

Honiton Community College Academy Trust



This policy was adopted by the Governing Body of
Honiton Community College Academy Trust
on 31st March 2021
and will be reviewed every 3 years.

ADOPTION POLICY

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Introduction

This policy outlines the statutory rights and responsibilities of employees who adopt, and sets out the arrangements for adoption leave. It only applies to employees and does not apply to agency workers or the self-employed.

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.

Arrangements for time off to attend adoption appointments are set out in our Time off for Adoption Appointments Policy.

In some cases you and your spouse 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 our Shared Parental Leave (Adoption) Policy.

This policy does not form part of your contract of employment and it may be amended at any time.

Definitions

The following definitions apply in this policy:

- **Qualifying Week:** 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:** 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):** a period of up to 26 weeks' leave available to all employees who qualify for adoption leave (see "Entitlement to adoption leave" below).
- **Additional Adoption Leave (AAL):** a further period of up to 26 weeks' leave immediately following OAL.

The Resources Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Resources Committee ensures the policy's maintenance and review and has delegated to the Principal day-to-day responsibility for operating the policy'

Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

Entitlement to adoption leave

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.

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

- (a) 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.
- (b) You have notified the agency that you agree to the child being placed with you on the Expected Placement Date.
- (c) Your spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave).

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

Notification of intention to take leave

You must give us notice in writing of:

- (a) the Expected Placement Date; and
- (b) your intended start date for adoption leave (**Intended Start Date**) (see "Starting Adoption Leave" below).

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.

At least 28 days before your Intended Start Date (or, if this is not possible, as soon as you can), you must also provide us with:

- (a) A Matching Certificate from the adoption agency confirming:
 - i) the agency's name and address;
 - ii) the name and date of birth of the child;
 - iii) the date you were notified of the match; and
 - iv) the Expected Placement Date.
- (b) Written confirmation that you intend to take statutory adoption pay and not statutory paternity pay.

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.

You must notify us of your Intended Start Date in accordance with the notification provisions set out above. We will then write to you within 28 days to inform you of

the date we will expect you to return to work if you take your full entitlement to adoption leave (**Expected Return Date**).

You can postpone (but not beyond the Expected Placement Date) your Intended Start Date by informing us in writing at least 28 days before the original date or, if that is not possible, as soon as you can.

You can bring forward your Intended Start Date by informing us in writing at least 28 days before the new start date or, if that is not possible, as soon as you can.

Shortly before your adoption leave starts we 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 request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.

Statutory 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:

- (a) you have been continuously employed for at least 26 weeks at the end of your Qualifying Week and are still employed by us during that week;
- (b) 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
- (c) you have given us the relevant notifications (see above).

SAP is calculated as follows:

First six weeks: SAP is paid at the earnings-related rate of 90% of your average earnings over the Relevant Period.

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.

SAP accrues with each complete week of absence but payments shall be 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 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, SAP shall start:

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

whichever is the later.

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. We 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.

Contractual Adoption Pay

You may also be entitled to Contractual Adoption Pay (CAP) (please see appendices 1 and 2 for details of your entitlement).

If you are entitled to contractual adoption pay you are required to return to work for a period of time (see below) in order to protect your CAP.

Teachers:

You must return to work for 13 weeks, regardless of the number of hours you work.

All other staff:

You must return to work for 3 months, regardless of the number of hours you work.

Contractual payments are made at normal pay intervals (less normal deductions) or withheld until you return to work, when the amount is paid as a lump sum (less normal deductions). If you do not return for the required minimum period, you will be liable to refund any contractual adoption pay you have received. We will notify you of the amount to be repaid. You will not have to refund any statutory adoption payments you have received.

Your entitlement to CAP is dependent on you complying with the notification requirements.

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 pay. In particular:

- (a) benefits in kind shall continue;
- (b) annual leave entitlement under your contract shall continue to accrue (see "Annual leave" below); and
- (c) pension benefits shall continue (see "Pensions" below).

Annual leave

All staff: (excluding teachers and term time only staff)

During OAL and AAL, annual leave will accrue at the rate provided under your contract. Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during your adoption leave, you should ensure that you have taken the full year's entitlement before starting your adoption leave.

Teachers and term time only staff:

Your leave year, for the purpose of establishing annual leave entitlement whilst on adoption leave is 1 September to 31 August.

Your statutory holiday entitlement is not an additional entitlement to annual leave on top of the current school closure arrangements.

Whilst you are on adoption leave you are entitled to your statutory holiday under the Working Time Regulations. You shall not accrue holiday above your entitlement under the Working Time Regulations 1998. Annual leave entitlement will be offset against any period of school closure that has taken place in the leave year in question i.e. both before and after your adoption leave period.

