




ADOPTION LEAVE & PAY FOR TEACHING 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 PERS104b policy.

1. Aims

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

This policy applies to all full-time and part-time teaching staff who are employed directly by the Trust.

3. What is Adoption Leave?

3.1 Adoption Leave is when a teaching member of staff takes time off to adopt a child or have a child through surrogacy arrangements.

3.2 The nominated primary carer of the child will be entitled to time off under this scheme. Employees who are secondary carers/adaptors are eligible to 10 days' leave in accordance with the Paternity Leave Scheme and may qualify for Shared Parental leave for Adoptive parents. The employee is required to indicate in writing which partner has been nominated as the primary carer.

4. The right to take adoption leave

All employees have an occupational entitlement to up to 52 weeks adoption leave.

To qualify for Statutory Adoption Leave employees must:

- give the correct notice
- give proof of the adoption or surrogacy.

To get Statutory Adoption Pay employees must:

- have worked for their employer continuously for at least 26 weeks by the week they were matched with a child
- earn on average at least £112 a week (before tax) (as at April 2015)
- give the correct notice
- give proof of the adoption or surrogacy

The rules are slightly different if an employee is adopting from overseas, fostering for adoption or having a child through a surrogacy arrangement.

5. Overseas adoptions

- 5.1 The conditions are the same except for both leave and pay employees must have worked continuously for Victoria Academies Trust for at least 26 weeks by the time they get their 'official notification'.

6. Fostering for adoption

- 6.1 Dual approved prospective adopters who have a child placed with them under section 22C of the Children Act 1989 with a view to them adopting that child (this is sometimes referred to as fostering for adoption) qualify for adoption leave and pay.

7. Parental Order

- 7.1 Employees, who are an intended parent in a surrogacy arrangement where he/she is eligible for and intend to apply for a Parental Order (or where they have already obtained such an order) making him/her the legal parents of the child that they are having with the help of a surrogate mother qualify for adoption leave and pay.

8. Exceptions

- 8.1 Employees don't qualify for Statutory Adoption Leave or Pay if they:

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a stepchild
- adopt a family member or stepchild

9. Time off to attend adoption appointments

- 9.1 Employees who have been notified by an adoption agency that a child is to be placed for adoption with them are entitled to take paid time off during their working hours to attend appointments up to the date of the placement of the child. The appointments may be for having contact with the child or meeting with the child's social worker or current carer.
- 9.2 Where a couple are adopting jointly, only one of them is entitled to take paid time off to attend up to five adoption appointments for up to six and a half hours on each occasion. (This limit applies irrespective of the number of children being adopted as part of the same arrangement).
- 9.3 The employee will be paid for the time they take off for the appointment(s).
- 9.4 Where a couple are adopting jointly, the employee who has not elected to take paid time off to attend appointments can elect to take unpaid leave of up to six and a half hours on two occasions only. Where a couple are not adopting jointly, the partner of an adopter is not entitled to time off work (paid or unpaid).

- 9.5 Where a single person is adopting, he/she is entitled to paid time off to attend up to 5 adoption appointments for up to six and a half hours on each occasion.
- 9.6 Appointments must have been made by or at the request of the adoption agency.
- 9.7 Where there are joint adopters, the adopter who takes paid time off to attend adoption appointments cannot subsequently claim paternity leave and pay. This means that the parent who intends to take adoption leave and pay is likely to take the paid time off for the adoption appointment and the other parent is likely to take the unpaid time off.
- 9.8 Parental Order parents are entitled to take unpaid leave to accompany the surrogate mother to up to two of her antenatal appointments.

10. Statutory Adoption Leave and Pay

10.1 Eligibility

To qualify for Statutory Adoption Leave, you must:

- be *newly matched with a child for adoption by an approved adoption agency.
- have worked continuously for SMBC for 26 weeks leading into the week in which you are notified of being matched with a child for adoption.
- have average earnings at or above the lower earnings limit for National Insurance contributions in the eight week period up to and including the matching week.

*Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children.

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

10.2 Entitlement

Under the Statutory Adoption Scheme, you are entitled to:

- 39 weeks ordinary adoption leave and pay based on the statutory rate or 90% of average weekly earnings if this is less.

Followed by:

- 13 weeks additional adoption leave that will be unpaid.

11. Occupational Adoption Leave and Pay

11.1 Eligibility

11.2 In addition to an employee's statutory right to adoption leave and pay, if the employee has one year's continuous teaching service including 26 weeks or more service with Victoria Academies Trust at the time of the commencement of the leave, the employee will also qualify for Occupational Adoption Leave and Pay.

