

Adoption Leave Policy

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VERSION HISTORY

Date	Version	Changes made to previous version	Consulting and Endorsing Stakeholders, Committees / Meetings / Forums etc.

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Policy Statement

- 1.1 The Adoption Leave policy is designed to implement the statutory rights to leave following the placement of a child for adoption.
- 1.2 Adoption leave and pay entitles eligible employees to take paid leave when a child is newly placed for adoption.
- 1.3 It is available to individuals who adopt and to one member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave).
- 1.4 Where the Integrated Care Board (“the ICB”) employs both parents, one parent will be identified as the primary carer and will be entitled to leave under this policy. The other parent will be entitled to leave under the Paternity Leave policy.
- 1.5 This policy should be read in conjunction with the Shared Parental Leave Policy which is another type of leave available following the birth or adoption of a child.

Roles and Responsibilities

- 2.1 Line Manager Responsibilities
 - Ensure that they understand their obligations within this policy.
 - Ensure that all staff are aware of this policy and understand their entitlements and obligations within this policy.
 - Promote and implement employment practices in accordance with this policy, supporting staff wellbeing and enabling a healthy work/life balance.
 - Process all paperwork in a timely manner, keeping a record in the employees personnel file.
 - Seek help and advice from HR when matters are complex or further guidance is required.
- 2.2 Employee Responsibilities
 - Ensure that they understand their obligations within this policy.
 - Understand their entitlements in line with this policy, their employment contract and if applicable personal circumstances.
 - Submit all paperwork in a timely manner.
 - Seek help and advice from their line manager or HR when matters are complex or further guidance is required.
- 2.3 Human Resources Responsibilities
 - Ensure that the ICBs have robust HR policies and procedures in place which are legally compliant and adhere to the principles of fairness, equality and diversity.
 - Advise the Associate Director of Governance and Corporate Affairs of any non-compliance with this policy for consideration of further action.

Scope

- 3.1 This document applies to staff employed by the ICB, including those who are seconded out to another organisation, and will be applied consistently and equitably to all staff. It does not apply to staff employed by other organisations and seconded into the ICB (those staff are the responsibility of their substantive employer), agency staff or contractors (e.g. those engaged on a contract for service).

Part 1 - Principles

- 4.1 Training and support will be provided to all Line Managers in the implementation and application of this policy.

Entitlement to Adoption Leave

- 4.2 All qualifying employees will be entitled to 52 weeks Adoption Leave. The first 26 weeks is known as 'Ordinary Adoption Leave' (OAL), the last 26 weeks as 'Additional Adoption Leave' (AAL).
- 4.3 Employees will not qualify for either adoption leave or pay if they:
- become a special guardian or kinship carer
 - adopt a family member or stepchild
 - adopt privately, for example without permission from a UK authority or adoption agency

Entitlement to Occupational Adoption Pay under the NHS Scheme

- 4.4 An employee working full or part-time is entitled to Adoption pay under the NHS scheme provided that they;
- have completed at that time 12 months continuous service with one or more NHS employing authorities ending with the week in which they are notified of being matched with a child for adoption; **and**
 - notify the Organisation within seven days of being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable, and intends to return to work for a minimum period of three months with the same or another NHS employer; **and**
 - submit documentary evidence in the form of a 'matching certificate' from their adoption agency as proof of entitlement to leave.
- 4.5 An employee who **qualifies for full benefits and intends to return to work with the same or another employing NHS Organisation** will be entitled to 52 weeks Adoption Leave, paid as follows:
- 8 weeks at full pay including any Statutory Adoption Pay (SAP) or equivalent benefits payable;
 - 18 weeks at half pay reduced only where half pay plus any Statutory Adoption Pay, Maternity Allowance (MA) or equivalent benefits payable exceeds full pay;
 - 13 weeks at Statutory Adoption Pay, if payable;
 - 13 weeks unpaid leave.
- 4.6 An employee who **qualifies for full benefits and does not intend to return to work** for the same or another employing NHS Organisation will be entitled to 52 weeks Adoption Leave, paid as follows:
- 6 weeks, Statutory Adoption Pay paid as 90% of full pay (average weekly earnings)
 - 33 weeks paid at the lesser of standard rate Statutory Adoption Pay or 90% of average weekly earnings, if payable;
 - 13 weeks unpaid leave.
- 4.7 An employee who **does not qualify for full benefits** but who has at least 26 weeks service leading into the week in which they are notified of having been matched with a child **and** meets the earnings rule, whether or not they intend to return to work, will be entitled to 52 weeks Adoption Leave which will be paid as follows:
- 39 weeks paid at the lesser of standard rate Statutory Adoption Pay or 90% of average weekly earnings;
 - 13 weeks unpaid leave.
- 4.8 An employee who **does not qualify for Statutory Adoption Pay** whether or not they intend to return to work will be entitled to 52 weeks Adoption Leave. No payments will be made during the adoption leave period.

