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Adoption Policy

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1 Introduction

1.1 Scope

This policy applies to all employees of the School.

1.2 Equality Statement

This policy applies equally to School employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

1.3 Definitions/Meanings

OAL – Ordinary adoption leave, i.e. covers weeks 1 - 26 of adoption leave

AAL – Additional Adoption Leave, i.e. covers weeks 27 - 52 weeks of adoption leave

SAP – Statutory Adoption Pay

2 Adoption Scheme

The following scheme contains provisions which are **applicable to the main adoptive parent**, of a child who is under the age of 18, matched for or placed for adoption. The Adoption Scheme is in line with statutory provisions and the provisions of the School's Maternity Scheme.

The School is keen to support employees who adopt children and will apply the following arrangements:-

Where partners are adopting jointly, they may choose who is to be the 'main' adoptive parent. The main adoptive parent can take the entitlement to adoption leave and adoption pay and the other parent may take 'Adoption Support Leave' (also known as Paternity Leave). In both cases **a man or woman can apply**. Adoption leave/pay and adoption support leave/pay cannot be taken by the same person under the same arrangement nor can partners of different employers both apply for the same entitlement (i.e. a husband and wife or civil partners who work for two different organisations cannot both apply for adoption leave/pay with each employer). Please also see separate policy relating to Paternity (Maternity/Adoption) Support, available on school website.

Only one period of adoption leave and pay can be taken in the case of a multiple adoption (i.e. where more than one child is adopted as part of the same arrangement).

The Adoption Scheme is only available to those who have been notified of being **newly matched with a child**. It does not apply where existing 'step-children' or fostered children are formally adopted.

An adoptive parent who asserts their statutory right to adoption leave has certain rights under the law. These rights are as follows:

- The right not to be dismissed or discriminated against for any reason connected with requesting or taking adoption leave.
- The right to receive statutory adoption pay.
- The right to take statutory adoption leave and return to work.

These rights are available to all employees, regardless of whether they work full- or part- time or are 'permanent' or 'temporary'.

3 Notification requirements

No later than **7 days after being notified of matching**, the adoptive parent will be required to formally notify their line manager of the following:

- That they are adopting.
- The expected date of placement.
- The name and date of birth of the child.
- The date when they intend to start their adoption leave and begin receiving adoption pay if they qualify for it.

In the case of adoption of a child from overseas, the adoptive parent must, **within 28 days of receipt of the official notification**, formally notify the School of all of the above information, together with the following:

- The date on which the official notification was received; and
- The date on which the child is expected to enter the UK.

The School requests that this information is provided where the School purchases Torbay's Payroll via the Adoption Leave Plan form which is an online form within the MyView Payroll system.

The adoptive parent must also provide the School with the actual date of placement once this is confirmed.

In the case where it is not reasonably practical for the employee to provide notification within 7 days of being informed of matching, notice should be provided as soon as reasonably practicable. In exceptional circumstances, the adoptive parent will not be expected to provide the information in writing if they are not able to do so, but they should provide documentary evidence where required.

An adoptive parent may change the start date of the adoption leave providing they provide notification **at least 28 days in advance of the start of their leave** (unless this is not reasonably practicable).

Documentary evidence in the form of an original '**Matching Certificate**', provided by the adoption agency when the adoptive parent is matched with a child, is also required and should be forwarded to Human Resources. The matching certificate should be provided at least 28 days before the date the adoption leave and pay is due to start, unless there is good reason for a delay.

The documentary evidence should include:

- The name and address of the agency.
- The name and address of the adopter.
- The date on which the adopter was notified that they had been matched with the child.
- The date on which the agency expects to place the child with the adopter, and if the placement has already occurred, the date of the placement.

The School will (via its payroll provider) send an acknowledgement letter responding to an adoptive parent's notification of their adoption leave plans, giving an indication of entitlement to adoption pay and the return to work date. Confirmation of Adoption Pay will be sent out to the employee approximately 4 weeks before the start date of their adoption leave giving a full breakdown of the weekly adoption pay and benefits that will be paid (if entitled).

