

Workforce Directorate Policy

Leave Policy Adoption Leave Procedure

W19

(Ratified December 2019)

Includes Flowcharts, FAQ and Relevant Forms/Paperwork

Introduction

The Trust recognises that staff undertaking adoption, need time off work prior to and following the adoption of a child. The Trust applies the arrangements set out within the NHS Terms and Conditions of Service Handbook to support staff before, during and after adoption.

This chapter covers UK Adoptions only. Adoption leave is not available for Special Guardianships, adoption of a step-child or if you arrange a private adoption.

It should be noted that arrangements for Adoption Leave and Pay mirror those for New Parent Support leave therefore staff must also refer to the relevant guidance notes for New Parent Support Leave/Pay.

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1. What is Adoption Leave?

Adoption leave is the period of absence from work immediately before and immediately after the adoption of a child.

2. What is Adoption Pay?

Adoption pay is the entitlement to pay whilst absent on adoption leave.

3. Am I entitled to Time Off for Pre-Adoption Arrangements?

The handbook states in section 15.98 *Reasonable paid time off, to attend official meetings in the adoption process, should also be given according to legislation. This also covers the right to unpaid time off to attend pre-adoption meetings for eligible employees.*

As the Adopter or an employee who is the partner of the adopter you are entitled to take reasonable time off with pay to attend meetings about adoption arrangements, giving reasonable notice prior to attending the meetings and providing proof of all appointments.

4. What other documentation will I be required to give to my manager?

You will be required to provide a 'matching certificate' from your adoption agency as documentary evidence of your entitlement to take Adoption Leave. This document must show:-

- i) the name and address of the adoption agency and your details
- ii) the date the child is expected to be or was placed for adoption
- iii) the date the you were told by the adoption agency that you had been matched with a child

5. What notice do I need to give my manager that I am taking adoption leave?

You must notify your Manager in writing using the Adoption Leave Form of your intention to take adoption leave within 7 days of being notified by your adoption agency that you have been matched with a child for adoption, unless this is not reasonably practicable.

Eligibility

6. Am I entitled to Adoption Leave?

Section 15.15 sets out that:

there will be entitlement to paid and unpaid occupational adoption leave for employees wishing to adopt a child who is newly placed for adoption. Further section 15.15 states it will be available to people wishing to adopt a child who has primary carer responsibilities for that child.

7. Am I eligible for Adoption Pay?

The handbook states in section 15.15:

eligibility for occupational adoption pay will be 12 months' continuous NHS service ending with the week in which they are notified of being matched with the child for adoption or the 15th week before the baby's due date if applying via a surrogacy arrangement and where the employee is eligible and intends to apply for a parental order. This will cover the circumstances where employees are newly matched with the child by an adoption agency. Also, they are the primary carer in the adoption arrangement made by an official adoption agency, or they are the intended parent through a surrogacy arrangement and commit to applying for a parental or adoption order.

They must notify the trust in writing before the end of the week in which they are notified of being matched with a child for adoption, or by the 15th week before the baby's due date if applying via a surrogacy arrangement:

- (i) of their intention to take adoption leave;*
- (ii) of the date they wish to start their adoption leave*
- (iii) that they intend to return to work with the same or another NHS employer for a minimum period of three months after their adoption leave has ended;*
- (iv) and provide written confirmation from their placing authority of the matching decision or a parental statutory declaration that they intend to apply for a parental order in the case of a surrogacy arrangement.*

8. Am I entitled to Adoption Leave where I have been fostering the child prior to adoption?

The handbook states in section 15.41:

Prospective adopters who have been approved by their adoption agency under a “concurrent” or “fostering for adoption” arrangement may choose to start their adoption leave when a fostering placement is made or when the child is matched with them for adoption. Only one set of adoption leave is payable per placement. Receipt of fostering allowances and payments during the fostering phase of placement will not affect any adoption pay payable under this agreement.