On return from adoption leave, you are permitted to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate your holiday in that leave year. Where your return from adoption leave is so close to the end of the leave year that there is not enough time to take your entire holiday entitlement, you will be permitted to carry over any balance of outstanding holiday to the following leave year. You can be required to take this during the remaining periods of school closure after the statutory holiday for that leave year has been accommodated.

You will not be entitled to a payment in lieu of untaken annual leave. However, payment in lieu may be necessary, if you decide not to return to your job following your adoption leave. Payment will be made in accordance with the Working Time Regulations and will not be pensionable.

Public and extra statutory holiday entitlement during adoption leave (not applicable to teachers)

Full time employees:

You will accrue holiday entitlement for any public holidays which fall within your adoption leave, with substitute paid leave being provided at another time.

Part time employees:

You will accrue pro-rata holiday entitlement for any public holidays which fall within your adoption leave, and will be given substitute paid leave at another time.

Term time employees:

You are entitled to a substitute day of paid leave during term time where a public holiday/statutory holiday falls during your adoption leave period.

Substitute days of leave may be taken immediately following the end of the period of adoption leave. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon your return to work.

Pensions

Teachers

During a period of paid adoption leave, pension contributions will be paid and deducted from your pay in the usual manner. Your contributions will be based on the pay you get while absent. Any unpaid period of adoption leave will not be pensionable/reckonable.

If you require any further information you should contact Teachers Pensions on 0845 6066166 and ask for a fact sheet. Alternatively this information is available from their website: www.teacherspensions.co.uk.

All other staff:

During any period of paid adoption leave, if you are a member of the Local Government Pension Scheme, you will pay basic pension contributions on the pay actually received but the College will pay pensions contributions on the pay you would have received had you been at work (notional pay). Your service will count as normal for pensionable purposes i.e. as if you had been at work.

During any period of unpaid ordinary adoption leave, you will be deemed to have paid basic pension contributions but the College will pay contributions on notional full pay. The service will count as normal for pension purposes i.e. as if you had been at work.

During any period of unpaid additional adoption leave; the unpaid period will not count for pension purposes unless you make an election for it to count.

You can, within 30 days of returning to work or the termination of your contract if you do not return, elect to pay the relevant pension contributions in respect of this unpaid period. You will need to notify the Director of Finance of your decision to pay contributions during this unpaid period and you will need to complete the appropriate paperwork.

If you work on a keeping in touch day, both you and the College will pay contributions based on the pay you receive for that day. The day will count as a day of scheme membership.

Redundancies during adoption leave

In the event that your post is affected by a redundancy situation occurring during your adoption leave, we shall write 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 maternity and adoption leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

Disrupted adoption

Adoption leave is disrupted if it has started but:

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

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.

Keeping in touch

We may make reasonable contact with you from time to time during your adoption leave.

You may work (including attending training) on up to ten days during adoption leave without bringing your adoption leave to an end. This is not compulsory and arrangements, including any additional pay, would be discussed and agreed with Principal.

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

- (a) updating you on any changes that have occurred during your absence;
- (b) any training needs you might have; and
- (c) any changes to working arrangements (for example, if you have made a request to work part time). See "Returning to work part time" below.

Expected Return Date

Once you have notified us in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date

changes we shall write to you within 28 days of the start of adoption leave with a revised Expected Return Date.

We will expect you back at work on your Expected Return Date unless you tell us otherwise. It will help us if, during your adoption leave, you are able to confirm that you will be returning to work as expected.

Returning early

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.

Returning late

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

- (a) Request unpaid parental leave, giving us as much notice as possible but not less than 21 days; or
- (b) 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 policy will apply. In any other case, late return will be treated as unauthorised absence.

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.

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 had you 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.

Returning to work part-time

We 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 a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the College. It is helpful if requests are made as early as possible.

Overseas adoptions

If you are adopting a child from overseas, the following will apply, in addition to the rest of this policy:

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

You must give us notice in writing of:

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

This notice should be given 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).