3.1 Pre-placement meetings

All employees are entitled to paid time-off to attend up to five pre-placement appointments. The employee should provide their line manager with evidence of an appointment each time they request time off work.

In addition, the School will also authorise the following for those who qualify for contractual adoption pay:

- **Up to 5 days paid leave** for visits etc. near to the date of placement and for subsequent attendance at court, provided reasonable notice is given and organisational requirements are not unduly disrupted.

4 Adoption Leave

Adoption leave may start on any day of the week either from: a) the date of the child's placement; or b) from a fixed date which can be up to 14 days before the expected date of placement. The latest adoption leave can start is the actual date of the child's placement.

In the case of overseas adoption, the period of adoption leave may begin on the date on which the child enters the UK or on a pre-determined date that is no later than 28 days after the date on which the child entered the UK.

Adoptive parents qualify for adoption leave from day one of their employment, there is no qualifying service required. An employee can qualify for 26 weeks ordinary adoption leave and 26 weeks additional adoption leave, 52 weeks leave in total.

The adoptive parent may choose to take less than the full entitlement provided.

There is the option of the main adoptive parent 'sharing' their statutory adoption leave and pay with their partner. For further details see the School's Shared Parental Leave Policy.

4.1 Pension Arrangements During Adoption Leave

If the employee is a member of the **Local Government Pension Scheme**, pension contributions will be paid and deducted from pay in the usual manner and at the same percentage rate during the period of **paid** adoption leave.

Any periods of authorised **unpaid** adoption leave will not be treated as pensionable and will reduce the amount of pension earned during the year. Employees can, however, choose to pay Additional Pension Contributions (APC) to buy the 'lost' pension. **Employees can elect to pay an APC within 30 days of returning to work and the School will pay 2/3rds of the APC.**

If the employee elects to pay an APC after 30 days of returning to work, the School will not be required to make a contribution and the employee will bear the full cost. For employees who want to pay additional contributions to buy the 'lost' pension for this period, they should complete the LGPS Calculator below and return one copy of their completed application form to Peninsula Pensions and the other copy to:- Torbay Council, Lower Ground Floor, Town Hall, Torquay, TQ1 3DR. For any queries in completing the application for, please contact Pensions, Tel: 01803 207410.

Link to LGPS Calculator:- <http://lgps2014.org/apc/lostMPF.php>

4.2 Surrogacy

Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take statutory adoption leave. Employees in a surrogacy arrangement and who wish to take adoption leave should complete an Adoption Leave Plan and return it to SBM. The Adoption Leave Plan can be accessed via My View.

4.3 Terms and Conditions during Adoption Leave

During the period of Ordinary and Additional Adoption Leave **terms and conditions of employment, apart from receipt of normal pay, continue**. This includes, for example, accrual of annual leave and any other contractual benefits that the employee may be receiving, such as payment of child-care vouchers. The employer's duty of trust and confidence, and any terms which relate to notice of termination by the employer, redundancy pay, grievance and disciplinary procedures will also continue. The employee's duty of good faith is maintained, as are any terms relating to notice on termination, disclosure of confidential information, the acceptance of gifts or other benefits, and involvement in any other business.

Pay awards and other improvements to benefits continue in the normal manner as if the adoptive parent was still at work.

4.4 Delayed Placements

If the adoptive parent's placement is delayed for whatever reason and they have already begun their adoption leave, they will not be able to stop their leave and start it again at a later date, unless it becomes a disruptive placement.

4.5 Disruptive Placements

If Ordinary Adoption Leave (OAL) has begun and is disrupted because: a) the adoption agency notifies the adoptive parent that the child will not be placed with him or her; or b) the child dies; or c) the placement ends, and in either case more than 8 weeks of OAL remain, the adoptive parent will be able to continue OAL for up to 8 weeks after the end of the week in which the disruption occurred.

