



## Zest Academy Trust

### Adoption leave policy

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Person Responsible: CEO

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## Statement of Policy and Purpose of Policy

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Zest Academy Trust recognises and respects the rights of employees who adopt to take time away from work in connection with the placement and adoption of their child. No one will be subjected to a detriment for exercising their right to take adoption leave in accordance with this policy or for seeking to do so.

The purpose of this policy is to ensure that staff and managers are clear about entitlements to adoption leave, the process that should be followed for arranging leave and the terms that apply during and after adoption leave.

This policy is intended to summarise your statutory rights except for the paragraphs dealing with the Employer's Occupational adoption pay. If there is a contradiction between any other section of this policy and the statutory adoption leave entitlements that apply at any time, this policy shall be deemed to be amended, as necessary, to comply with legislative requirements.

This is a statement of policy only and does not form part of your contract of employment. We may amend this policy at any time, in our absolute discretion.

## Eligibility and Benefits

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### Adoption Leave

If all the other eligibility criteria are met, adoption leave is potentially available to:

- Adoptive parents,
- Dual approved prospective adopters (in a process sometimes referred to as "fostering for adoption"), and
- Intended parents in a surrogacy arrangement who are eligible for and intend to apply for a Parental Order ("Parental Order parents")

### Eligibility

#### *Adoptive Parents*

52 weeks' adoption leave is available to any member of staff, (not a contractor or consultant) regardless of length of service with the Academy, who has:

- been newly matched with a child for adoption by a UK adoption agency;
- notified the agency that they agree the child will be placed with them;
- agreed with the agency a date for the placement; and
- satisfied the notice and evidential requirements

*Dual Approved prospective adopters ("fostering for adoption")*

52 weeks' adoption leave is available to any member of staff, regardless of length of service with the Academy, who:

- is a local authority foster parent who has been approved as suitable to foster a child with the intention that the placement may later become an adoption;
- has been notified by the local authority of its decision to place a child with them;
- has notified the local authority that they agree the child will be placed with them;
- has agreed with the local authority a date for the placement; and
- has given due notice to the Academy of their intention to take adoption leave.

If a placement with a dual approved prospective adopter does not proceed to a formal adoption, then entitlement to adoption leave/pay will end either 8 weeks after the placement ends or at the end of the adoption leave/pay period, whichever is earlier.

If a dual approved prospective adopter is entitled to adoption leave/pay when a child is placed with the family for fostering, then they cannot access further adoption leave/pay in respect of the same child if the adoption goes ahead.

*Surrogacy ("Parental Order") parents*

52 weeks' adoption leave is available to any member of staff, regardless of length of service with the Academy, who:

- is the intended parent in a surrogacy arrangement;
- is eligible for and intends to apply for a Parental Order which will make them the legal parents of the child they are having with the help of a surrogate mother;
- applies for a Parental Order within 6 months of the child's birth; and

- gives due notice to the Academy of their intention to take adoption leave.

#### *Allocation of adoption leave for couples*

In the case of a couple jointly adopting a child or jointly fostering a child for adoption, only one person in the couple can take adoption leave and they are known as the 'primary adopter'. The partner of the primary adopter may be eligible for paternity leave and pay and/or shared parental leave and pay. To qualify they will need to have completed at least 26 weeks' continuous service ending with the week in which they are notified of having been matched with a child, and meet any other criteria under the relevant policy.

Similarly, in the case of Parental Order parents, only one parent in the couple can take adoption leave/pay. The other parent may be eligible for paternity leave and pay and/or shared parental leave and pay. To qualify they will need to have completed at least 26 weeks' continuous service ending with the 15<sup>th</sup> week before the baby's birth, and meet any other criteria under the relevant policy.

However to qualify for statutory adoption pay, you must have at least 26 weeks of continuous service with the Academy leading up to the week you are notified of being matched with a child for adoption.

