



Adoption Policy (Teachers)

For the following academies:
St Philip Howard Catholic School
St Mary's Catholic Primary School
Annecy Catholic Primary School
St Joseph's Catholic Primary School

This Policy has been approved and adopted
by the Bosco Catholic Education Trust.

Approved:

October 2020

For review:

October 2023

Bosco Catholic Education Trust Adoption Policy - Teachers' Terms and Conditions

1. Aim.

The aim of this policy is to outline an employee's entitlements to adoption leave, statutory and occupational adoption pay and to explain the steps that need to be taken by an employee and their headteacher before and during adoption leave.

2. Scope

This policy only applies to employees who are employed on teachers' terms and conditions of employment, holding permanent, temporary or fixed term contracts.

Adoption leave is open to employees of either gender, but only ONE adoptive parent is entitled to take adoption leave, regardless of whether they work for different employers.

Adoption leave and pay is available to eligible employees:

- Who have a child placed with them for adoption (including "Foster to Adopt" arrangements) or, in cases of overseas adoptions, where the child enters Great Britain on or after that date; or
- Parental order parents in surrogacy arrangements.

It does not apply to special guardians, foster carers (except for "Foster to Adopt" arrangements) or to stepparents adopting a child outside of an adoption agency framework.

Who can help?

If employees have any questions about their entitlements or the procedures they need to follow, they can contact their Headteacher/School Business Manager/Bursar in the first instance.

Headteachers/ School Business Managers/Bursars can get support from Peninsula HR Services Tel: 0161 836 9444

3. Key Information

Employees within the scope of this policy are entitled to the following benefits:

- 52 weeks' adoption leave, which must be taken as a continuous block.
- The right to return to their job, or a similar job on terms and conditions no less favourable, at the end of their adoption leave.
- Statutory adoption pay and/or occupational adoption pay, subject to meeting certain qualifying criteria.

4. Entitlement to Adoption Leave

Employees are entitled to 52 weeks' adoption leave, regardless of their length of service or hours worked. This must be taken as a continuous block.

The adoption leave is split into two parts, which attract different employment rights. The first 26 weeks' leave is referred to as ordinary adoption leave (OAL); the subsequent 26-week period is referred to as additional adoption leave (AAL).

Only one period of leave is available irrespective of whether one or more children are placed together at the same time.

The employee's partner may be entitled to paternity leave; please refer to the Paternity Leave Policy for details. ("Partner" means the person who, at the date of the child's placement for adoption, is married to, the civil partner of, or the partner of the employee. This includes someone, of either sex, who lives with the adopter and the child in an enduring family relationship (but who is not the adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew).

Employment rights during ordinary adoption leave (OAL)

- During OAL, the employee is entitled to benefit from all their normal terms and conditions of employment with the exception of pay.
- This period is counted as continuous service for the calculation of statutory employment rights (such as redundancy, unfair dismissal rights), pension rights and other contractual payments based on length of service. This means the employee continues to accrue annual leave (including entitlement to bank holidays) and this period is included in the calculation of entitlement to sick pay.
- On return from OAL an employee is entitled to return to the same job on the same terms and conditions as before their leave began.
- If there has been a re-grading or pay award applied to their post during the period they were on OAL then they are entitled to receive these as if they hadn't been away.
- An employee is protected from detriment and from unfair dismissal connected with taking adoption leave, regardless of hours worked or length of service.
- If an employee is made redundant whilst on adoption leave, they are entitled to be offered a suitable alternative vacancy if one arises.

The CEO/CFO of Bosco Catholic Education Trust contacted before taking any action to dismiss an employee who is on OAL. They can be contacted on 01243 552055

Employment Rights during additional adoption leave (AAL)

- Employees are entitled to benefit from all their normal terms and conditions of employment with the exception of pay during AAL.
- Continuity of employment is preserved during additional adoption leave for the purpose of calculating entitlement to statutory employment rights (such as such as redundancy, unfair dismissal rights, notice requirements).

- The period of additional adoption leave will be treated by BCET as continuous for the purpose of calculating contractual annual leave and contractual sick pay. This means the employee continues to accrue annual leave (including entitlement to bank holidays) and this period is included in the calculation of entitlement to sick pay.
- However, some benefits such as pensions will be different during the additional adoption leave period. If there is a period of unpaid adoption leave during this time, that unpaid period of leave may not be treated as continuous service unless an election has been made to repay for this period.
- On return from additional adoption leave the employee is entitled to return to the same job on the same terms and conditions as before their leave, as if they had not been absent. If this is not reasonably practicable then they should be offered a similar job on conditions that are not less favourable.
- An employee is protected from detriment and from unfair dismissal connected with taking adoption leave, regardless of hours worked or length of service.
- If an employee is made redundant whilst on adoption leave, they are entitled to be offered a suitable alternative vacancy if one arises.