If Additional Adoption Leave (AAL) has begun and is disrupted because: a) the placement ends; or b) the child dies, and in either case more than 8 weeks of AAL remain, the adoptive parent will be able to continue AAL for up to 8 weeks after the end of the week in which the disruption occurred.

Relevant notice of an early return must still be provided in line with the specified notice periods.

4.6 Working during Adoption Leave

Where an employee is expecting to have a child placed with them, they will be able to work up to 10 days during their adoption leave without bringing their adoption leave to an end ('work' is defined as being any work done under contract of employment and may include training or any activity undertaken for the purpose of keeping in touch with the workplace). This will also extend to their entitlement to receive SAP and **provided that the employee**

works no more than 10 days during their adoption leave, they will not lose any SAP. Any work carried out whilst on adoption leave will not have the effect of extending the period of adoption leave.

Any time worked as a 'Keeping in Touch Day' will be paid at the employee's normal full rate of contractual pay and will be paid in hours. The payment will be off-set against any SAP payment that the employee may be receiving. Working for part of a day will be recorded as one full Keeping in Touch day, e.g. if the employee works for 2 hours, this will be recorded as one Keeping in Touch day and will count against their 10 day allocation .

A 'Keeping in Touch' form will need to be completed by the line manager and returned to Payroll to ensure that the employee is paid at their usual contractual rate of pay for any hours worked **(up to a maximum of 10 days). The form is available via SBM.**

The School cannot insist that the employee carries out any work and is protected from suffering a detriment or being dismissed for refusing to do so. Equally, an employee cannot insist on being given any work to do.

4.7 Contact during Adoption Leave

It is reasonable to expect that the employee and their manager should remain in contact during the employee's period of adoption leave. This does not constitute 'work' and therefore does not form part of the 10 working days described above nor does such contact bring the adoption leave period to an end. This contact time aims to keep the channels of communication open between the employee and their manager during the leave period and also ensures that the employee is kept informed of workplace issues. Typical issues that *may* be discussed are: significant changes/workplace developments, training opportunities, job vacancies, return to work arrangements and any other work issues which may affect the employee. An employee's informal visits to their office location/normal place of work may also constitute contact time.

5 Shared Parental Leave

Eligible adoptive parents can share adoption leave and pay under Shared Parental Leave arrangements. Shared parental leave enables parents to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

For more information please refer to the School's Shared Parental Leave Policy.

6 Adoption Pay

The Adoption Pay Period lasts 39 weeks.

Adoption leave and pay can begin on any day of the week. If the last day of work is Monday and adoption leave starts on a Tuesday, adoption pay will start from the Tuesday and the 'adoption pay weeks' will run from Tuesdays to Mondays.

The adoptive parent is entitled to adoption pay if he or she:-

- Is the person with whom a child is, or is expected to be, placed for adoption under the law of the United Kingdom;
- has ceased working for the School in order to take adoption leave;

- in the case of statutory adoption pay, has normal weekly earnings for the period of eight weeks ending with the week in which the adoptive parent is notified of being matched with the child which are not less than the lower earnings limit for the payment of NI contributions;
- has notified the School in writing.

Adoption pay will cease in any week following the week in which the adopted child reaches 18 years of age.