#### Procedure and timetable

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#### **Adoptive parents and dual approved prospective parents**

Members of staff who are adoptive or dual approved prospective adoptive parents must notify the Academy that they want to take adoption leave no later than seven days after the date on which they are notified that they have been matched with a child, unless this is not reasonably practicable.

Members of staff who are adoptive or dual approved prospective adopters must tell the Academy when the child is expected to be placed with them and when they wish to start their adoption leave (via the application form) at least 28 days before the date they want it to begin, or as soon as is reasonably practicable.

The Trust will request documentary evidence of the entitlement to adoption leave (for instance, the matching certificate provided by the adoption agency).

Members of staff who are adoptive parents can choose to begin their adoption leave and pay on:

- the date on which the child is placed with them for adoption; or
- a pre-determined date no earlier than 14 days before the expected date of placement and no later than the date of placement.

Members of staff who are dual approved prospective adopters (fostering for adoption) can choose to begin their adoption leave and pay on a pre-determined date no earlier than 14 days before the expected date of placement. Their adoption leave must be completed within 52 weeks of the placement for fostering for adoption.

Members of staff are required to give at least eight weeks' notice of the date on which they intend to return to work if it is earlier than the end of the adoption leave period.

### **Parental Order parents (intended parents in a surrogacy arrangement)**

Members of staff who are Parental Order parents must notify the Trust that they want to take adoption leave by the 15th week before the baby's due date. This notice must include the baby's expected week of birth.

As soon as is reasonably practicable after the baby's birth, the member of staff must notify the Academy of the baby's date of birth in writing.

Members of staff who are Parental Order parents must begin their adoption leave and pay on the day the baby is born (or the following day if they are at work on the day the baby is born).

The Trust may ask the Parental Order parent to provide a statutory declaration that they have obtained, or have applied for/intend to apply for, a Parental Order.

Members of staff are required to give at least eight weeks' notice of the date on which they intend to return to work if it is earlier than the end of the adoption leave period.

### Time off to attend adoption/antenatal appointments

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Employees who are adopting or fostering for adoption, and who have at least 26 weeks' continuous service at the Academy, are entitled to paid time off to attend adoption appointments in the period between being notified of a match and the child being placed with the family for adoption. A single adopter is entitled to paid time off to attend up to four adoption appointments in this period. In the case of a couple employed by the Academy, one adopter is entitled to paid time off to attend up to four adoption appointments and the other adopter is entitled to paid time off to attend up to two appointments. If an adopter takes paid time off work to attend more than two appointments they are classed as the primary adopter and are unable subsequently to take paternity leave.

Employees who are Parental Order parents in a surrogacy arrangement are each entitled to take paid leave to enable them to accompany the surrogate mother to up to two antenatal appointments.

### Adoption pay

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Adoption leave and pay are separate entitlements. Entitlement to adoption pay will depend on length of service and earnings, and on whether or not you intend to return to work following a period of adoption leave.

### Occupational Adoption Pay (OAP)

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Adoptive parents (and employees who are fostering to adopt) will be eligible to receive Academy (OAP), which is inclusive of Statutory Adoption Pay (SAP), if two criteria are met:

- the child being placed for adoption or being fostered for adoption must be under statutory school age (normally 5 years); and
- the employee must have completed at least 12 months continuous service for the Academy, regardless of the number of hours worked, at the week in which they are notified that they have been matched with a child.

OAP may also be exceptionally agreed in cases where the child is over statutory school age as determined on a case-by-case basis by the Principal in consultation with the Chair of Governors.

Parental Order parents who are intended parents in a surrogacy arrangement will be eligible to receive OAP if they have completed at least 12 months continuous service for the Academy, regardless of the number of hours worked, at the 15<sup>th</sup> week before the expected due date of the baby.