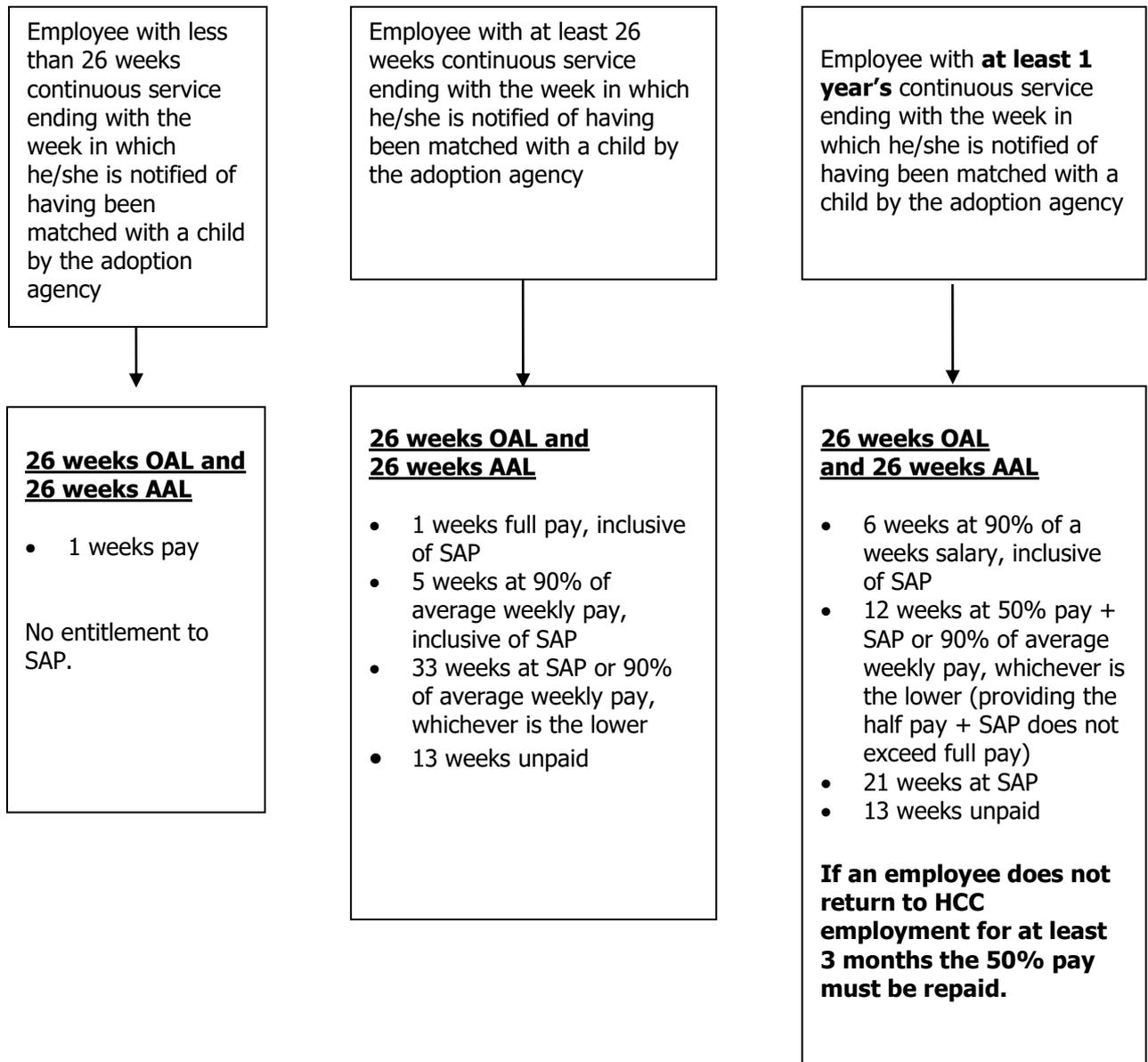
You must also give us at least 28 days' notice in writing of your intended start date. This can be the date the child arrives in Great Britain or a predetermined date no more than 28 days after the child's arrival in Great Britain.

You must also notify us of the date the child arrives in Great Britain within 28 days of that date.

We may also ask for a copy of the Official Notification and evidence of the date the child arrived in Great Britain.

