working hours before I start my adoption leave?**

If you reduce your working hours before you start your adoption leave it will affect your adoption pay. Statutory Adoption Pay is calculated on your average earnings based on the last 2 payments at the qualifying week and Occupational Adoption Pay is based on your contracted weekly pay when you commence adoption leave.

3. **What if I want to resign before my adoption leave commences, am I still entitled to adoption pay?**

Your entitlement to statutory adoption pay will be unaffected provided you do not leave before 11 weeks prior to the week in which you are notified of having been matched with the child and you do not take up employment during the paid period.

4. **Am I still entitled to my annual leave during Adoption Leave?**

You can still take any annual leave due to you. If your adoption leave period extends up to or beyond the end of a current leave year you should aim to take your annual leave entitlement before you go on adoption leave. You may take annual leave at the beginning or the end of your adoption leave period but not during this period. The normal rules regarding the 'carry over of leave' will apply. Any outstanding leave not taken within your current leave year will be lost.

5. **Bank Holidays during Adoption Leave**

5a Am I entitled to any Bank Holidays during my Adoption Leave (for Non Term-Time Employees)?

Should a Bank Holiday fall within the maximum 52 weeks of your adoption leave, you are entitled to take the equivalent paid time leave, which must be taken before your return to work.

5b Bank Holidays during Adoption Leave (for Term-Time Employees)

Annual Leave and Bank Holiday entitlements must be taken within the school closure periods within your leave year, either side of your Adoption Leave period. Where this is not possible, agreement as to when the paid leave will be taken must be reached with your Line Manager.

6. **What happens if I am on Sick Leave?**

You cannot receive Statutory Sick Pay and Statutory Adoption Pay for the same period.

If you are unable to return to work following adoption leave due to sickness you will need to send a medical certificate from your GP to your Manager and the normal procedures for dealing with sickness absence will apply.

7. Will I lose my SAP/OAP if I leave work before the 11th week?

You will not qualify for OAP if you leave work earlier than 11 weeks before your expected week of placement. However, if you are only entitled to SAP you can leave work 15 weeks before the week in which you are notified of having been matched with the child although SAP payments cannot commence until 14 days before the expected date of placement.

8. What happens if I have more than one contract with the Trust I?

Your entitlement to OAP will be assessed separately. However, SAP will be assessed differently if your earnings for each employment are aggregated in accordance with national insurance regulations. You must commence adoption leave on the same date for each job. If all the qualifying conditions are met SAP payments will be paid on your primary (main) job only. You will not receive SAP payments on all your jobs; SAP is paid per person not per job.

9. What happens if I have another employment contract with another employer?

Your entitlement to OAP and SAP will be assessed on your employment with Victoria Academies Trust only. If you meet the qualifying rules, you may be entitled to payments payable by your other employer.

10. What happens if I change jobs?

If during your adoption leave period you are offered a new job within Victoria Academies Trust it will not affect your adoption rights.

11. What about any Career Opportunities that may arise when I am on Adoption Leave?

Being on adoption leave does not prevent you from applying for other posts within Victoria Academies Trust

12. What if I return back part time, will my 12 weeks' half pay be affected?

No.

13. Can I work for another employer whilst on adoption leave?

No, your SAP payments will stop if you start working for another employer. You must not undertake any paid work other than the agreed Keeping in Touch Days.

14. What do I need to do if I resign during my Adoption Leave?

If you resign during your adoption leave, after the period of adoption pay has finished, the date of termination is the date that you hand in your notice. If you have claimed half pay under the Occupational Adoption Pay scheme you will be asked to repay this immediately.

If you resign without returning to work, your P45 will be sent to you by Employee Services. If you are undecided whether or not you are going to return after the birth of the baby and you are entitled to OMP half pay you can choose to delay payment until you return to work.

15. If I choose to pay my pension contributions during an unpaid period of adoption leave, how will they be paid?

Whilst you are on unpaid adoption leave your pension contributions will be accumulated so that when you return to work, they can be collected. This is normally done in the first pay period following your return as full tax relief (where applicable) can be given to offset some of the cost. If this will cause you financial hardship arrangements can be made to spread the payment over several pay periods.

16. What happens if I choose not to pay my pension contributions during any unpaid period of adoption leave?

The period of service for which you choose not to pay pension contributions will not count towards the service used in the calculation of your pension benefits. You will be classed as having a break in service for pension purposes but not for your contract of employment. Think carefully about your choice as the contributions payable whilst on adoption leave are payable at a lower-than-normal rate which may mean a relatively small cost.

17. What happens to my pensionable service if I return to work on a part-time basis?

Your pension contributions will be calculated on the reduced rate of pay you will receive and your pensionable service will accrue on a pro-rata basis.

18. What happens to my pension if I do not return to work?

If you do not return to work you will cease to be a member of the pension scheme. If you have been a member of the scheme for less than three months you will be entitled to a refund of your contributions. If your membership is longer than three months your pension benefits will be “deferred” until you make a decision about your future.

19. Will there be any deductions made from my Adoption Pay?

Tax and national insurance contributions will be deducted from your adoption pay. Also Voluntary deductions will be deducted as well. If you are a member of the pension scheme, pension contributions will also be due but calculated on your reduced rate of pay. The payments will be made to your bank account on normal paydays.