#### SCHEME 1 More than 12 months continuous service

ALL STAFF
4 weeks at full pay
2 weeks at 90% of pay
12 weeks at half pay ( OAP optional)
21 weeks at OAP

#### SCHEME 2 Less than 12 months continuous service but more than 26 weeks

ALL STAFF
6 weeks at 90% of pay
33 weeks at SAP

Occupational Adoption pay (OAP) if you are eligible is paid in addition to SAP without any deductions, unless the combined pay exceeds full pay. This is paid on the understanding that you will return to work either at the Academy for the required period.

SAP will stop being payable if you return to work (except where you are simply keeping in touch in as described in the "During adoption leave" section below).

All staff must return to work with for a period of 13 weeks (including periods of academy closure) as a qualifying condition to occupational adoption pay.

Where the Principal/Headteacher agrees, a full time member of staff may return to work on a part-time basis for a period which equates to 13 weeks full –time service. Similarly, a part-time member of staff may return to work on a different part-time basis for a period which equates to 13 weeks part-time service relating to her previous contract.

The 13 week period or part-time equivalent starts from the date you return or on the date the you return to work during the academy holiday or the date that you are declared medically fit to be available for work.

Sickness absence during the 13 week period will not count as a return to work, annual leave will.

#### Failure of staff member to return to work and continue in employment

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The Academy may reclaim the whole or part of any Occupational Adoption Pay element over and above Statutory Adoption Pay (SAP) if the member of staff does not return to work at the end of the adoption leave and subsequently continue in employment for at least 13 weeks.

#### Unpaid adoption leave

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Employees who have less than 26 weeks' service at the end of the week in which they are notified of a match (or in the case of Parental Order parents, as at the 15<sup>th</sup> week before the birth of the baby) will be entitled to up to 52 weeks' unpaid adoption leave.

#### Availability of adoption leave and pay

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Adoption leave and pay are only available to one parent (the primary adopter). The other parent might be eligible to take paternity leave and pay and might also be eligible for shared parental leave and pay, depending on their circumstances. This applies whether parents work for the same or different employers.



## Pensions

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### Local government Pension Scheme

If you pay into the Local Government pension scheme you will have to pay contributions on your pay.

You will not accrue pension benefits during any unpaid periods of adoption leave. However you can choose to pay additional pension contributions (APCs) to make up those benefits. For further information on APC's visit the local government Pension scheme website.....

### Teachers' Pension Scheme

If you are a Teacher you will continue to pay pension contributions during the paid period of your adoption leave.

Contributions will not be made during any period of unpaid adoption leave. You may however apply to the teacher's pension scheme to make additional pension contributions. For further information contact the Teacher Pension Agency

## During adoption leave

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While you are on adoption leave, your normal terms of employment will continue to apply except for your entitlement to pay. In particular, benefits in kind shall continue and you will continue to accrue holiday. The effects of your adoption leave on your pension arrangements depends on your choice if you wish to pay contributions during your unpaid period. For further information on this, speak to the Business Manager.

Although we will respect your absence during your adoption leave, we may need to make contact with you from time to time. You will continue to have access to the Academy network and we will continue to send you copies of information to your Academy email address; however it will be your choice if you wish to access them. We will make contact shortly before your adoption leave ends to arrange a discussion with you about your return to work including any training needs, proposed changes to your working arrangements or just to update you on

developments in your absence. If you have any concerns regarding this, you should speak with the Business Manager.

### Keep In touch days

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In addition, if you would like to attend work for training or other agreed reasons during your adoption leave then you can do so for up to ten days by prior agreement with us. You are under no obligation to do this. Attending work on this basis will not end your adoption leave or your entitlement to adoption pay. These days should be planned in advance and have a defined purpose. Where an employee works for less than a full day, this will still count as one keeping in touch day for the purposes of the 10 days maximum, although payment will only be made for actual hours worked. If you would like to discuss this option further, you should speak with the Business Manager.

### Expected return date

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As noted above, we will confirm to you the date on which you are expected to return to work after adoption leave within 28 days of your notifying your intended adoption and leave start date to us. If your adoption leave start date changes for any reason then we will confirm the revised return to work date to you within 28 days of the start of your adoption leave.

