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Adoption Policy

Drafted by: HR team in consultation with Judicium

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Introduction

This policy outlines the arrangements for adoption leave and pay for employees who are adopting a child through a UK or overseas adoption agency.

If you have a child placed with you under a local authority “fostering for adoption” or “concurrent planning” arrangement, or you are entering into a surrogacy arrangement under which you will be applying for a parental order, you may also be entitled to adoption leave and pay. Further information can be obtained from HR.

In some cases, you and your spouse, civil partner or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives you more flexibility to share the leave and pay available in the first year after the child is placed with you. However, one of you must take at least two weeks’ adoption leave first. Details of SPL are set out in the Shared Parental Leave (Adoption) Policy.

This policy applies to employees only and not to agency workers or the self-employed. It does not form part of your contract of employment and the school may amend it at any time.

Entitlement to Adoption Leave

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

- you are adopting a child through a UK or overseas adoption agency;
- the adoption agency has given you written notice that it has matched you with a child for adoption and tells you the date the child is expected to be placed into your care with a view to adoption (Expected Placement Date);
- you have notified the agency that you agree to the child being placed with you on the Expected Placement Date;
- your spouse, civil partner or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave).

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The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

Notification Requirements

Not more than 7 days after the agency notifies you in writing that it has matched you with a child (or where that is not reasonably practicable, as soon as reasonably possible), you must give us notice in writing of the Expected Placement Date, and your intended start date for adoption leave (Intended Start Date).

Woodside High School will write to you within 28 days to inform you of your Expected Return Date assuming you take your full entitlement to adoption leave.

You must also provide us with:

- A Matching Certificate from the adoption agency confirming:
 - a. the agency's name and address;
 - b. the name and date of birth of the child;
 - c. the date you were notified of the match; and
 - d. the Expected Placement Date.
- Written confirmation that you intend to take adoption leave and not paternity leave.

Overseas Adoption

If you are adopting a child from overseas this policy applies with the modifications set out in this paragraph.

Firstly, you must have received notification that the adoption has been approved by the relevant UK authority (Official Notification).

You are then required to give the school notice in writing of the following:

- your intention to take adoption leave;
- the date you received Official Notification; and
- the date the child is expected to arrive in Great Britain.

You are required to give this notice to us as early as possible but in any case, within 28 days of receiving Official Notification (or, if you have less than 26 weeks' employment with us at the date of Official Notification, within 30 weeks of starting employment).

Further, you must also give the school at least 28 days' notice in writing of your Intended Start Date. This can be the date the child arrives in Great Britain or a predetermined date no more than 28 days after the child's arrival in Great Britain.

In addition, within 28 days of the date the child arrives in Great Britain you must also notify us of that date.

The school may also ask for a copy of the Official Notification and evidence of the date the child arrived in Great Britain and will notify you of this requirement in writing if applicable.

Attending Adoption Appointments

If you are adopting on your own or have elected to be the primary adopter, you may take paid time off to attend an adoption appointment on up to five occasions in relation to any particular adoption.

If you are the secondary adopter, you may take unpaid time off to attend an adoption appointment on up to two occasions only.

You must not take more than six and a half hours off for each appointment, including travel and waiting time.

Starting Adoption Leave

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.

If you want to change your Intended Start Date please tell us in writing. You should tell us as soon as you can, but wherever possible you must tell us at least 28 days before the original Intended Start Date (or the new start date if you are bringing the date forward). We will then write to you within 28 days to inform you of your new Expected Return Date.

Shortly before your adoption leave starts, we will discuss with you, arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your adoption leave. Unless you request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.

Adoption Pay

Statutory Adoption Pay (**SAP**) is payable for up to 39 weeks. It stops being payable if you return to work sooner or if the placement is disrupted.

You are entitled to SAP if:

- you have been continuously employed for at least 26 weeks ending with the week in which the agency notified you that you had been matched with the child (Qualifying Week) and are still employed by us during that week;
- your average weekly earnings during the eight weeks ending with the Qualifying Week (Relevant Period) are not less than the lower earnings limit set by the Government; and
- you have given us the relevant notifications.

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SAP is paid at the Earnings-Related Rate of 90% of your average weekly earnings with no upper limit calculated over the Relevant Period;

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.

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

If you leave employment for any reason (for example if you resign or are made redundant) you are still eligible for SAP if you have already been notified by an agency that you have been matched with a child. In such cases, SAP starts:

- 14 days before the Expected Placement Date; or
- the day after your employment ends,

whichever is the later.

If you become eligible for a pay rise which includes a sum in respect of the Relevant Period, you will be treated for SAP purposes as if the pay rise had been paid in 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. We will 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.

Terms and Conditions of Employment during Adoption Leave

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

- benefits in kind (such as life insurance, health insurance, use of the school's sports facilities etc.) shall continue;
- annual leave entitlement under your contract of employment shall continue to accrue; and
- pension benefits shall continue.

Annual Leave

During OAL and AAL your normal annual leave will accrue at the rate provided under your contract.

Annual leave entitlement cannot usually be carried over from one holiday year to the next and employees are normally required to take their holiday entitlement within the holiday year in which it accrues or forfeit any accrued but untaken holiday entitlement at the end of the holiday year.

However, the school recognises that this may operate in such a way as to unfairly disadvantage employees who elect to take the maximum statutory entitlement to adoption leave. As such, special exceptions apply in the case of adoption leave.