• The CEO/CFO of Bosco Catholic Education Trust must be contacted before taking any action to dismiss an employee who is on AAL. They can be contacted on 01243 552055.

There are two types of adoption pay and these have different qualifying criteria. An employee may qualify for none, one or both of the entitlements set out below.

An employee's entitlement to adoption pay will be closely related to their length of service at the week they are notified that they have been matched with a child.

Statutory Adoption Pay (SAP) – The basic statutory adoption pay scheme provided by the Government.

To be entitled to statutory adoption pay, the employee must have:

- At least 26 weeks' continuous service with BCET ending with the week they are notified that they have been matched with a child; and
- Average weekly earnings that are not less than the lower earnings limit for national insurance contributions.

SAP is paid for a total of 39 weeks. This is split into two levels of payment:

- For the first 6 weeks of adoption leave the payment of SAP equals 90% of the employee's **average** weekly earnings, this is known as higher rate SAP.

- For the subsequent 33 weeks employees are entitled to receive a fixed rate payment known as standard rate SAP (unless 90% of their weekly earnings is less than this rate). This fixed rate changes regularly and the prevailing rate can be found at www.direct.gov.uk

Statutory adoption payments start when an employee begins their adoption leave. They will continue for a period of 39 weeks unless the employee returns to work before that time.

If an employee is not entitled to statutory adoption pay, they will still be able to take unpaid adoption leave. They may also be entitled to income support whilst on adoption leave. Employees should contact their local Job Centre Plus or Benefits Office to find out whether they are entitled to this.

Occupational Adoption Pay (OAP) – An enhancement to the statutory scheme provided by BCET.

To be entitled to Occupational Adoption Pay the employee must have:

- Have one year's continuous local government service, by the week that they are notified that they have been matched with a child.

And

- Return to work for a minimum period of 3 months at the end of adoption leave. If the employee does not, they will be required to repay any half pay paid to them. Once adoption leave ends, any period of return to work between blocks of shared parental leave (where taken) will count towards the 3 months return to work period; actual period(s) of shared parental leave will not count towards this 3-month return to work period.

Occupational adoption pay is paid for a total of 18 weeks and is split into three levels of payment.

- 4 weeks at full pay. (If the employee also qualifies for statutory adoption pay, and this amount is more than the SAP payment, then their OAP payment is **inclusive** of the SAP entitlement. The employee does **not receive both**.)
- 2 weeks at 90% of their **actual** weekly pay. If the employee qualifies for statutory adoption pay and this amount is more than the SAP payment, then the OAP payment is **inclusive** of the SAP entitlement the employee **does not receive both**.
- Followed by 12 weeks at half pay. If the employee also qualifies for statutory adoption pay this payment is made in **addition** to half pay. (Employees who qualify for both OAP and SAP will not receive more than full pay when the two are combined)

Where an employee is entitled to both statutory and occupational adoption pay the entitlements will run concurrently.

An employee can choose to make the half pay last for longer by having it paid over 20 weeks at a rate of 3/10ths of pay. The amount received overall is the same. If an employee is not sure whether they will return to work, they can ask for the half pay to be withheld until they have made a decision.

Employees **not** intending to return to work after adoption leave may be entitled to SAP.

6. Adoption Assessment Process

Notifying management

Once an employee has made an application to become an adoptive parent and they are notified that they will be assessed by the Local Authority/ Adoption Agency they should inform their headteacher. The purpose of this is:

- To ensure their manager is aware that the employee is going through the adoption process.
- To enable the manager and the employee to start planning for the employee's adoption leave

Time off for the assessment process

- The employee is entitled to take **paid** time off during working hours to attend any appointment arranged by, or at the request of, the adoption agency for the purpose of having contact with the child or for any other purpose connected with the adoption. The employee may take time off under this provision to attend up to five appointments and each of those appointments may last up to 6.5 hours.
- Their partner is entitled to take **unpaid** time off during working hours under this provision to attend up to two appointments and both of those appointments may last up to 6.5 hours

Any time off must be agreed in advance with the headteacher. The headteacher may ask to see confirmation of the course/meeting the employee is required to attend.

Where an employee has taken time off under these arrangements, they cannot take paternity leave instead of adoption leave.

