

**The Heath Family Multi Academy Trust  
Adoption Policy**

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**1 SCOPE AND PURPOSE**

- 1.1 This policy outlines the statutory rights and responsibilities of employees who adopt through a UK adoption agency and sets out the arrangements for adoption leave. The rules governing your rights when adopting children from overseas agencies vary slightly to those included in this policy. If you plan to adopt a child from an overseas agency please contact the Principal for further information.
- 1.2 No-one will be discriminated against or subjected to a detriment for taking leave in accordance with this policy.
- 1.3 This policy does not form part of any employee's contract of employment and it may be amended at any time.

**2 WHO IS RESPONSIBLE FOR THE POLICY?**

- 2.1 The Heath Family Multi Academy Trust has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Board of Directors has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Governing Body/Principal.
- 2.2 The Governing Body/Principal has a specific responsibility to ensure the fair application of this policy and all employees are responsible for supporting colleagues and ensuring its success.

**3 WHO IS COVERED BY THIS POLICY?**

- 3.1 This policy covers all employees at all levels and grades including senior managers, employees, trainees, part-time and fixed term employees (referred to as **employees** or **you** in this policy).
- 3.2 It does not apply to agency staff, volunteers and self-employed contractors.

**4 DEFINITIONS**

The definitions in this paragraph apply in this policy.

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**Qualifying Week** means the week, starting on a Sunday, in which you are notified in writing by an adoption agency of having been matched with a child;

**Expected Placement Date** means the date on which an adoption agency expects that it will place a child into your care with a view to adoption;

**Ordinary Adoption Leave (OAL)** means a period of up to 26 weeks' leave available to all employees who qualify for adoption leave under paragraph 5;

**Additional Adoption Leave (AAL)** means a further period of up to 26 weeks' leave immediately following OAL.

## **5 ENTITLEMENT TO ADOPTION LEAVE**

5.1 Adoption leave is only available if you are adopting through a UK adoption agency. It is not available if there is no agency involved, for example, if you are formally adopting a stepchild or other relative.

5.2 You are entitled to adoption leave if you meet all the following conditions:

5.2.1 An adoption agency has given you written notice that it has matched you with a child for adoption and tells you the Expected Placement Date.

5.2.2 You have notified the agency that you agree to the child being placed with you on the Expected Placement Date.

5.2.3 Your spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave).

5.3 The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' OAL and 26 weeks' AAL.

## **6 NOTIFICATION OF INTENTION TO TAKE LEAVE**

6.1 You must give the Principal (or in the case Principal all references to the Principal within this policy should be read as though reference to the Chair of the Governing Body) notice in writing of:

6.1.1 the Expected Placement Date; and

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- 6.1.2 your intended start date for adoption leave (**'Intended Start Date'**)
- 6.2 This notice should be given not more than seven days after the agency notified you in writing that it has matched you with a child.
- 6.3 At least 28 days before your Intended Start Date (or, if this is not possible, as soon as you can), you must also provide the Principal with:
- 6.3.1 A Matching Certificate from the adoption agency confirming:
- 6.3.1.1 the agency's name and address;
- 6.3.1.2 the date you were notified of the match; and
- 6.3.1.3 the Expected Placement Date.
- 6.3.2 Written confirmation that you intend to take statutory adoption leave and not statutory paternity leave.

**7 STARTING ADOPTION LEAVE**

- 7.1 OAL may start on a predetermined date no more than 14 days before the Expected Placement Date, or on the date of placement itself, but no later.
- 7.2 You must notify the Principal of your Intended Start Date in accordance with paragraph 6. The Principal will then write to you within 28 days to inform you of the date you are expected to return to work if you take your full entitlement to adoption leave (**Expected Return Date**).
- 7.3 You can postpone your Intended Start Date by informing the Principal in writing at least 28 days before the original date or, if that is not possible, as soon as you can.
- 7.4 You can bring forward your Intended Start Date by informing Principal in writing at least 28 days before the new start date or, if that is not possible, as soon as you can.
- 7.5 Shortly before your adoption leave starts the Principal will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you

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request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events

**8 STATUTORY ADOPTION PAY**

8.1 Statutory adoption pay (**SAP**) is payable for up to 39 weeks. SAP will stop being payable if you return to work (except where you are simply keeping in touch), if the placement is disrupted or if you make a declaration to receive Shared Parental Leave. You are entitled to SAP if:

8.1.1 you have at least 26 weeks continuous service at the end of your Qualifying Week and are still employed by the Heath Family Multi Academy Trust during that week;

8.1.2 your average weekly earnings during the eight weeks ending with the Qualifying Week (the **Relevant Period**) are not less than the lower earnings limit set by the Government; and

8.1.3 you have given the Heath Family Multi Academy Trust the relevant notifications under paragraph 6.

