

TEACHERS' ADOPTION LEAVE SCHEME

1. This Scheme is the result of an agreement reached between the Management and Teachers' Sides of the Teachers' Salaries and Conditions of Service Committee (Schools). It reflects rules concerning statutory adoption leave as a consequence of relevant legislation.
2. This scheme applies to teachers who adopt a child from within the UK or overseas¹ (subject to eligibility) or dual approved prospective adopters or parental order parents in a surrogacy arrangement irrespective of pay or weekly working hours.

Further Advice

3. Further information on rights for adoptive parents is available from the NI Direct website: www.nidirect.gov.uk/employment.

Enquiries

4. Any enquiries regarding this scheme should be made to the relevant employing authority.

Pension Position

5. Any enquiries regarding a teacher's pension position should be made to Teachers' Pensions Branch (Tel: 028 7131 9000).
6. Where a teacher's contributable salary is reduced due to adoption leave, the teacher's contributions are based on the reduced rate of salary paid. Employer contributions during such a period of leave are paid on the rate of pensionable pay as if no reduction has been made.
7. From 1 April 2007 the facility to purchase additional service (current added years) to cover periods of unpaid leave for pension purposes was withdrawn. However, teachers may purchase additional pension benefits in blocks of £250 up to a maximum of £5,500.

¹ The Republic of Ireland is designated as "overseas" for the purposes of adoption under The Adoption (Designation of Overseas Adoptions) Order 1973.

**CONDITIONS OF SERVICE FOR SCHOOL TEACHERS IN
NORTHERN IRELAND**

TEACHERS' ADOPTION LEAVE SCHEME

ENTITLEMENT

<u>Qualifying Service</u>	<u>Entitlement</u>
Less than 52 weeks' continuous service at the end of the week in which they are notified of a match with a child for adoption or in the case of surrogacy the child's birth	<ul style="list-style-type: none"> • 26 weeks' Ordinary Adoption Leave; plus • 26 weeks' Additional Adoption Leave. • If eligible, 39 weeks' Statutory Adoption Pay.
52 weeks' continuous service immediately prior to the commencement of the absence	<ul style="list-style-type: none"> • 26 weeks' Ordinary Adoption Leave; plus • 26 weeks' Additional Adoption Leave. • If eligible, 39 weeks' Statutory Adoption Pay. • 12 weeks' Occupational Adoption Pay.

Unpaid Time off to Attend Adoption Appointments

A teacher who has been notified by an adoption agency that a child is to be, or is expected to be, placed for adoption with the teacher and another person jointly and has elected to exercise the right to take unpaid time off in connection with the adoption will be entitled to be permitted to take time off during working hours in order that he or she may attend by appointment at any place for the purpose of having contact with the child or for any other purpose connected with the adoption subject to the following

- The appointment must have been arranged by or at the request of the adoption agency which made the notification;
- The teacher is not entitled to exercise this right on or after the date of the child's placement for adoption with the teacher;

- the right to take time off for this purpose is limited to no more than two occasions; and
- on each occasion, the maximum time of during working hours is 6 and a half hours.

The teacher, if requested must provide the following

- a signed declaration that he or she has elected to take unpaid time off to attend an adoption appointment in connection with the adoption; and
- a document showing the date and time of the appointment and that it has been arranged as above.

Time off to attend Antenatal Appointments for Parental Order Parents

- Teachers who are Parental Order Parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to up to 2 of her antenatal appointments.

1. Effective Date

1.1 This scheme applies to those teachers who:

- (a) are adopting a child from the UK, where an approved adoption agency notifies the adopter of a match with a child, or;
- (b) are adopting a child from overseas, where they have received Official Notification that the relevant UK authority has issued a Certificate of Eligibility to the overseas authority;
- (c) are approved foster parents who is also an approved prospective adopter where the Trust is considering adoption for the child and is considering if that person is a suitable adoptive parent for that child; and
- (d) are the intended parents in a surrogacy arrangement where they are eligible for and intend to apply for a Parental Order which will make them the legal parents of that child that they are having with the help of a surrogate mother.

2. To Whom this Scheme Applies

Eligible teachers are entitled to take adoption leave when a child is newly placed for adoption².

2.1 Adoption leave applies to:

- (a) individuals who adopt;
- (b) one member of a couple where a couple adopts jointly (the couple may choose which partner takes adoption leave).

The partner of an individual who adopts (including same-sex partner or civil partner) or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay (see Paternity Leave Scheme).

3. Initial Obligations on the Teacher

Teachers adopting a child from overseas should refer to Appendix 1 for separate notification arrangements.

Intended Parents in a surrogacy arrangement should refer to Appendix 2 for separate notification requirements

3.1 To benefit from this scheme a teacher must-

- (a) be newly matched with a child for adoption by an approved adoption agency;
- (b) continue to be employed by the employing authority (whether or not at work) immediately before the start of the absence
- (c) notify the school principal, using Form TR160(A), within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable:
 - (i) of their intention to take adoption leave;
 - (ii) when the child is expected to be placed with them; and

² Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example, when a step-parent is adopting a partner's children. An employee adopting a relative from overseas may also qualify for adoption leave and pay if they have been assessed and approved as being a suitable adoptive parent.