Type	Qualifying service	Duration/Amount
Statutory	Employed by the current School (current employer) continuously for at least 26 weeks ending with the week in which the adoptive parent is notified of having been matched with the child by the adoption agency.	Statutory Adoption Pay (SAP):* 6 weeks at 90% of salary (weeks 1 - 6). 33 weeks at the SAP rate per week (weeks 7 – 39). *See <i>Maternity, Adoption, Support (Paternity) Pay Guidelines</i> for Pay Rates from 1 st April.
Contractual (Green Book – applies to all School support staff)	1 year’s Local Government service ending with the week in which the adoptive parent is notified of having been matched with the child by the adoption agency.	6 weeks (weeks 1 – 6) at 90% salary (offset against SAP payments). Followed by:- 12 weeks Half Pay (from week 7). The entitlement to Half Pay is fully recoverable if the employee does not return to work for the School for three complete months (immediately following adoption leave, and any other leave that is taken following on from a period of adoption leave for instance, parental leave). and 33 weeks (weeks 7- 39) of SAP weekly rate, if entitled. SAP is in addition to Contractual Adoption Pay (Half Pay) but Half Pay plus SAP cannot exceed full pay.
Contractual (Burgundy Book –School teachers)	1 year’s Local Government service ending with the week in which the adoptive parent is notified of having been matched with the child by the adoption agency.	4 weeks (weeks 1 – 4) at full salary (offset against SAP payments). 2 weeks (weeks 4 – 6) at 90% salary (offset against SAP payments).

		<p>Followed by:-</p> <p>12 weeks Half Pay (from week 7). The entitlement to Half Pay is fully recoverable if the employee does not return to work for the School for three complete months (immediately following maternity leave, and any other leave that is taken following on from a period of maternity leave for instance, parental leave).</p> <p style="text-align: center;">and</p> <p>33 weeks (weeks 7- 39) of SAP weekly rate, if entitled.</p> <p>SAP is in addition to Contractual Adoption Pay (Half Pay) but Half Pay plus SAP cannot exceed full pay.</p>
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The amount of adoption pay received is based upon average earnings in the **8 weeks up to and including the ‘qualifying week’**, which is the week in which the adoptive parent is notified of matching.

An adoptive parent who wishes to discuss a variation in the distribution of the 12 weeks Half Pay entitlement during the remaining 20 weeks should contact their Payroll provider. Any variation must be mutually agreed between the adoptive parent and the School.

*Adoptive parents who are not entitled to SAP may be entitled to other benefits. Payroll will be able to confirm whether an adoptive parent qualifies for SAP. Employees may also check with the Benefits Agency/Jobcentre Plus whether they would qualify for SAP or other benefits.

7 Annual Leave

7.1 Statutory Annual Leave for Teaching staff

Teachers do not have a contractual entitlement to paid annual leave nor a specified annual leave year, however, they are entitled to 28 days’ statutory annual leave under the Working Time (Amendments) Regulations.

This means that a teacher who takes adoption leave must be able to take the 28 days statutory annual leave at a time outside of their adoption leave. The School may not treat any part of the adoption leave period i.e. ordinary adoption leave (OAL) or additional adoption leave (AAL), as annual leave;

Annual leave entitlement can be offset by any period of School closure that has taken place in the leave year in question, i.e. both before and after the adoption leave period, and a teacher should be advised prior to commencing their adoption leave that they have a statutory entitlement to 28 days annual leave and that this should be taken either before or after the adoption leave period during School closure periods. On their return from adoption leave, a teacher must be allowed to take any outstanding leave during term time during that leave year if there are insufficient School closures to accommodate their leave in that leave year;

Where the return from adoption leave is so close to the end of the leave year that there is not enough time to take all their annual leave entitlement, a teacher must be allowed to carry over any balance of their leave to the following leave year. A teacher can be required to take this during the remaining periods of School closure after the 28 days' annual leave for that leave year has been accommodated;

It is not possible for either the teacher or the School to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e. in School closures or in term time;

It will not usually be possible for a teacher to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. As an employee has 28 days leave under the WTR, the accrual of leave is not affected by what stage of adoption leave an employee is at or whether they are receiving pay.

7.2 Annual Leave for Support Staff

Where support staff are concerned, Schools should have regard to ensuring that their employees do not lose out on their entitlement to paid annual leave whilst on Adoption Leave. Where an employee in School would be deemed to be on annual leave during a period of School closure but cannot take this because they are on Adoption leave, the School may need to make alternative arrangements to ensure this employee receives their entitlement to paid leave. Any School wishing to clarify the arrangements for individuals should contact Human Resources for advice.