Timing of Leave

- 4.9 Adoption leave can start:
- up to 14 days before the date the child commences the placement (UK adoptions)
 - when the child arrives in the UK or within 28 days of this date (overseas adoptions)
 - on the day the child is born or the day after if you've used a surrogate to have a child)
- 4.10 Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 4.11 If the date of a placement changes, the employee should give 28 days' notice to change the start date of their adoption leave, where this is reasonably practicable. In any event, as much notice as possible should be given and the adopter's manager must be kept informed.

Disruption to Adoption Leave

- 4.12 If, during OAL or AAL (the last 26 weeks of leave) AL the adoption agency informs you that the child will not be matched with you; or the child dies; or the child's placement with you ends, your adoption leave will end eight weeks after the end of the week in which the disruption took place or the end of your SAP if sooner. Your right to SAP will also end at the same time.

Calculation of Pay

- 4.13 Adoption Pay is calculated on average earnings paid for two months prior to the start of the week after that in which the adopter is notified of having been matched with a child for adoption.

Implementation of Pay Awards and Entitlements

- 4.14 Adoption Leave, whether paid or unpaid, shall count as service for employment purposes including any service qualification period for additional annual leave. The expectation is that an employee on Adoption Leave would, providing no concerns had been raised about the ability to meet their objectives prior to Adoption Leave, move automatically through their pay journey as if they were at work.
- 4.15 Where a pay award is implemented from a date prior to the paid Adoption Leave period, the Adoption Pay will be calculated as though the pay award had effect throughout the entire Statutory Adoption Pay calculation period. If a pay award is agreed retrospectively, the Adoption Pay will be recalculated on the same basis
- 4.16 Where a pay award is implemented from a date during the paid Adoption Leave period, the Adoption Pay due from the operative date of the pay award will be calculated as though the pay award had effect throughout the Statutory Adoption Pay calculation period. Again, if such a pay award were agreed retrospectively, the Adoption Pay should be recalculated on the same basis.

Employees on a Fixed-Term Contract

- 4.17 An employee on a fixed-term contract which expires after the week in which the adopter is notified of a match with a child for adoption will, subject to satisfying the conditions in 2.4 have their contract extended to enable them to receive 52 weeks adoption leave which includes occupational and statutory adoption pay and 13 weeks unpaid leave.
- 4.18 An employee not satisfying the conditions in 2.6 but is entitled to Statutory Adoption Pay will have their contract extended to allow them to receive Statutory Adoption Pay. The contract will not be extended to cover a period of unpaid leave.

- 4.19 Under these circumstances, there will be no right of return to be exercised because the contract would have ended if the adoption had not occurred.

Contractual Rights

- 4.20 All contractual rights, apart from remuneration, will continue to accrue during the whole adoption leave period.

Annual Leave

- 4.21 Annual leave will continue to accrue during both paid and unpaid adoption leave.
- 4.22 Where the amount of accrued leave would exceed the normal carry over provisions, the manager and employee should agree arrangements for the leave to be taken either prior to or immediately following the adoption leave period.
- 4.23 In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.
- 4.24 All adoption leave including unpaid adoption leave will count as service for the purpose of satisfying the service qualification for accruing additional annual leave entitlements.
- 4.25 Bank Holidays are accrued whilst on paid or unpaid adoption leave.

Paternity Leave

- 4.26 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. Please refer to the Maternity Support (Paternity) Leave Policy.

Shared Parental Leave

- 4.27 Shared Parental Leave (SPL) enables eligible parents to choose how to share the care of their child during the first year following birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. Please refer to the Shared Parental Leave Policy.

Entitlement to Time off For Pre-Adoption Arrangements

- 4.28 An employee who is the Adopter or an employee who is the partner of the adopter may take reasonable time off, with pay, for adoption related meetings, as long as reasonable notice is given and proof of all appointments is provided. This should be recorded in ESR.

Pension

- 4.29 Unless an Employee has chosen to opt-out of the pension scheme, contributions will be deducted from salary as normal during paid Adoption Leave and continue to be payable during unpaid leave. On return to work, arrears of contributions will be recovered and deducted from salary over an agreed period of time, NHS SBS Shared Services will write to the individual to confirm the arrears and repayment plan.

Email management during absence.

- 5.1 Line managers should consider that if an NHSmail account password is not changed within 90 days the account will be disabled, after a further 90 days the account is deleted. Therefore email accounts for staff on long-term absence need to be managed to ensure they are not deleted as part of this

automated inactive account deletion process. The line manager should contact IT prior to the first 90 to ask them to ensure the email account is not disabled.

Equality

- 6.1 In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

Monitoring & Review

- 7.1 This policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.
- 7.2 Implementation and operation of this policy will be monitored on an annual basis by the ICB Leadership Team. It will also be assessed on an ongoing basis as part of the monthly review of performance of ICBs and the annual governance review of ICBs undertaken by the NHS England ICB Transition team.