9. What happens if I adopt from overseas?

Section 15.43 states:

For an employee to qualify for adoption leave and or pay resulting from an overseas adoption, they must:

- i. tell their employer the date of the official notification (permission from a GB authority for an adoption abroad) and the estimated date that the child will arrive in GB. This must be done 28 days of receipt of the official notification;*
- ii. tell their employer the actual date the child arrives in GB within 28 days of this date;*
- iii. provide their employer with a minimum of 28 days’ notice of when they wish to commence their adoption leave and pay (noting that adoption leave can only commence after the child has entered GB and must start no later than 28 days after the child has entered GB);*
- iv. appropriate documentation and proof of the adoption to the employer including but not limited to the official notification and evidence that the child has entered GB.*

10. What are the Trusts local arrangements?

Foster parents who are subsequently matched for adoption, will be entitled to adoption leave when the child is actually placed with them for adoption. If there is an established relationship with the child, such as fostering prior to adoption, reasonable paid or unpaid time off for official meetings may be granted. In the case of adoption of a step-child there will not normally be an entitlement to adoption leave.

11. If both parents are employed at the Trust who is entitled to adoption leave and pay?

Refer to *Shared Parental Leave – chapter 6.*

12. How many times can I take adoption leave during my employment?

There is no limit on the number of periods of Adoption Leave that may be taken by an employee during their employment. **Paid Adoption Leave – amount and calculation of pay**

13. How much Adoption Leave am I entitled to?

Section 15.15 of the ‘handbook’ sets out that *all employees are entitled to take 52 weeks’ adoption leave.*

14. How much Adoption Pay am I entitled to?

The handbook states in section 15.37

Where an employee intends to return to work the amount of occupational adoption pay receivable is as follows:

- i) for the first eight weeks of absence the employee will receive full pay, less any Statutory Adoption Pay receivable;*
- ii) ii) for the next 18 weeks the employee will receive half of full pay, plus any Statutory Adoption Pay receivable, providing the total receivable does not exceed full pay;*
- iii) iii) for the next 13 weeks, the employee will receive any Statutory Adoption Pay that they are entitled to under the statutory scheme;*
- iv) for the final 13 weeks, the employee will receive no pay.*

15. If I adopt two children how much leave am I entitled to?

Only one period of Adoption Leave can be taken irrespective of whether more than one child is placed for adoption as part of the same arrangement.

Commencement of Leave

16. Can I choose when to start my leave?

You can choose to start your leave either on the date of the child's placement (whether this is earlier or later than expected), or from a fixed date which can be up to 14 days before the expected date of placement. If the placement is delayed and Adoption Leave has commenced, it cannot be stopped and resumed again at a later date. Leave can start on any day of the week

17. Can I change my mind about the date I want my leave to start?

You can change your mind about the date on which you wish to start your Adoption Leave provided you advise your Manager at least 28 days in advance (unless this is not reasonably practicable).

Statutory Adoption Leave

18. If I am not eligible for Occupational Adoption Pay can I claim statutory adoption pay?

The handbook states in section 15.102 that:

employees who are not eligible for occupational adoption pay may still be entitled to statutory adoption pay (SAP) subject to the qualifying conditions set out in paragraph 15.14, 15.15 or 15.17. For more information see the Guidance Notes for Maternity Leave

Keeping in touch during the adoption leave period

19. Can I do keep in Touch Days during Adoption Leave?

The handbook states in section 15.68:

that employees will be entitled to keep in touch days (KIT days) in line with the maternity leave and pay provisions as set out in Section 15 of this agreement.

For more information see the Guidance Notes for Maternity Leave.

Ending Adoption Leave

20. What happens if the adoption does not take place ?

If for any reason the adoption does not take place, you must return to work within a reasonable period of time and by agreement with your Manager.

21. What happens if the adoption terminates during my Adoption leave period?

Section 15.41 of the handbook states *should the adoption break down ("Be disrupted") the employee will be entitled to continue their adoption leave and receive the appropriate payment for that time.*

22. What notification do I need to give when returning to work at the end of adoption leave (excluding scenarios in question 18 and 19)?

You are required to give at least 8 weeks' notice if you wish to return to work before the agreed return date.