8 Returning to Work

An adoptive parent who has taken adoption leave is **entitled to return to the same job on terms and conditions of employment as if they had not been absent**. Where it is not practicable, for instance by reason of redundancy, for the School to permit the adoptive parent to return to work in their job, the adoptive parent shall be entitled to be offered a suitable alternative vacancy where one exists.

Consideration will be given to the full range of flexible working arrangements when requested by an adoptive parent returning to work after adoption leave, including a temporary reduction in hours. Any adjustments should be discussed with the line manager as soon as reasonably practical and made in accordance with procedures.

Consideration will be given to introducing the adoptive parent back to the workplace by providing any necessary training or updating.

Unless otherwise notified, it will be assumed that the adoptive parent will return to work at the end of their adoption leave as stated in the Adoption Leave Plan. The adoptive parent is therefore expected back to work on the next working day after adoption leave finishes. NB. Where an employee's Adoption leave ends during a period of School closure, this will still be deemed as being back to work.

Payroll will need to be informed by the employee's line manager when the adoptive parent is due back to work in order to ensure that they are paid correctly and on time. (The form 'Change to Employment Details' should be used, or where the employee returns to a new job (i.e. with new post number), a New Starter's information should be completed and sent to Payroll).

Where the adoptive parent is granted a period of annual leave or parental leave at the end of the adoption leave period, the adoptive parent will be regarded as 'back to work' following adoption leave and on annual or parental leave etc. Normal procedures and entitlements apply when booking any other leave at the end of adoption leave.

8.1 Notification of Early Return to Work

Employees on Green Book terms and conditions of employment (support staff)

Where this employee wishes to come back to work early during maternity leave, they will need to give the School:

- **21 days' notice** of the date they want to return to work following **Ordinary Adoption Leave** *or*
- **21 days' notice** of the date they want to return to work following **Additional Adoption Leave**
- (These are contractual notice periods which will prevail over the current statutory notice period which is 8 weeks).

Employees on Burgundy Book terms and conditions of employment (teaching staff)

Where this employee wishes to come back to work early during maternity leave, they will need to give the School:

- **21 days' notice** of the date she wants to return to work following **Ordinary Adoption Leave** *or*
- **21 days' notice** of the date she wants to return to work following **Additional Adoption Leave**.
- (These are contractual notice periods which will prevail over the statutory notice period, currently 8 weeks)

If an adoptive parent wishes to change their early return to work date to an even earlier date, or to postpone their early return date to a later date, they will need to give the School notice in accordance with the above time periods. The School will be required to forward this information to Payroll via email, who will then amend the employee's record.

If an adoptive parent returns to work before the end of the period in which they are entitled to receive any adoption pay (which currently lasts 39 weeks), they will not receive the full entitlement to adoption pay and instead, will receive pay in accordance with their contracted hours.

If the adoptive parent does not give the required notice, the School reserves the **right to postpone** their return until the required notice has been given, or up until the day they would have been expected back.

If an adoptive parent is unable to return to work at the end of a period of adoption leave because of sickness, normal sickness absence procedures apply.

An adoptive parent who does not want to return to work following adoption leave should give the School notice as per their terms and conditions of employment. Once resigned, the adoptive parent loses their statutory right to return to work after adoption leave and any contractual 'Half Pay' entitlement will be lost. Annual leave will accrue up to the last day of service and not the last day worked.

8.2 Sick Leave – at the end of Adoption leave

If an employee is unable to return to work at the end of the period of adoption leave because of sickness, then the period of adoption leave will end and the absence will be treated as sick leave and the normal sickness absence procedures apply.