- (iii) when they want their adoption leave to start.

Teachers can choose to start their leave:

- (i) from the date of the child's placement (whether this is earlier or later than expected;
 - (ii) from a fixed date which can be up to 14 days before the expected date of placement; and
 - (iii) on any day of the week.
- (d) give the school at least 28 days' notice of the date on which he/she wishes to start his/her adoption leave, or as soon as reasonably practicable;
- (e) provide evidence by means of a matching certificate or a letter from the Adoption Agency, to his/her school that he/she is adopting a child through an adopting agency at least 28 days before the start of the adoption leave unless this is not reasonably practicable, stating;
- (i) the name and address of the adoption agency;
 - (ii) the date the child is expected to be placed for adoption, or the date the child was placed for adoption; and
 - (iii) the date the adopter was told by the adoption agency that they have been matched with a child.
- (f) a teacher may change the date on which he/she wishes his/her leave to commence provided he/she gives at least 28 days' notice, unless it is not reasonably practicable;
- (g) within 28 days of the date on which the Principal dated the TR160(A), the Department will write to notify the teacher of his/her expected date of return from adoption leave.

4. Rights Of The Teacher To Adoption Leave

- 4.1 Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 4.2 Should the child's placement end during the adoption period, the teacher will be able to continue adoption leave for up to 8 weeks after the end of the placement.

5. Transfer of Adoption Leave Entitlement

- 5.1 A teacher who is eligible for Adoption Leave may have the right to shared parental leave and statutory shared parental pay. Please refer to the Teachers' Shared Parental Leave Scheme (TNC 2015/5).

6. Subsequent Obligations On The Teacher

- 6.1 The teacher's subsequent obligation is to return to his/her job for at least 13 weeks (including periods of school closure) as a qualifying condition to occupational adoption pay. This requirement may be reduced, at the discretion of the employing authority or deferred, due to redundancy, a career break, parental leave or prolonged illness. Exceptionally, this requirement may be deferred at the discretion of the employing authority due to other unavoidable cause. Failure to return to work for at least 13 weeks shall require a refund of occupational adoption pay in accordance with paragraph 11.3.
- 6.2 Where the employing authority agrees a full-time teacher may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, a part-time teacher may return to work on different part-time basis for a period which equates to 13 weeks part-time service relating to his/her previous contract.
- 6.3 The 13 week period (or part-time equivalent) starts from the date the teacher returns to work or the date during the school holiday period on which the adoption leave ends.

7. Return To Work

- 7.1 Subject to sub-paragraph 7.2, a teacher's right to return to work is a right to return to the job in which he/she was employed under his/her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to him/her if he/she had not been absent. "Job", for this purpose, means the nature of the work which he/she is employed to do and the capacity and place in which he/she is so employed.
- 7.2 Where it is not practicable by reason of redundancy to permit the teacher to return to the job as defined in sub-paragraph 7.1 above, the teacher shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to the teacher and appropriate to the circumstances, and that the capacity and place in which

the teacher is to be employed and his/her terms and conditions of employment are not substantially less favourable to the teacher than if he/she had been able to return to the job in which he/she was originally employed.

8. Notification Of Return To Work

8.1 Teachers who intend to return to work at the end of their adoption leave period will not have to give any further notification to their school.

8.2 Teachers who want to return to work before the end of their adoption leave period, must give their school at least 28 days' notice in writing of the date they intend to return. Where this notification is not given, the school can postpone his/her return for a period of up to 28 days, or until the end of his/her 26 weeks' ordinary adoption leave if this is sooner.

9. Contact During Adoption Leave

9.1 The school may make reasonable contact with the teacher from time to time while he/she is on adoption leave in order to discuss, for example, arrangements for his/her return to work or to keep him/her informed of developments at the workplace.

10. Keeping In Touch Days

10.1 A teacher may agree with the school to work for up to 10 keeping in touch (KIT) days during the adoption leave without losing SAP or bringing the adoption leave to an end as a result. Normal full pay, abated by any payments made under paragraph 11, is payable for any days worked. Although working for part of a day will count as one of the 10 KIT days, any entitlement to payment will be calculated using the net hours actually worked.

10.2 This provision is intended to help to ease the teacher's return to work. It is different to contact during adoption leave described in paragraph 9. For the purposes of this arrangement "work" means any work done for the employer under his/her normal contract of employment and may include training or any activity undertaken by the teacher for the purposes of keeping in touch with the workplace. Any KIT days worked under this provision must be by agreement between the teacher who is on adoption leave and his/her employer. The employer has no right to demand that any such KIT work is undertaken, and the teacher has no right to undertake such work.

11. Adoption Pay

11.1 A teacher who has less than 52 weeks, but at least 26 weeks' continuous service as a teacher with one or more employing authority at the end of the week they are notified of a match with a child for adoption or in the case of overseas adoption, the end of the week Official Notification is received or commencing with the week in which the employee's employment with the employer began, may, if eligible, receive any entitlement to 39 weeks' Statutory Adoption Pay (SAP) only.