An employee is protected from detriment and from unfair dismissal connected with taking time off under this provision, regardless of hours worked or length of service.

7. Applying for Adoption Leave

Applying for Adoption Leave

Where possible an employee, should keep their headteacher advised of when they think they may be commencing adoption leave so that arrangements can be made to cover the employee's absence.

When an employee is notified that they have been matched with a child, they should inform their headteacher that they intend to take adoption leave. This should occur within 7 days of receipt of the notification of matching.

The earliest date adoption leave can start is 14 days before the date the child is expected to be placed for adoption with them, but an employee can work up to the day before the child is placed with them for adoption.

Employees applying for adoption leave should complete form ADO/L1 as soon as possible. As this form also triggers the payment of statutory adoption pay, the form should ideally be completed no later than 28 days before the date they wish their statutory adoption pay to commence. An employee may alter the date they start their adoption leave providing the notification periods set out below, are followed.

Once completed the employee should give their manager the ADO/L1 form and the matching certificate. The manager should take a photocopy for their own records, before both **original** documents are forwarded to The Chief Financial Officer of Bosco Catholic Education Trust.

Adoption Pay cannot be paid until the matching certificate is received by the Trust's Payroll Suppliers.

Starting Adoption Leave earlier or later than notified

If the employee wishes to alter the planned date they want to start adoption leave they must notify their manager of the new date:

- 28 days before adoption leave was originally due to start.

Or

- 28 days before the new date they want to start their leave.

Whichever of these two deadlines is the latest.

If an employee does not give the correct notification of their intention to take adoption leave and to claim statutory adoption pay, the County Council may delay the start of adoption leave and pay, until the correct notification is given.

8. During Adoption Leave

Pension Contributions

Where an employee is a member of the Teacher's Pension Scheme, pension contributions will continue to be deducted during the paid maternity leave period, providing they are in receipt of SAP or contractual adoption pay.

Contributions will be based on the actual remuneration that is received.

If the employee is no longer receiving any pay, they will no longer be a member of the scheme and the period will not count as service for pension calculation purposes.

On return to work and providing they have not opted out of the scheme, obtained a refund of contributions or transferred service to another pension scheme, the service will be aggregated together.

If the employee has a break in service of more than 5 years, then they would be treated as a new entrant.

The Teachers Pension Scheme produces a factsheet that can be downloaded from their website www.teacherspension.co.uk

Annual Leave

Teachers do not have a contractual right to paid annual leave, but they do have a right to statutory annual leave under the Working Time Regulations. When an employee is on adoption leave, entitlement to statutory annual leave continues to accrue. Teachers will normally take this leave either before or after their adoption leave during school closure periods. In cases where a teacher does not return to work after a period of adoption leave and there is outstanding annual leave accrued, this can be taken as payment in lieu at the rate of 1/260th of pay for each day accrued. For the purposes of calculation of statutory annual leave entitlement, the leave year runs from 1 September to 31 August.

Contact whilst on Adoption Leave

Whilst they are on adoption leave, the employee's manager should maintain reasonable contact with an employee to keep them updated about developments at work and matters concerning their job. The manager and employee should agree the level and frequency of contact prior to the employee commencing adoption leave.

Bosco Catholic Education Trust has an obligation to keep an employee informed of any other information relating to their job that they would normally be made aware of if working. This may fall outside of the individual agreement referred to above.

Keeping in Touch Days

Whilst on adoption leave an employee may not carry out any work, without bringing the adoption leave to an end. This is with the exception of 'Keeping in Touch' Days.

To assist an employee with their return to work they may, by **mutual agreement**, work up to ten 'Keeping in Touch' (KIT) days during the nil pay period of adoption leave to help them prepare for returning to work. A KIT day can be used to attend training sessions or meetings (providing these are related to the employee's job) as well as carrying out aspects of the employee's job. In exceptional circumstances a KIT day may be worked during the paid period of adoption leave.

There is no obligation for an employee to work a KIT day if it is offered, likewise an employee cannot insist that BCET provide them with a KIT day.

Any work done by an employee on a particular day is counted as using one KIT day. For example, if an employee agrees with their manager that they will attend a training course and the course lasts two hours, this is counted as using up one of their KIT days.

An employee working a KIT day will be paid their normal hourly rate of pay for the hours actually worked. Claims for payment must be made through Employee Self-Service or on an overtime sheet and authorised by the employee's manager. The employee must clearly state the date worked, and the actual number of hours worked on that day (lunch breaks are excluded). If a KIT day is worked during the paid period of adoption leave an employee will be paid their adoption pay, plus the hours worked. The total payment will be limited to no more than what they would receive for a normal full day's pay.

