

TEACHERS' OCCUPATIONAL 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 new rules concerning statutory adoption leave as a consequence of the Maternity and Parental Leave etc Regulations (NI) 1999 (as amended) and replaces the Leave of Absence for Adoptive Mothers Scheme agreed at the Teachers' Salaries and Conditions of Service Committee (Schools) on 28 April 1997.

Further Advice

2. Further information on rights for adoptive parents is available from the Employment Rights page of the Department for Employment and Learning (DEL) website, www.delni.gov.uk

Enquiries

3. Any enquiries regarding this scheme should be made to *[insert employing authority contact]*.

Pension Position

4. **Pension**

4.1 Any enquiries regarding a teacher's pension position should be made to Teachers' Pensions Branch (Tel: 028 71 319000).

4.2 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.

4.3 If a teacher chooses not to pay contributions during unpaid leave, that period will not count as reckonable for pension purposes. A teacher who wants to cover a period of unpaid leave for pension purposes, may avail of the facility to pay Current Added Years by paying the full contribution i.e. the combined teacher's and employer's contribution.

CONDITIONS OF SERVICE FOR SCHOOL TEACHERS IN NORTHERN IRELAND

TEACHERS' OCCUPATIONAL ADOPTION LEAVE SCHEME

1. Effective Date

1.1 These provisions take effect from 6 April 2003. Paid adoption leave is available to teacher where an approved adoption agency notifies the adopter of a match with a child before 6 April 2003, but the child is placed on or after 6 April 2003 (special notice arrangements will apply).

2. To Whom this Scheme Applies

2.1 Eligible teachers are entitled to take paid adoption leave when a child is newly placed for adoption. Adoption leave and pay 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)¹.

2.2 The partner of an individual who adopts, 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

3.1 To benefit from this scheme a teacher must-

- (a) be newly matched² with a child for adoption by an approved adoption agency;
- (b) 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
 - (iii) when they want their adoption leave to start.

¹ Under current NI law, only a married couple may adopt jointly. Where a couple (whether heterosexual or homosexual) is not married, one of the partners must adopt the child as an individual.

² Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a foster parent proceeds to adopt a foster child or a step-parent is adopting a partner's children.

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;
 - (iii) on any day of the week.
- (c) 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;
- (d) 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.
- (e) 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;
- (f) 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 Teachers who have completed 26 weeks' continuous service with one or more employing authority leading into the week in which they are notified of being matched with a child for adoption will be entitled to up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave – a total of up to 52 weeks' leave.

4.2 Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

4.3 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. Subsequent Obligations On The Teacher

5.1 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 8.3.

5.2 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.

5.3 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.

6. Return To Work

6.1 Subject to sub-paragraph 6.2, 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.

6.2 Where it is not practicable by reason of redundancy to permit the teacher to return to the job as defined in sub-paragraph 6.1 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.

7. Notification Of Return To Work

7.1 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.

7.2 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 if this is sooner.

8. Adoption Pay

8.1 A teacher who has less than 52 weeks', but at least 26 weeks', continuous service as a teacher with one or more employing authority immediately prior to the commencement of the absence shall receive any entitlement to 26 weeks' Statutory Adoption Pay (SAP) only.

8.2 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 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 5:

- a. a teacher eligible for Statutory Adoption Pay 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 salary, offset against payments made by way of SAP.
- d. half salary for the next 6 weeks of the absence. If the teacher is also entitled to Statutory Adoption Pay he/she will be entitled to these payments in addition to half salary. There will be no deductions unless the combined half salary and Statutory Adoption Pay exceeds full salary.
- e. a further 14 weeks at Statutory Adoption Pay.
- f. no pay for any remaining period of absence up to the date of return.

8.3 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.

9. Relationship with Sickness

9.1 Where a teacher is sick during the 26 week ordinary adoption leave period the provisions of the sick pay scheme shall apply.

9.2 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.

10. Definitions

10.1 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.

10.2 Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

11. Other Provisions

11.1 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.

11.2 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.

12. Protection From Detriment And Dismissal

12.1 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. However, if the matter is not resolved, as an exception to the normal rules of the Grievance Procedure, the teacher may complain to an industrial tribunal.