Appendix 1

All Employees (excluding Teachers) Adoption Benefits Flow Chart



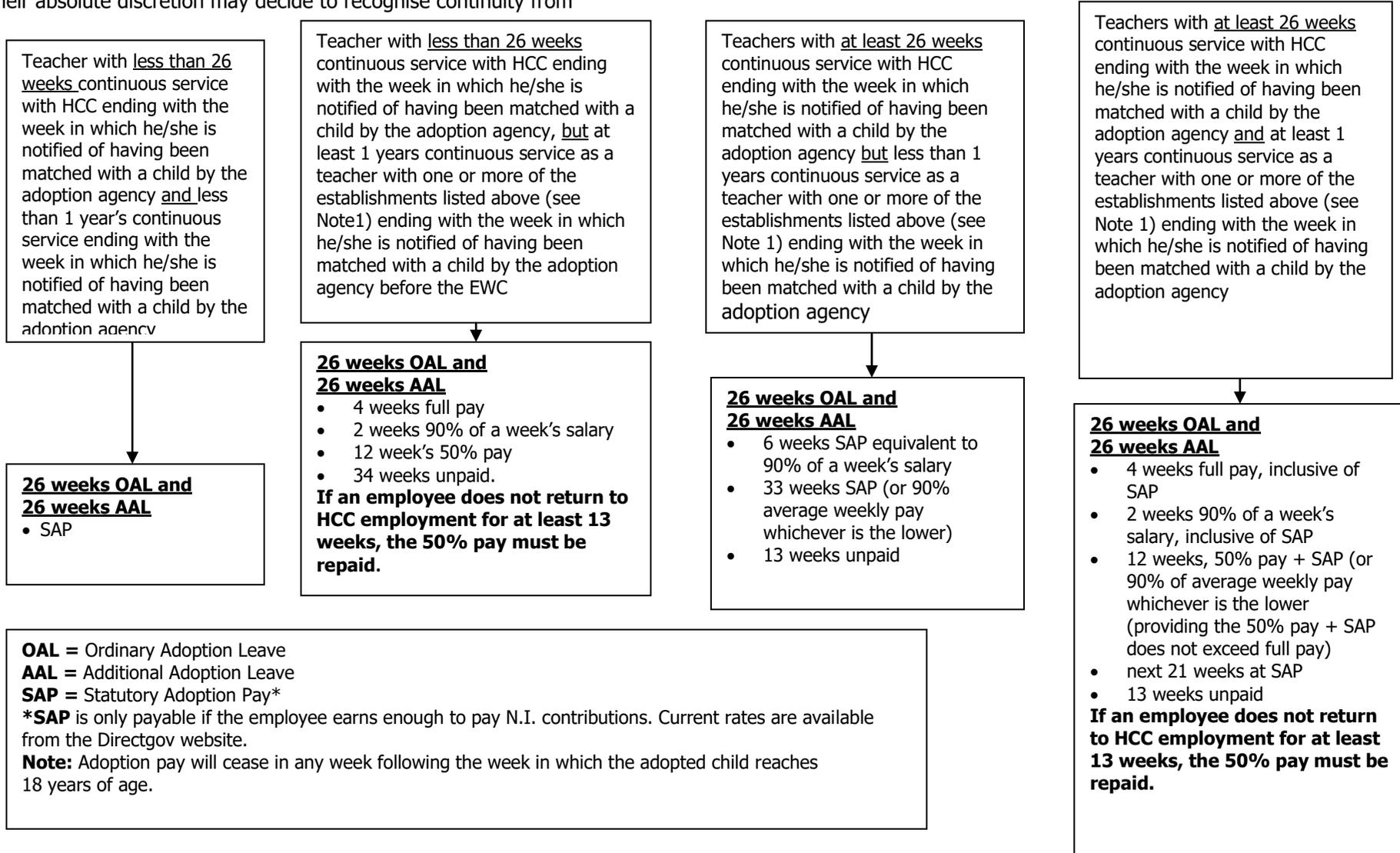
OAL = Ordinary Adoption Leave
AAL = Additional Adoption Leave
SAP = Statutory Adoption Pay*

***SAP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Directgov website.

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

Appendix 2 - Teachers Adoption Benefits Flow Chart

Note 1: community schools, voluntary aided schools, voluntary controlled schools, trust schools, foundation schools, academies, free schools, studio schools, university technical colleges, technical academies, further education colleges, independent schools and such other educational establishments which governors at their absolute discretion may decide to recognise continuity from



Document Change History

- **Major review of the policy by solicitors (Foot Anstey) – May 2014**
- **Review of policy (April 2015) by the solicitors (Foot Anstey) to reflect the changes to law. The following changes were adopted by the Full Governing Body on 20th May 2015:**
 - Page 3 – new section added after paragraph 1:
 - *'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.*
 - *Arrangements for time off to attend adoption appointments are set out in our Time off for Adoption Appointments Policy.*
 - *In some cases you and your spouse 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 our Shared Parental Leave (Adoption) Policy.'*
 - Page 4 – 'Entitlement to adoption leave':
'You have been continuously employed by us for at least 26 weeks ending with the Qualifying Week' - removed (listed as (c) prior to update).

'The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave' – added to end of section.
 - Page 5 - Statutory Adoption Pay:
'SAP is paid at a prescribed rate which is set by the Government for the relevant tax year, or at 90% of your average weekly earnings calculated over the Relevant Period of this is lower' – removed.

'SAP is calculated as follows:

First six weeks: SAP is paid at the earnings-related rate of 90% of your average earnings over the Relevant Period.

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' - added.
 - Page 11 - Overseas adoptions – section added.
 - **21st November 2018** – Personnel Committee amended to Resources Committee.