Data Protection

- 8.1 In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

PART 2 - Procedure

- 1.1 Employees must inform their manager of their intention to take adoption leave within seven days of them being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable.
 - 1.2 Adoption Leave can start on any day of the week. Any Annual Leave to be taken before the commencement of Adoption Leave should be taken into account
 - 1.3 An employee must, wherever possible, give at least 28 days' notice of their intention to take Adoption Leave by completing the HR5 form with their manager
 - 1.3 On receipt of the Matching Certificate from the adoption agency, the original should be sent to:
 - NHS Arden and Greater East Midlands Commissioning Support Unit, People Services (Relevant ICB Name), 30 East Street, Leicester, Leicestershire, LE1 6NB.
- It is recommended that the Matching Certificate is sent via recorded delivery and should be received by People Services no later than 28 days before the commencement of leave.
- It is also recommended that the employee retain a copy for their own reference.
- 1.5 The employee will receive written confirmation from People Services within 28 days of receipt of Form HR5 of:
 - their adoption entitlements, both paid and unpaid
 - their expected return date based on 52 weeks paid and unpaid leave unless an earlier return date has been given
 - details of any accrued annual leave that is to be taken at the end of the adoption leave period
 - the need to give at least 28 days' notice if they wish to return to work before the expected return date.
 - 1.6 If the employee subsequently decides that they wish to change the start date of the Adoption Leave they must notify her Line Manager at least 28 days beforehand or where this is not possible as soon as is reasonably practicable.

Return to Work

- 1.8 If an employee wishes to take full entitlement to leave, then no further notification of return to work need be given.
- 1.9 An employee wishing to return to work before the end of their full entitlement to leave must give at least 28 days' notice of their date of return.
- 1.10 Where an employee decides that they do not wish to return to work they will need to give written notice in accordance with their employment contract. They will then be required to repay any Occupational Maternity Pay that has been paid during the Adoption Leave as per 1.11.

Amendments to Working Patterns

- 1.11 The ICB understands that employees returning to work after the adoption of a child may wish to review their working arrangements to assist with their new childcare commitments. If this is the case they should refer to the ICB's Flexible Working Policy.

Failure to Return to Work

- 1.12 An employee who has notified the Organisation of their intention to return to work for a minimum of three months for the same or another NHS employer, and fails to do so within 15 months of the beginning of their adoption leave will be liable to refund the whole of their adoption pay, less any Statutory Adoption Pay received.
- 1.13 In cases where the Organisation considers that to enforce this provision would cause undue hardship or distress, the organisation has the discretion to waive the right of recovery.

Keeping In Touch

- 2.1 Before an employee's Adoption Leave begins, the Line Manager will discuss the arrangements for them to keep in touch during the leave. The ICB reserves the right in any event to maintain reasonable contact with the employee from time to time during their Adoption Leave. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence. .
- 2.2 Keeping in Touch (KIT) days allow employees to do a limited amount of work under their contract during the Adoption Pay Period without loss of Statutory Adoption Pay for the week. They are intended to facilitate a smooth return to work for an employee returning from adoption leave and can include training or other activities which enable the employee to keep in touch with the workplace.
- 2.3 An employee may work a maximum of 10 KIT days without bringing her adoption leave to an end. Any days of work will not extend the adoption period.
- 2.4 Working for part of any day will count as a whole KIT day.
- 2.5 The employee will be paid at their basic daily rate for the hours worked (less appropriate adoption leave payment) for KIT days worked
- 2.6 Any work must be by agreement and neither the employer nor the employee can insist upon it.
- 2.7 In certain circumstances, the Organisation may consider the reimbursement of reasonable childcare costs in order to enable the employee to take up the opportunity to work KIT days.
- 2.8 Where an employee works a KIT day, the employee and line manager must ensure that payroll are notified of the days worked by fully completing HR2 Form and returning it to People Services.

Equality Impact Assessment

Directorate Team Name of lead person

Piece of work being assessed

Aims of this piece of work

Date of EIA Other partners/stakeholders involved

Who will be affected by this piece of work?

Single Equality Scheme Strand	Baseline data and research on the population that this piece of work will affect. What is available? Eg population data, service user data. What does it show? Are there any gaps? Use both quantitative data and qualitative data where possible. Include consultation with service users wherever possible	Is there likely to be a differential impact? Yes, no, unknown
Gender	This is more likely to affect or apply to female employees.	No
Race		No
Disability		No
Religion/ belief		No
Sexual orientation		No
Age		No
Social deprivation		No
Carers		No
Human rights		No

No anticipated detrimental impact on any equality group. The policy adheres to both statutory entitlements and AFC terms and conditions. It makes all reasonable provision to ensure equity of access to all staff. It is acknowledged that the greater percentage of employees are female and therefore this staff group may inevitably be more impacted upon by the policy. However, there are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.