

Adoption Leave and Pay Policy	
Date approved by Trustees	July 2019
Date for next review	July 2022
Compliance lead	Director of People, Employee Engagement and PSTE
Agreed Policy file name	Adoption Leave and Pay Policy
Agreed policy location:	RMT Website RMT Information area\Policies and Procedures

ADOPTION LEAVE AND PAY POLICY

1 Policy Statement

- 1.1 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.
- 1.2 This Adoption Leave and Pay Policy may be amended, withdrawn, suspended or departed from at the discretion of the Trust. While it does not form part of any employee's contract of employment and is entirely non-contractual, all employees are required to adhere to the policy and any failure to comply with any aspect of the policy may be treated as a disciplinary matter.

2 Definitions

- 2.1 The definitions in this paragraph 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 under paragraph 4.2.

Additional Adoption Leave (AAL): a further period of up to 26 weeks' leave immediately following OAL.

3. Eligibility and benefits

3.1 Adoption leave

3.1.1 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”, “early permanency” or “concurrent planning”); and
- Intended parents in a surrogacy arrangement who are eligible for and intend to apply for a Parental Order (“Parental Order parents”).

3.2 Eligibility

a) Adoptive parents

52 weeks’ adoption leave is available to any member of staff, regardless of length of service with the Trust, who has:

- been newly matched with a child for adoption by a UK adoption agency;
- adoption leave is only available if you are adopting through a UK or overseas adoption agency (for overseas adoptions see paragraph 6). It is not available if there is no agency involved, for example, if you are formally adopting a stepchild or other relative.
- notified the agency that they agree the child will be placed with them;
- agreed with the agency a date for the placement; and
- given due notice to their line manager and Human Resources of their intention to take adoption leave (see Section 5, below).

b) Dual approved prospective adopters

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

- is a 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 adoptive agency of its decision to place a child with them;
- has notified the agency that they agree the child will be placed with them;
- has agreed with the agency a date for the placement; and
- has given due notice to their line manager and Human Resources of their intention to take adoption leave (see Section 5, below).

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 12 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.

c) Surrogacy ('Parental Order') parents

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

- is an 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 their line manager and Human Resources of their intention to take adoption leave (see Section 5, below).

3.3 Allocation of adoption leave for couples

3.3.1 In the case of a couple, 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.

3.3.2 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 15th week before the baby's birth, and meet any other criteria under the relevant policy.

4 Personnel Responsible for Implementing the Policy

4.1 The Executive Team has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework, including operating the policy and ensuring its maintenance and review.

4.2 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.

5 Notification of Intention to Take Leave

5.1 You must give us notice in writing of:

5.1.1 The Expected Placement Date; and

5.1.2 Your intended start date for adoption leave (**Intended Start Date**) (see paragraph 7).

5.2 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.

5.3 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:

5.3.1 A Matching Certificate from the adoption agency confirming:

- the agency's name and address;
- the name and date of birth of the child;
- the date you were notified of the match; and
- the Expected Placement Date.
- Written confirmation that you intend to take statutory adoption pay and not statutory paternity pay.

6 Overseas Adoptions

6.1 If you are adopting a child from overseas, the following will apply:

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

6.1.2 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.

6.2 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).

6.3 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.

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

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

7 Starting Adoption Leave

7.1 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.

7.2 You must notify us of your Intended Start Date in accordance with paragraph 5. 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**).

7.3 You can postpone 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.

- 7.4 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.
- 7.5 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.

8 Adoption pay

- 8.1 Adoption leave and pay are separate entitlements. Entitlement to adoption pay will depend on length of service and earnings, and on whether or not the employee returns to work following a period of adoption leave. These entitlements are detailed in paragraphs 9 and 10.

9. Occupational Adoption Pay (OAP)

- 9.1 Adoptive parents (and dual approved prospective adopters) will be eligible to receive Trust Occupational Adoption Pay (OAP), which is inclusive of Statutory Adoption Pay (SAP), if:
- the employee has completed at least 26 weeks' continuous service for the Trust, regardless of the number of hours worked, at the week in which they are notified that they have been matched with a child.
- 9.2 Parental Order parents who are intended parents in a surrogacy arrangement will be eligible to receive OAP if they have completed at least 26 weeks' continuous service for the Trust, regardless of the number of hours worked, at the 15th week before the expected due date of the baby.
- 9.3 For anyone in receipt of OAP, a further condition is that the employee must return to work at the Trust following the period of adoption leave, in a full or part-time capacity, and subsequently continue in employment for at least three months. Annual leave accrued during adoption leave which is subsequently taken on return will not count towards those three months. The Trust reserves the right to reclaim all the non-statutory elements of pay if an employee fails to return for this period of time. Eligibility to Statutory Adoption Pay (SAP) remains unaffected, regardless of whether the individual returns.