9 Appendix 1 – Example of Teachers Accrual of Statutory Annual Leave

Teachers are entitled to 28 statutory day's annual leave per year under the Working Time Regulations. In most cases they will have had their leave entitlement in periods of School closure before or after maternity or adoption leave. However, assuming that the leave year for accrual of annual leave entitlement is from 1 September, in line with the academic year, the following examples would apply.

9.1 Scenario 1

The teacher starts maternity or adoption leave on 1 October and takes Ordinary Maternity Leave (OML) or Ordinary Adoption Leave (OAL) only.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
		OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL					
School closures		1wk		2wks Xmas		1wk		2wks** Easter	1 wk		2wks	4wks

** March or April

The teacher will benefit from up to 9 weeks of closure during Easter, July and August so there will be no additional entitlement to annual leave.

9.2 Scenario 2

The teacher starts maternity or adoption leave on 1 March and takes Ordinary Maternity Leave (OML) or Ordinary Adoption Leave (OAL) only.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
							OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL
School closures		1wk		2wks Xmas		1wk		2wks** Easter	1 wk		2wks	4wks

The teacher will already have had the benefit of 4 weeks (20 days) of School closure in October, December and February. There will be an additional entitlement of 8 days which will be carried over to the next leave year as the

teacher is returning on 1 September. This will be taken following the first 28 days of annual leave entitlement in School closure periods.

9.3 Scenario 3

The teacher starts maternity or adoption leave on 1 October and takes Ordinary Maternity Leave (OML) or Ordinary Adoption Leave (OAL) & Additional Maternity Leave (AML) or Additional Adoption Leave (AAL).

Leave Year 1

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
		OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	AML/ AAL	AML/ AAL	AML/ AAL	AML/ AAL	AML/ AAL
School Closures		1wk SC		2wks Xmas		1wk SC		2wks** Easter	1 wk		2wks SC	4wks SC

Leave Year 2

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
	AML/ AAL											
School Closures		1wk SC		2wks Xmas		1wk SC		2wks** Easter	1 wk		2wks SC	4wks SC

Leave year 1 – the teacher has had no annual leave but has an entitlement to 28 days which will be carried over to the next leave year on her return from maternity leave.

Leave year 2 – the teacher will benefit from 13 weeks of School closure. This will include her 28 days entitlement for that leave year (which will be taken in the October, December, February and first 8 days of the April School closure periods) and the 28 days entitlement from Leave year 1. She will not be entitled to any additional leave.

9.4 Scenario 4

The teacher resigns and does not return at the end of the maternity or adoption leave period.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
					OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL		
School		1wk		2wks		1wk		2wks**	1 wk		2wks	4wks

Closures		SC*		Xmas		SC		Easter			SC	SC
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The teacher has not worked a full leave year and will be entitled to a pro rated statutory annual leave entitlement (10 months entitlement =23 days approx¹). The teacher will have already had 3 weeks (15 days) in School closure periods (October and December) so 8 days pay in lieu will be due on termination.

Please contact Payroll who will calculate pay in lieu of annual leave.

10 Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy mailbox –

HRpolicy@torbay.gov.uk

10.1 History of Policy Changes

Date	Page	Details of Change	Agreed by:
March 2011	Various	Separate out Maternity, Adoption and Paternity from former Maternity, Adoption and Paternity Scheme.	
March 2011	Various	New information relating to Additional Paternity Leave	For info only – Schools’ JCC 23.3.2011
April 2015	8	Addition of new section – Pension Arrangements During Adoption Leave	For info only – legislation change
April 2015	Various	Update to adoption rights – pay + leave. Addition of Surrogacy, removal of Additional Paternity Leave and Pay. Addition of Shared Parental Leave and Pay.	TJCC 12.3.15 – For information only - legislation changes April 2015
Sep 2017	Various	General update, reformat.	
Sep 2018	6	Amendment on 12 week half pay repayment for not returning to the School (Green Book)	

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Education HR

educationhr@torbay.gov.uk
01803 207 361

Business Development

businessdevelopment@torbay.gov.uk
01803 207 366

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