11.3 Entitlement

Under the Occupational Adoption Scheme employees are entitled to:

- 90% of your current contracted weekly earnings for the first six weeks followed by
- 12 weeks at half pay, providing you return to work for three months following your adoption leave. (If you do not return to work, the 12 weeks half pay will be reclaimed back).
- A total of 52 weeks leave from the week in which your adoption leave commences.
- 4 half days paid leave. This is the time off for assessments undertaken in the prospective adopter's home by the adoption agency or for the introduction period to children.

11.4 Most pre-meetings and appointments connected with the adoption can be arranged for the evening. However, the Permanency Team have to undertake at least 4 assessments in a prospective adopter's home and these take approximately 2 hours each. As these normally have to take place during the day, up to 4 half days paid leave may be granted.

12. Obligations of the Employee

12.1 Notice of Intention to take Adoption Leave

12.2 The employee will be required to give notice of their intention to take adoption leave within 7 days of being notified by the adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. It is the employee's responsibility to inform the Head Teacher:

- when the child is expected to be placed with the employee and
- when the employee wishes for the adoption leave to start

12.3 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.

12.4 An employee will be able to change their mind about the date on which they want the leave to start providing they notify the Head Teacher at least 28 days in advance (unless this is not reasonably practicable). The employee will have to give the date they expect any payments of

Statutory Adoption Pay to start at least 28 days in advance, unless this is not reasonably practicable.

12.5 The Head Teacher will respond within 28 days to an employee's request for adoption leave. Also, the employee will be notified, of the date on which they are expected to return to work if the full entitlement to adoption leave is taken.

12.6 Matching Certificate

The employee will have to provide documentary evidence – a 'matching certificate' – from the adoption agency as evidence of the employee's entitlement to Statutory Adoption Pay. The onus is on the employee to ask their adoption agency for a matching certificate which will include basic information on matching and expected placement dates.

- 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.

13. Schemes for Adoption Leave and Pay

13.1 Scheme 1 – Occupational and Statutory Adoption Leave and Pay

If employee has:

- a. one year or more years continuous Teaching Service at the time of commencement of adoption leave, and
- b. 26 weeks or more continuous service with Victoria Academies Trust when newly matched with a child for adoption by an approved adoption agency, and
- c. Employees average earnings are at or above the lower earnings limit for National Insurance contributions in the eight week period up to and including the matching week.
- d. The employee is entitled to the following:

Adoption Pay

- 6 weeks at 90% of current contractual pay (Occupational Adoption Pay) or 6 weeks Statutory Adoption Pay (whichever is greater).
- followed by 12 weeks half pay (see note below) plus Statutory Adoption Pay.
- followed by 21 weeks Statutory Adoption Pay or 90% of average weekly earnings, if this is less.

Note:

To qualify for the 12 weeks half pay the employee is required to return to work for a period of 13 weeks following adoption leave. If the employee is undecided, they can request that the 12 weeks half pay is withheld until they return to work. This will not affect the employee's statutory entitlement.

If the employee does not return to work you will have to repay the 12 weeks half pay.

Adoption Leave and Pay

The above will be paid as follows:

- Weeks 1 – 6 90% of Contractual weekly pay
- Weeks 7 – 18 12 weeks at half pay plus Statutory Adoption Pay
- Weeks 19 – 39 Statutory Adoption Pay only.

In addition to the above 39 weeks paid adoption leave, the employee is also entitled to a further 13 weeks additional unpaid adoption leave.

A total of 52 weeks leave

13.2 Scheme 2 – Statutory Adoption Leave and Pay Only

If an employee has less than one year's continuous Teaching Service, but 26 weeks continuous service with Victoria Academies Trust leading into the week in which the employee is notified of being matched with a child for adoption, the employee is entitled to the following:

Adoption Pay

39 weeks Statutory Adoption Pay paid at the statutory rate or 90% of average weekly earnings, if this is less.

Adoption Leave

In addition to the above 39 weeks paid adoption leave, you are also entitled to a further 13 weeks additional unpaid adoption leave.

A total of 52 weeks leave

13.3 Scheme 3 – Occupational Adoption Leave and Pay Only

If an employee has less than 26 weeks continuous service with Victoria Academies Trust at the matching week, but one year or more continuous Teaching Service at commencement of adoption leave, the employee is entitled to the following:

Adoption Pay

- Up to 4 half days paid leave for assessments or for the introduction period to children (to be taken prior to adoption leave).
- 6 weeks at 90% of your salary.
- 12 weeks half pay*.

