

Fioretti Trust

 *Aspiration*  *Wisdom*  *Compassion* 

Adoption Leave -Teachers

Approved by:	Trust Board	Date: May 2024
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Last review:	December 2023
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Next review:	December 2024
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This policy supersedes all previous adoption leave for teachers policies

Adoption Leave - Teachers

Summary

This section gives full details of adoption leave and pay for teachers, together with guidance on applying the adoption leave scheme and statutory regulations.

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Occupational adoption leave and pay

Adoption leave is included in the [Birmingham Teachers’ Maternity Leave Scheme](#), which has been adopted for teachers employed by the Birmingham local authority, because it is better than that in the Burgundy Book. Fioretti Trust has decided to adopt the same policy as Birmingham.

This scheme is for teachers who, having the appropriate length of service, intend to return to work after their adoption leave and to do so for the required minimum period. It provides some better benefits than the statutory minimum.

If teachers simply exercise their statutory rights to return without committing themselves to return for the minimum period specified in the occupational scheme they will only be entitled to statutory adoption pay (see below) and not occupational adoption pay.

Statutory adoption leave and pay

A summary of the [statutory rights](#). In addition, from 5th April 2015 employees do not need a qualifying period of service to be entitled to adoption leave, although they still need such a period in order to qualify for shared parental leave. The qualifying period of service for adoption pay, remains. Surrogate parents are eligible for adoption leave. There is a right to time off to attend adoption

appointments for those adopting. The main adopter is able to take paid time off for up to five adoption appointments once he or she has been matched with a child; the secondary adopter has the right to unpaid time off for up to two appointments.

A teacher is entitled to take advantage of whichever right, statutory or contractual, is the more favourable effectively mixing the contractual and statutory schemes. In recognition of this, contractual schemes have been amended from time to time to take account of new statutory rights.

Statutory Adoption Pay is payable to teachers who satisfy Government regulations even if they do not intend to return to work. It is less generous than Statutory Maternity Pay, as it is limited to the standard sum or 90 per cent of earnings, whichever is the less. If the employee's fixed-term contract ends during the SAP period the contract will not be extended or renewed and the employee will be offered the choice of receiving the remaining SAP on a monthly basis or receiving it as a lump sum on the termination of the contract. The payments will be subject to normal deductions

For information on [Statutory Adoption Pay](#)

Statutory adoption pay will be offset against occupational adoption pay to the extent that no employee receives more than the equivalent of full pay.

How to arrange adoption leave

The employee should notify the Headteacher of the intention to take adoption leave, providing documentary evidence from the adoption agency. The Headteacher must contact the Trust's Central Team who will use the information provided to ensure that the employee is provided with information on occupational and statutory adoption leave and pay as appropriate, is notified of his or her entitlement according to the particular circumstances, and is informed of obligations on the employee including what to do if wishing to return early from adoption leave. The Headteacher will also ensure that payroll has the correct information for paying adoption pay.

Costs of adoption leave

From 1st April 2013 schools will meet the full costs of each adoption as well as maternity leave for their employees and Payroll will continue to recover the 92% of Statutory Adoption Pay (SAP) on their behalf. Payroll will do this by reducing the monthly National Insurance Contributions paid to HMRC by the value of 92% SAP. Schools will have to meet the cost of the difference between full cost of the occupational maternity pay and the 92% SAP. Schools will therefore, only continue to see the 8% difference on their reports.

Resignation

Instead of taking adoption leave, teachers who wish to care for their children full-time have the option of submitting their resignation. If they are uncertain about this before the adoption they may indicate an intention to resign and defer the actual resignation until after the adoption. There are various reasons for delaying a decision including changes in a parent's personal circumstances during the adoption leave. For pension purposes it is also better to defer resignation until after the adoption. Due regard must however be paid to requirements for normal notice periods.

Returning to work but not for the period required as a condition of occupational adoption pay

If an employee resigns before completing the minimum period for which she is required to return the authority exercises its discretion regarding repayment of adoption pay to allow her to retain a proportion of her occupational adoption pay (over and above statutory adoption pay, which the employee is entitled to retain) corresponding to the proportion of the minimum period which she has completed. In exceptional circumstances the whole of the repayment may be waived. Enquiries should be directed to the Trust's Central Team in the first instance.

Successive adoptions without returning to work

For a teacher who starts a second period of adoption leave before returning to work from the first period, the combined leave is treated as a single period for the purpose of discharging the requirement to return to duty for the minimum period of thirteen weeks as defined in the scheme.

Sickness and adoption leave

A teacher who is taking adoption leave under the appropriate contractual scheme and who is not able to return on the date already specified as the date of return because of sickness will be treated as on sick leave if he or she produces a medical certificate.

The situation for a teacher who is not taking the benefits of the Birmingham scheme and relying simply on her statutory rights is more complicated, and advice should be sought from the Trust's Central Team.

Annual leave and adoption leave

Teachers who do not return to work and who have been unable to take their statutory annual leave entitlement during the period of adoption leave because that has coincided with the whole of the preceding school year are entitled to payment instead of that leave. Teachers who do return to work will be able to take their statutory annual leave for both the previous and current years during the school holidays of the year of return. This is because teachers do not have a contractual leave entitlement and periods of school closure are long enough to cover two years' statutory leave entitlement in one year. For the purposes of statutory annual leave under the Working Time Regulations, it has been agreed locally that the teachers' leave year runs from 1st September to 31st August. Teachers are required to take their statutory annual leave during periods of school closure. The Working Time (Amendment) Regulations 2007 improved the statutory annual leave entitlement for employees, increasing it to 28 days (or 5.6 weeks) in April 2009.

Employees moving jobs during adoption leave

A teacher who comes to Birmingham from another authority during their adoption leave will be allowed to continue that leave and will receive payments according to the Birmingham scheme for such part of the adoption leave as may be outstanding.

Adoption leave and pension contributions

Unpaid adoption leave does not count as reckonable service for pension purposes. Members of the Local Government Pension Scheme may elect to continue paying contributions during the period of unpaid leave, but since January 2007 this option has not been open to teachers, who can however buy additional pension. If a teacher does not return to work after adoption leave and resigns, their

pensionable employment will end on the leaving date or the date on which adoption pay ends, whichever is the earlier. Teachers in these circumstances who wish to accumulate as much pensionable service as possible should therefore be advised to defer resignation until the end of their Statutory Adoption Pay period, but in that case they will have to repay occupational adoption pay in excess of the Statutory Adoption Pay. Those who do not wish to accumulate pensionable service may resign part way through their paid adoption leave and will continue to receive Statutory Adoption Pay if eligible, but without pension contributions being deducted after the date of resignation.

'Keeping in touch' days

Employees may spend up to ten 'keeping in touch days' at work during their adoption leave without interrupting that leave. The arrangement must be by mutual agreement; the employer is not obliged to offer the opportunity and the employee has no right to come into work without the employer's consent. Part of a day counts as one of the ten days. Employees on adoption leave in schools have to be paid in accordance with that part of their terms and conditions of employment dealing with adoption pay. At present the adoption leave schemes for teachers and support staff do not provide for extra payment for 'keeping in touch' days. When attending work for such a day, therefore, an employee must continue to receive any statutory and occupational adoption pay to which they are entitled, but may not be paid anything over and above that entitlement. However, if the employee incurs reasonable expenses, for example for childcare, the school may reimburse those expenses, subject to evidence of the expenses incurred.