8.2 SAP is calculated as follows:

8.2.1 First six weeks: SAP is paid at the **Earnings-Related Rate** of 90% of your average weekly earnings calculated over the Relevant Period;

8.2.2 Remaining 33 weeks: SAP is paid at the **Prescribed Rate** which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower.

8.3 SAP accrues with each complete week of absence. SAP payments shall be made on the next normal payroll date and Income Tax, National Insurance and pension contributions shall be deducted as appropriate.

8.4 If you leave employment for any reason (for example, if you resign or are made redundant) you shall still be eligible for SAP if you have already been notified by an agency that you have been matched with a child. In such cases, if your adoption leave has not already begun, SAP shall start to accrue:

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8.4.1 14 days before the Expected Placement Date; or

8.4.2 the day after your employment ends,

whichever is the later.

8.5 If you become eligible for a pay rise before the end of your adoption leave, you will be treated for SAP purposes as if the pay rise had applied throughout the Relevant Period. This means that your SAP will be recalculated and increased retrospectively, or that you may qualify for SAP if you did not previously qualify. The Governing Body shall pay you a lump sum to make up the difference between any SAP already paid and the amount payable by virtue of the pay rise. Any future SAP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

## **9 OCCUPATIONAL ADOPTION PAY**

9.1 To Qualify for OAP you must:

9.1.1 Have at least one year's continuous service at the beginning of the 11th week before matching week.

9.1.2 Declare in writing that you intend to return to work for at least 3 months following the end of the adoption leave, or parental leave if this follows on immediately after adoption leave. If you subsequently decide not to return to work, you must repay the half pay period of Occupational Adoption Pay.

9.2 Occupational Adoption Pay is the same as the Occupational Maternity Pay provided for in the Burgundy Book or the Green Book as applicable to teachers in local authority managed schools.

## **10 TERMS AND CONDITIONS DURING OAL AND AAL**

All the terms and conditions of your employment remain in force during OAL and AAL, except for the terms relating to your normal pay.

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**11 ANNUAL LEAVE**

11.1 During OAL and AAL, annual leave will accrue. Annual leave cannot usually be carried over from one holiday year to the next.

11.2 This entitlement applies to all employees including term time only and teachers.

11.2.1 Term Time Only Workers – In order to calculate the entitlement to annual leave it is necessary to carry out a ‘Balance of Salary’ calculation at the start of the maternity leave period and a second calculation at the end of your leave period. This calculation takes into account your start date with the Heath Family Multi Academy Trust and the number of completed weeks of the academic year up to the point you start your adoption leave. The proportion of completed weeks will then be compared to the salary you have been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary. Once you return to work, a second calculation is carried out to identify whether you are entitled to a payment in respect of annual leave you have accumulated whilst on adoption leave. (Please note: The date on which you start and end your adoption leave can significantly affect the balance of salary calculation. Please contact the Trust/School’s Business Manager to establish how this is likely to affect you.)

11.2.2 Teachers – The School Teacher’s Pay & Conditions Document/your contract of employment makes no specific reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days per annum under the Working Time Regulations. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of adoption leave will have acquired a right to additional annual leave. It is

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possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

11.2.3 annual leave entitlement under your contract shall continue to accrue (see paragraph 11.1, Annual leave); and

11.2.4 pension benefits shall continue (see paragraph 12, Pensions).

11.3 The Heath Family Multi Academy Trust's holiday year runs from 1 September to 31 August each year.

## **12 PENSIONS**

For details of the implication of OML and/or AML on your pension please contact the Trust/School's Business Manager who will advise you further.

## **13 DISRUPTED ADOPTION**

13.1 Adoption leave is disrupted if it has started but:

13.1.1 you are notified that the placement will not take place;

13.1.2 the child is returned to the adoption agency after placement; or

13.1.3 the child dies after placement.

13.2 In case of disruption, your entitlement to adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which disruption occurred, unless your entitlement to leave and/or pay would have ended earlier in the normal course of events.

## **14 KEEPING IN TOUCH**

14.1 Your Line Manager/the Senior Leadership Team may make reasonable contact with you from time to time during your adoption leave.