9.4 Payments:

- 12 weeks x full pay
(this includes the first 12 weeks of statutory adoption pay - 6 weeks at the higher rate and 6 weeks at the lower rate which is enhanced by the Trust to equal full pay); followed by
- 12 weeks x half pay inclusive of SAP at the lower rate (or SAP at the lower rate, whichever is the higher amount); followed by
- 15 weeks x SAP at the lower rate; followed by
- 13 weeks unpaid

10 Statutory Adoption Pay

- 10.1 Employees will not be eligible for Occupational Adoption Pay but may be eligible for Statutory Adoption Pay if:
- The individual has indicated before the commencement of their adoption leave that they do not wish to return to work.
- 10.2 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:
- 10.2.1 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;
- 10.2.2 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
- 10.2.3 You have given us the relevant notifications under paragraph 5.
- 10.2.4 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 if this is lower.
- 10.2.5 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.
- 10.2.6 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:
- 14 days before the Expected Placement Date; or
 - The day after your employment ends, whichever is the later.
- 10.2.7 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.
- 10.3 SAP is calculated as follows:
- 10.3.1 First six weeks x higher rate SAP: SAP is paid at the Earnings-Related Rate of 90% of your average weekly earnings calculated over the Relevant Period;
- 10.3.2 Remaining 33 weeks x lower rate SAP: 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.

11. Unpaid Adoption Leave

- 11.1 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 15th week before the birth of the baby) will be entitled to up to 52 weeks' unpaid adoption leave.

12. Combination of payments

- 12.1 No combination of payments shall exceed full pay.

13 Terms and Conditions During OAL and AAL

- 13.1 All the terms and conditions of your employment remain in force during OAL and AAL, except for the terms relating to pay. In particular:

13.1.1 Benefits in kind shall continue.

13.1.2 Annual leave entitlement under your contract shall continue to accrue (see paragraph 14, Annual leave); and

13.1.3 Pension benefits shall continue (see paragraph 15, Pensions).

14 Annual Leave

- 14.1 During OAL and AAL, annual leave will accrue at the rate provided under your contract.

- 14.2 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.

- 14.3 Our holiday year runs from 1st September to 31st August.

15 If the employee is in the Pensions Scheme

- 15.1 During OAL and any further period of paid adoption leave we shall continue to make any employer contributions that we usually make into a stakeholder pension scheme, based on what your earnings would have been if you had not been on adoption leave provided that you continue to make contributions based on the adoption pay you are receiving. If you wish to increase your contributions to make up any shortfall from those based on your normal salary you should contact a member of Human Resources at your college or at the site where you are based.

- 15.2 During any unpaid AAL we shall not make any payments into a stakeholder pension scheme. You do not have to make any contributions but you may do so if you wish, or you may make up for missed contributions at a later date, subject to meeting the criteria of the pension scheme.

16 Salary progression

- 6.1 On return to work the employee's salary will be reviewed to take into account any increment, or general increase which would have applied had they not been on adoption leave.

17 Continuity of service

- 17.1 The contract of employment continues throughout adoption leave. Continuity of service will not have been broken by an unpaid period of absence. Therefore, entitlement to periods of notice, holidays and sick leave which accrued at the beginning of adoption leave will not be lost.

18 Redundancies During Adoption Leave

- 18.1 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.

19 Disrupted Adoption

- 19.1 Adoption leave is disrupted if it has started but:

19.1.1 You are notified that the placement will not take place;

19.1.2 The child is returned to the adoption agency after placement; or

19.1.3 The child dies after placement.

- 19.2 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.

20 Keeping in Touch

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

- 20.2 You may work and paid for the hours worked (including attending training) for up to ten days during adoption leave without bringing your adoption leave or OAP/SAP to an end. This is not compulsory and arrangements, including any additional pay for hours worked, would be discussed and agreed with your line manager or Human Resources.

- 20.3 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:

20.3.1 Updating you on any changes that have occurred during your absence;

20.3.2 Any training needs you might have; and

20.3.3 Any changes to working arrangements (for example, if you have made a request to work part time). See paragraph 26, Returning to work part time.

21 Expected Return Date

21.1 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.

21.2 We will expect you back at work on your Expected Return Date unless you tell us otherwise (see paragraph 22, paragraph 23 and paragraph 24). It will help us if, during your adoption leave, you are able to confirm that you will be returning to work as expected.

22 Returning Early

22.1 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.

22.2 If you do not give enough notice, we may postpone your return date until four weeks (or eight weeks as appropriate) after you gave notice, or to the Expected Return Date if sooner.

23 Returning Late

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

23.1.1 Request unpaid parental leave in accordance with our Parental Leave Policy, giving us as much notice as possible but not less than 21 days; or

23.1.2 Request paid annual leave in accordance with your contract, which will be at our discretion.

23.2 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.

23.3 In any other case, late return will be treated as unauthorised absence.

24 Deciding Not to Return

24.1 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.

24.2 Once you have given notice that you will not be returning to work, you cannot change your mind without our agreement.

24.3 This does not affect your right to receive SAP, however, as per paragraph 9 this will affect your OAP if you are eligible to receive it.

25 Your Rights When you Return

- 25.1 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.
- 35.2 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.

26 Returning to Work Part-Time

- 26.1 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 our business. It is helpful if requests are made as early as possible. The procedure for making and dealing with such requests is set out in our Flexible Working Policy.