*To qualify for the 12 weeks half pay the employee is required to return to work for a period of 13 weeks following your adoption leave. If an employee is undecided, the employee can request that the 12 weeks half pay is withheld until they return to work.

If the employee does not return to work the employee will have to repay the 12 weeks half pay.

Adoption Leave

An employee is entitled to 29 weeks leave from the week in which the child is placed with them for adoption.

A total of 29 weeks leave of which 18 weeks is paid.

Scheme 4 – Adoption Leave Only

If an employee has less than 26 weeks Teaching Service at the qualifying week and no previous Teaching Service with any other Authority, the employee is entitled to the following:

Adoption Pay

Not applicable.

Adoption Leave

The employee is entitled to 26 weeks unpaid Adoption Leave only.

14. Keeping in Touch Days

- 14.1 As well as an employee staying in contact with their workplace during their adoption leave, if the employee and the Head Teacher both agree, the employee can work up to a maximum of 10 days' during their adoption leave.
- 14.2 These are known as 'Keeping in Touch Days'. 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.
- 14.3 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.
- 14.4 The Head teacher cannot insist that the employee carry out any work, and equally, the employee cannot insist on being given any work to do.
- 14.5 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.

Note: if an employee wishes to attend a half day this is classed as one full day from the Keeping in Touch Day entitlement.

15. Payment for Keeping in Touch Day

- 15.1 An employee will be paid their standard day's pay in line with the School Teachers Pay and Conditions Document, (including any TLR payments) from their substantive post, on any Keeping in Touch Days they 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. To claim payment for Keeping in Touch Day, the employee will need to complete a form from HR)

16. Conditions of Employment and General Information

- 16.3 An employee's terms and conditions of employment are not affected during or after the adoption leave provided, they comply with their obligations. During adoption leave the employee is entitled to receive the same benefits as they would if they were at work with the exception of normal pay.

16.4 Training and Development

- 16.4.1 If an employee is undertaking any training or development opportunities and wish to continue with these while they are on adoption leave, they may do so.
- 16.4.2 When an employee returns to work the Head Teacher should provide the employee with the opportunity to undertake any refresher training that is appropriate. The length of time an

employee has been away from work may determine the nature and scope of such training and the employee should discuss their particular needs with the Head Teacher.

16.5 Career Opportunities

16.5.1 Being on adoption leave does not prevent an employee from applying for other posts within Victoria Academies Trust.

16.6 Voluntary Subscriptions

16.4.1 The employee must make their own arrangements to pay voluntary contributions, for example union subscriptions, whilst they are on no pay during their adoption leave.

16.7 Termination of Contract

16.5.1 If an employee resigns during their adoption leave, after the period of adoption pay has finished, the date of termination is the date that the employee hands in their notice. If the employee has claimed 12 weeks half pay under the Occupational Adoption Pay Scheme the employee will be asked to repay this immediately.

16.8 Deductions from Adoption Pay

16.6.1 Tax and national insurance contributions will be deducted from an employee's adoption pay. If the employee is a member of the Teachers' Pension Scheme, pension deductions will also be due.

16.9 Returning Part Time

A full-time teacher who returns to work part-time will need to return for a period which equates to 13 weeks full time service to retain half pay.

17. Other Information

17.3 If more than one child is adopted under the same placement, only one period of adoption leave is available.

17.4 If the placement ends during the adoption leave period, the employee will be able to continue adoption leave for up to 8 weeks after the end of the placement.

17.5 Teachers wanting to claim Adoption Leave and Pay must complete a form (from HR).

18. Teachers' Pension Scheme

18.1 If the employee is a member of the Teachers' 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 the employee return to work:

Pension contributions will be deducted on the actual pay received during the adoption leave period. Where the half pay has been withheld (Occupational Scheme), this will still be taken into account to calculate pension contributions.

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

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

18.2 When Paid Adoption Leave Ceases:

1. The employee may opt to pay pension contributions for any unpaid adoption leave. This is based on combined employee and employer contributions and the employee must apply direct to Teachers Pensions. The appropriate forms are available from HR Services. Service for this period will then count in full.
2. If the employee does not wish to pay pension contributions for any unpaid period, this service will not count in any calculation of pension benefits.

If you require any further assistance, please contact your Local Pension Scheme.