The school will usually hold an informal meeting to discuss the best way to manage your holiday entitlement during your proposed period of adoption leave as soon as possible after notification of your intended start date. The options the school will consider with you may include:

- arrangement to take the period of holiday entitlement that you would have accrued but been unable to take during that holiday year by reason of proposed adoption leave dates prior to the commencement of adoption leave;
- arrangement to allow for an exceptional carry-over of such holiday entitlement to the following year to be taken at such time or times as the school's operational needs and requirements dictate;
- discussion regarding the possibility of voluntarily changing your Intended Start Date to enable you to take holiday entitlement prior to commencement of adoption leave. If you wish to choose this option, you will be required to submit notification of intention to delay the start of your adoption leave as above within 28 days of the original Intended start date;
- discussion regarding the possibility of voluntarily changing your Expected Return Date by substituting days of AAL which are unremunerated for holiday days which will be paid at your normal rate of pay. If you wish to choose this option, you will be required to submit notification of intention to alter your Expected Return Date.

The school must, in considering the alternatives with you, have regard to its operational requirements, needs and demands to ensure that a mutually satisfactory arrangement can be reached.

Pensions

If you are a member of the Teachers' Pension Scheme or the Local Government Pension Scheme, during OAL and any further period of paid adoption leave, the school will continue to make any employer contributions, if any, that we usually make into the pension scheme, based on what your earnings would have been if you had not been on adoption leave provided that you continue to make contributions based on the adoption pay you are receiving. If you wish to increase your contributions to make up any shortfall from those based on your normal salary then please contact Finance and HR at Woodside in the first instance.

During unpaid AAL and any additional unpaid adoption leave the school will not make any payments into the Teachers' Pension scheme or the Local Government Pension Scheme and the time shall not count as pensionable service. You do not have to make any contributions but you may do so if you

wish, or you may make up for missed contributions at a later date. If pension contributions are not paid during the unpaid period of adoption leave, this period will not count in the calculation of pensionable service.

Redundancy during Adoption Leave

In the event your post is affected by a redundancy situation occurring during your adoption leave, we shall write to you to inform you of any proposals and shall invite you to a meeting before any final decision is reached as to your continued employment. Employees on adoption leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

Disrupted Adoption

Adoption leave is treated as disrupted if it has started but:

- you are notified that the placement will not take place;
- the child is returned to the adoption agency after placement; or
- the child dies after placement.

In case of disruption, your entitlement to adoption leave and pay (if applicable) will continue for a further 8 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.

If such circumstances arise, you are required to notify the school as soon as reasonably practicable so that your continued entitlement can be correctly administered for you.

Keeping in touch during Adoption Leave

The school may make reasonable contact with you from time to time during your adoption leave. This might be to discuss arrangements for your return to work, to update you on any significant changes in the workplace while you have been away or to discuss any training needs you may have. We may agree to you working (including attending training) for up to 10 normal working days' during adoption leave without it bringing your adoption leave or SAP to an end. You will be paid at your normal basic rate of pay for time spent working on a Keeping in Touch Day (KIT Day) and this will be inclusive of any adoption pay entitlement. Alternatively, we may agree to you receiving the equivalent time off in lieu.

You are not obliged to undertake any such work during adoption leave.

Returning to Work

Once you have notified the school in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your expected return date (Expected Return Date).

The school expects you to return on the Expected Return Date unless you tell us otherwise. It is helpful to us if you confirm during your adoption leave that you will be returning to work as expected.

If you wish to return to work earlier than the Expected Return Date, you must give us at least eight weeks' notice. It is helpful if you give this notice in writing. If you do not give enough notice, we may postpone your return date until eight weeks after you gave notice, or to the Expected Return Date if sooner.

If you wish to return to work later than the Expected Return Date, you should either:

- request unpaid parental leave in accordance with our Parental Leave Policy, giving us as much notice as possible but not less than 21 days; or
- request paid annual leave in accordance with your contract, which will be at our discretion.

If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and our usual Sickness Absence and Sick Pay Policy Will apply.

In any other case, late return will be treated as unauthorised absence and may result in disciplinary action under the school's Disciplinary Policy and Procedure.

Your Rights when you Return

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 if you had not been absent.

However, if you have taken any period of AAL or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

Deciding not to return

If you do not intend to return to work or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract.

The amount of adoption leave left to run when you give notice must be at least equal to your contractual notice period; otherwise, we may require you to return to work for the remainder of the notice period.

Once you have given notice that you will not be returning to work, you cannot change your mind without our agreement.

This does not affect your right to receive SAP.

Switching to Shared Parental Leave

In some cases, you and your spouse, civil partner or partner may be eligible to opt into the SPL scheme which gives you more flexibility to share the leave and pay available in the first year. Your spouse, civil partner or partner should check with their employer that they are eligible.

You would need to give us at least 8 weeks' written notice to end your adoption leave and opt into SPL. You can give this notice before or after the child is placed with you, but you must take at least two weeks' adoption leave. You would then be able to share any remaining leave with your spouse, civil partner or partner. Please refer to the school's Shared Parental Leave (Birth) and/or Shared Parental Leave (Adoption) Policy for further guidance and eligibility criteria.

Flexible Working

We will deal with any requests you to change your working patterns (such as working part-time) after adoption leave on a case-by-case basis. However, you should note that there is no absolute right to insist on working part-time, only a statutory right to request flexible working.

The school will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the business.

It is helpful if requests are made as early as possible.

Please refer to the school's Flexible Working Policy for further information and practical guidance about making an application to work flexibly.