KIT days do not extend the period of adoption leave. Payment for KIT days will always be made in arrears at the next available payroll.

9. Returning to Work

Returning to work as notified

An employee does not need to give notice that they wish to return to work if:

- They have elected to take the full 52 weeks adoption leave.

Or

- When they applied for adoption leave, they specified an earlier return date and they return on this date.

There is no automatic entitlement to return to work on a part time basis. However, an employee is entitled to apply for a change in their working pattern/hours and to have this request seriously considered. Such a request should only be denied if there are clear business reasons. Please refer to the policy on Statutory Request to Work Flexibly for further information.

Returning to work earlier or later than originally notified

If an employee wishes to return to work earlier or later than originally notified, they should discuss this with their manager as soon as possible.

They must notify their headteacher in writing no later than 8 weeks:

- Before the date they intend to return (if returning earlier than planned)

Or

- Before they were due to return to advise of the new return to work date. (if returning later than planned). Adoption leave cannot be extended beyond 52 weeks.

If insufficient notice is given of return to work, then BCET may postpone the employee's return to work until the full 8 weeks' notice is given. If a return to work is postponed in these circumstances an employee is not entitled to receive wages or salary.

Managers are responsible for notifying The Chief Financial Officer of Bosco Catholic Education Trust of the revised return to work date.

Return to work is delayed because of sickness absence

If an employee is unable to return to work at the end of the adoption leave period due to sickness, they should notify their headteacher through the normal sickness absence reporting procedure. They will be required to provide medical certificates as normal. This absence will be treated as sickness absence and the usual sick pay provisions will apply.

Return to work is delayed due to an interruption to work by industrial action or other unforeseen circumstances not related to the employee

If an employee is prevented from returning to work at the end of their adoption leave because of industrial action or other unforeseen circumstances not related to the employee, they may instead return to work when work resumes, or as soon as is reasonably practicable thereafter.

Taking annual leave or parental leave immediately following adoption leave

An employee can agree with their manager to take annual leave (or parental leave) immediately following the end of adoption leave. The manager needs to ensure that they have maintained proper records and that the School Business Manager/Bursar are informed so they can record the absence appropriately and ensure accurate pay calculations.

10. Adopting a child from outside the UK

Employees adopting a child from outside the UK, and outside the laws of the United Kingdom, may be entitled to the same provisions as outlined above, providing they have received official notification from/or on behalf of the relevant domestic authority that the employee has been approved to be a suitable adoptive parent.

The scheme is broadly the same, but with the following differences to the notification requirements and the date adoption leave can start:

Notification requirements

An employee must inform their manager:

- They have been matched with a child

and

- The date that the child is due to enter Great Britain within 7 days of receipt of notification of matching or of reaching 26 weeks' continuous employment, if the notification was received before this point.

An employee must:

- Give 28 days' notice of when they wish to commence adoption leave.
- Confirm and provide evidence to BCET of the date the child entered Great Britain within 28 days of the child entering the country.

Starting Adoption Leave

When adopting from abroad the earliest date adoption leave may start is from the date the child enters Great Britain and the latest date it can start is 28 days after the child has entered Great Britain.

Statutory adoption pay qualifying criteria

Occupational adoption pay qualifying criteria.

When were you notified that you were matched with a child?

Will you have at least 26 weeks continuous service with BCET (the school if a Voluntary Aided school), by the week you are notified that you've been matched with a child.

Yes

No

Are your average weekly earnings equal to or more than the lower earnings limit for national insurance contributions?

Yes

No

Do you have at least 1 years continuous BCET service as a teacher, by the week you were notified that you have been matched with a child?

Yes

No

Do you have at least 1 years continuous BCET service as a teacher, by the week you were notified that you were matched with a child?

Yes

No

Are you going to return to work for minimum of three months at the end of your adoption leave?

No

Yes

Unfortunately you do not meet the qualifying criteria for statutory adoption pay or occupational adoption pay.

Are you going to return to work for a minimum of 3 months at the end of your adoption leave?

No

Yes

You are entitled to Statutory Adoption Pay only

Unfortunately you do not meet the qualifying criteria for statutory adoption pay. You will be entitled the first 6 weeks of OAP only, because you are not returning to work.

You are entitled to Statutory Adoption Pay and you will only be entitled to part of the occupational adoption pay entitlement because you are not returning to work.

You are entitled to statutory adoption pay and occupational adoption pay.

You are entitled to occupational adoption pay only