14.2 You may work (including attending training) on up to ten days during adoption leave without bringing your adoption leave to an end. The arrangements, including pay, would be discussed and set by agreement with the Principal. You are not obliged to undertake any such work during adoption leave.

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**15 SHARED PARENTAL LEAVE (SPL)**

- 15.1 SPL will be available to eligible parents of children placed for adoption on or after 5 April 2015. It will allow an eligible primary adopter to curtail their entitlement to adoption leave in order to enable them or their partner to take SPL. Eligible parents can share up to 50 weeks leave and 37 weeks statutory pay. Full details of this entitlement and the procedure eligible parents are required to follow are contained in the Heath Family Multi Academy Trust's Shared Parental Leave (Adoption) Policy.
- 15.2 However, in brief if you wish to opt into the SPL scheme, you must give the Principal at least eight weeks' written notice to end your adoption leave (a curtailment notice) before you can take SPL. The notice must state the date the adoption leave will end. You can give such notice before or after adoption leave starts, but you must take at least two weeks adoption leave.
- 15.3 You must also give the Principal, at the same time as the curtailment notice, a notice to opt into the SPL scheme in accordance with the procedure set out in the Heath Family Multi Academy Trust's Shared Parental Leave (Adoption) Policy or a written declaration that the other parent has given their employer an opt-in notice and that you have given the necessary declarations in that notice.
- 15.4 If your partner is eligible to take SPL from their employer they cannot start it until the Heath Family Multi Academy Trust/School has received the curtailment notice.

**16 EXPECTED RETURN DATE**

- 16.1 Once you have notified the Governing Body in writing of your Intended Start Date, the Principal shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date changes the Principal shall write to you within 28 days of the start of adoption leave with a revised Expected Return Date.
- 16.2 You will be expected to be back at work on your Expected Return Date unless you tell the Principal otherwise. It will help the Principal if, during your adoption leave, you are able to confirm that you will be returning to work as expected.

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16.3 Shortly before you are due to return to work, the Principal may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may cover:

16.3.1 updating you on any changes that have occurred during your absence;

16.3.2 any training needs you might have; and

16.3.3 any changes to working arrangements (for example, if you have made a request to work part time).

**17 CHANGING YOUR RETURN DATE**

17.1 If you wish to return to work earlier than the Expected Return Date, you must give the Principal at least eight weeks' notice. It is helpful if you give this notice in writing.

17.2 If you do not give enough notice, the Principal may postpone your return date until four weeks (or eight weeks as appropriate) after you gave notice, or to the Expected Return Date if sooner.

17.3 [If you wish to return to work later than the expected Return Date, you should either:

17.3.1 Request unpaid parental leave in accordance with the Heath Family Multi Academy Trust's Parental Leave Policy, giving the Principal as much notice as possible but not less than 21 days; or

17.3.2 Request paid annual leave in accordance with your contract of employment, which will be at the Governing Body/School's discretion.

17.4 If you are unable to return to work due to sickness or injury, this will be treated as sickness absence in accordance with the Heath Family Multi Academy Trust's Sickness Absence Policy.

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**18 DECIDING NOT TO RETURN**

- 18.1 If you do not intend to return to work, or are unsure, it is helpful if you discuss this with the Principal as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract. [Wherever possible, you should give as much notice as possible in order to facilitate workforce planning OR the amount of adoption leave left to run when you give notice must be at least equal to your contractual notice period; otherwise the Governing Body may require you to return to work for the remainder of the notice period.]
- 18.2 Once you have given notice that you will not be returning to work, you cannot change your mind without The Heath Family Multi Academy Trust's agreement.
- 18.3 If you have received Occupational Adoption Pay and do not return to work you will be required to repay the half pay period of Occupational Adoption Pay in full.
- 18.4 If you return for part of the three month period, you shall be required to repay the appropriate proportion of Occupational Adoption Pay.
- 18.5 This does not affect your right to receive SAP.

**19 YOUR RIGHTS WHEN YOU RETURN**

- 19.1 You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.
- 19.2 However, if you have taken any period of AAL or more than four weeks' parental leave, and it is not reasonably practicable to allow you to return into the same position, the Governing Body may give you another suitable and appropriate job on terms and conditions that are not less favourable.

**20 FLEXIBLE WORKING**

The Governing Body/Principal will deal with any requests by employees to change their working patterns (such as working part time) after adoption leave on a case-by-case basis. There is no absolute right to insist on working part time, but you do have

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a statutory right to request flexible working and the Governing Body/Principal will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the Heath Family Multi Academy Trust's Flexible Working Policy.