11.2 A teacher who has completed not less than 52 weeks' continuous service as a teacher, with one or more employing authority, immediately prior to the commencement of the absence shall receive adoption pay as follows on the condition that he/she will be available, or able, to return to work for the required period specified in paragraph 6:

- (a) a teacher eligible for SAP will have the payments made in the first 6 weeks of absence offset against the payments made under (b) and (c) below;
- (b) for the first 4 weeks of absence – full pay, offset against payments made by way of SAP;
- (c) for the next 2 weeks of absence – 9/10ths of a week's pay, offset against payments made by way of SAP;
- (d) half pay for the next 6 weeks of the absence. If the teacher is also entitled to SAP he/she will be entitled to these payments in addition to half salary. There will be no deductions unless the combined half salary and SAP exceeds full salary;
- (e) a further 27 weeks at SAP; and
- (f) no pay for any remaining period of absence up to the date of return.

11.3 In the event of the teacher not being available, or being unable, to return to his/her job for the required period, he/she shall refund such sum paid to him/her in respect of adoption leave as the employing authority at its discretion may decide. Payments made by way of SAP are not refundable. The employing authority will be entitled to recover such monies by way of deduction from any monies/salary due to be paid to the teacher and/ or by other means.

12. **Relationship with Sickness**

- 12.1 Where a teacher is sick during the adoption leave period (whether ordinary adoption leave or additional adoption leave) the provisions of the sick pay scheme shall apply.
- 12.2 Where a teacher is sick prior to the start of their adoption leave or statutory adoption leave pay period they should delay the start until they are well.

13. **Definitions**

- 13.1 For the purpose of this scheme, a “**week’s pay**” shall be treated as the amount payable to the teacher under the current contract of employment. If there are significant variations in the teacher’s salary the average salary over the 12 weeks preceding the date of absence shall be treated as a week’s salary.
- 13.2 Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

14. **Other Provisions**

- 14.1 Continuous service is not broken by school holidays provided that the teacher continues to be employed up to the start of a holiday period and resumes work immediately after it whether or not with the same employing authority.
- 14.2 A period of adoption leave shall count for the purposes of the award of any points awarded for experience to which the teacher may be entitled.

15. **Protection From Detriment And Dismissal**

- 15.1 Teachers will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave. Teachers who believe they have been treated unfairly may invoke the Grievance Procedure.

OVERSEAS ADOPTION

Notification of Intention to Adopt

Teachers intending to adopt from overseas are required to complete a Declaration of Entitlement Form SC6 to confirm they are not also claiming Ordinary Statutory Paternity Pay (OSPP) or Additional Statutory Paternity Pay (ASPP). This form is available from HM Revenue and Customs at www.hmrc.gov.uk and should be submitted through the school principal, to Teachers Pay and Administration Branch, Department of Education, 75 Duke Street, Londonderry (Tel: 028 7131 9000).

Teachers intending to adopt from overseas are also required to comply with the following 3 stages of notification:

First stage of notification: teachers must inform their school principal within 28 days of receiving the Official Notification of:

- the date they received “Official Notification” that the relevant UK authority has issued a Certificate of Eligibility to the overseas authority that they are eligible to adopt a child from overseas; and
- the date the child is expected to enter the UK.

If a teacher has completed 26 weeks’ continuous employment as a teacher with one or more employing authority, they must provide first stage notification within 28 days of receiving Official Notification. If a teacher has not completed 26 weeks’ continuous employment as a teacher with one or more employing authority, they must provide notification within 28 days once they complete 26 weeks’ service.

Second stage of notification: teachers must inform the school principal of:

- how much leave they want and the date they wish to commence adoption leave and pay, giving at least 28 days’ notice.

Teachers will be permitted to amend the start date of their leave provided a minimum of at least 28 days’ notice before the new date is given (unless this is not reasonably practicable). They will have to advise the school of the date they expect any payments of Occupational Adoption Pay to start at least 28 days in advance.

Third stage of notification: teachers must inform the school principal of:

- the date the child enters the UK within 28 days of the child's date of entry; and
- provide evidence of the Official Notification relating to the adoption of the child and evidence of the date on which the child arrived in the UK e.g. passport or plane ticket.

Start Date of Adoption Leave and Pay

Teachers can choose to start their leave:

- From the date the child enters the UK, or the following day if the teacher is at work that day; or
- From a predetermined date no later than 28 days after the child enters the UK.

Leave can start on any day of the week.

Appendix 2

SURROGACY AND PARENTAL ORDER PARENTS

To qualify for adoption leave the Parental Order parent needs to notify the school principal by the 15th Week before the baby's due date of their entitlement to adoption leave and/or pay.

The notice must include the baby's expected week of birth. As soon as is reasonably practicable after the child's birth the teacher must notify the school principal of the baby's date of birth in writing.

The school may request a statutory declaration from the teacher confirming that they intend to apply for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 within the prescribed time limit (6 months from birth) and expect the order to be made.