If you plan to come back to work on the return date that we have notified to you then you are not obliged to do anything further, although we would be grateful if you would help us plan ahead by confirming during your leave that you will return as expected.

If you wish to return to work earlier than the date that we have notified to you then you will need to give us at least four weeks' prior notice of the new date and we request that you do this in writing. If you don't give us eight weeks' notice then we may postpone your return until the sooner of four weeks from the date of your notice or the date that you were originally expected to return.

If you wish to return later than the date we have notified to you then you should either request parental leave in accordance with our Parental leave policy, by giving us at least 28 days' notice, or for support staff, request to take holiday in accordance with your contract.

If sickness absence prevents you from returning on the planned date then the normal rules relating to sickness absence will apply.

In any other case, late return will be treated as unauthorised absence. If you decide not to return to work at all then you must give notice of resignation in accordance with your contract of employment. If your adoption leave is due to end during the currency of your notice period then you may be required to return to work until your notice period expires.

### Sick pay

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Employees will not qualify for sick pay while they are on adoption leave.

### When you return to work

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In general, you will return to work in the same job and on the same terms as if you had not been absent. However, in some cases where you have taken more than six months' leave or any period of parental leave in conjunction with your adoption leave then we may offer you another suitable role, on terms and conditions that are not less favourable than those that applied before your leave.

If you wish to change your working patterns when you return to work then you should make a request for flexible working in line with set procedures. Flexible working requests take time to deal with so it's important that you make your request as soon as possible, otherwise you may have to return to work on the basis of your prior working patterns until the process of dealing with the request has finished.

### Annual Leave

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#### Full year support staff

All annual leave should be taken normally between 1st of September to the 31st of August. You can take your leave at the beginning or at the end of your adoption leave period but not at the same time. You should follow the normal procedures to book this leave.

If you have taken a full 12 months of adoption leave you will continue to accrue your contractual leave plus bank holidays. Any leave not already used, must be taken within 12 months of your return from adoption leave.

#### **Term time only support staff**

You will continue to accrue your full contractual annual leave and bank holidays while on adoption leave, however your salary already includes payment for holidays and bank holidays. The Business Manager will calculate how much leave and bank holidays you will receive whilst on the paid period of your adoption leave and what the balance owing you will need to take at the end of your adoption leave.

#### **Teachers**

The annual leave year for teacher is the 1st of September to the 31st of August. You will be allowed to take any outstanding statutory leave entitlement during term time (within that leave year) if there is insufficient school closures to accommodate your leave in that year. If you return very close to the end of the leave year and there are insufficient academy closures to accommodate your leave you will be allowed to carry your leave over to the next year to be taken during academy closures. Any untaken annual leave will not be paid.

#### **Salary Sacrifice Schemes**

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If you have taken out a salary sacrifice agreement, under the terms and conditions of the scheme you will continue to make payments whilst you are receiving occupational adoption pay. Whilst you are only receiving statutory adoption pay or are on unpaid adoption leave, payments will be suspended and the missed months will be added to the end of your hire agreement.

#### **Overseas Adoptions**

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The right to adoption leave applies to both domestic and overseas adoptions. However, in the latter case special rules apply. In essence, the rights are the same, but the rules are modified so as to apply to cases where the child enters the UK on or after 1 April 2007, and the qualifying and notice rules are measured by reference to an Official Notification that the adopter has been approved, rather than an Adoption Matching Certificate. Official Notification refers to a

written notification, issued by or on behalf of the relevant domestic authority (usually the Department of Health), that it is prepared to issue a certificate to the overseas authority concerned with the adoption of a child, or has issued a certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

#### Shared Parental Leave

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This will be applied in accordance with the statutory provision.

#### Review

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This policy will be biennially and reviewed in consultation with the ECC and the GJCNC. Any amendment to it will be notified to employees in writing by the Academy and, as such, written advice will inform employees as to the date when any amendment comes into effect. This may be by means of the Academy's intranet or via use of notice boards.