



Workforce

Adoption, Fostering and Kinship Policy

Aim

The Adoption, Fostering and Kinship Care Policy aims to:

- outline the eligibility procedure employees must use to request adoption leave and the support available for fostering and kinship care
- provide details about employees' statutory and contractual rights
- confirm adoption pay arrangements

Scope

This policy applies to all employees who meet the eligibility criteria. It also applies to bank, agency, and sessional workers who meet specific eligibility criteria.

This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

Definitions

For the purposes of adoption leave, a **child** is a person who is under the age of 18 when they are placed with the adopter for adoption.

Adoption is a process whereby an employee applies to become the legal parent of a child.

Employing board is the employer of an individual.

Fostering is a process whereby an employee applies to become the legal carer of a child, usually for a limited time, but is not the legal parent.

The **intended parent** or **intended parents** are employees who intend to have a child via adoption or surrogacy.

Keeping in touch (KIT) days help employees on adoption leave:

- keep up to date with any changes at work
- maintain their professional registration where appropriate

KIT days also support employees when returning to the workplace after adoption leave.

A **kinship carer** is an employee related to the child through blood, marriage, civil partnership, or a person with whom the child has a pre-existing relationship. They care for the child if the child cannot remain with their parent or parents.

A **parental order** is an order from a court confirming the parental agreement of a child.

Placement board is the organisation providing a training placement to an individual who is not their employee.

Roles and responsibilities

There is a range of standard expectations which underpin all policies. Read more about standard [roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

Manager

The manager should:

- obtain copies of relevant documentation to confirm eligibility
- respond promptly to a notification of leave
- plan for effective team working, including KIT days
- make sure the employee receives regular communication in departmental, organisational, and career opportunities
- action return to work requirements, for example, reinstating the employee on payroll

Employee

The employee should:

- notify their manager of any placement dates of a child or children
- provide copies of relevant documentation to confirm eligibility
- talk to their manager about their intentions for adoption leave, return to work, and KIT days, as applicable
- maintain their professional registration

Procedure

Adoption procedure

When an adoption agency confirms a match with a child, the employee should notify their manager:

- before the end of the week they are notified by the adoption agency
- by the 15th week before the baby's due date if it is a surrogacy arrangement

The employee with primary carer responsibilities for the child should confirm their intention to take adoption leave by submitting an [Adoption leave form](#). For details on the information employees should provide to their employer, please read the [Employee guide](#).

The employee will receive written confirmation of their adoption leave and pay arrangements within 28 days.

The written confirmation will include the employee's:

- paid and unpaid leave entitlements, or statutory entitlements if the employee is not eligible for occupational leave and/or pay
- expected return date, based on 52 weeks of paid and unpaid leave entitlement
- early return date, if requested

There are specific notification requirements if an employee is adopting from overseas. For further detail, please read:

- [Guide for managers](#)
- [Guide for employees](#)

Adoption leave

Adoption leave eligibility

An employee will have the right to 52 weeks of adoption leave if they are:

- the primary carer in an adoption arrangement made by an official adoption agency
- adopting a child from overseas and the relevant UK authority has approved the adoption
- the parent through a surrogacy arrangement and committed to applying for a parental or adoption order

If adopting as a couple, only one parent can take adoption leave. The partner may access the following:

- [New Parent Support Policy](#)
- [Shared Maternity and Shared Adoption Policy](#)

Adoption leave entitlement

Eligible employees can take 52 weeks of adoption leave whether or not they return to NHS employment.

Employees should check how unpaid leave will impact their pension with the SPPA or pension provider.

Annual leave and public holiday hours will accrue as normal during adoption leave.

Pre-adoption leave

Reasonable time off should be given to attend official meetings in the adoption process, such as court sessions and interviews. This includes meetings with the child. When an adoption agency confirms the placement of a child for adoption, the employee must advise their manager in writing as soon as possible.

The employee must give their manager advance notice of appointments. They must also try to arrange these meetings outside work hours or at

the start or end of the working day. However, employers recognise that this may not always be possible.

KIT days

Before going on adoption leave, the employee and their manager must agree on voluntary arrangements for keeping in touch. It will help the employee to:

- keep up to date with developments at work and facilitate their return to work
- inform their manager of any circumstances that may affect their intended date of return
- maintain their professional registration

Employees can return to work for up to 10 days without bringing their adoption leave or pay to an end. KIT days are optional but help to facilitate a smooth return to work for employees returning from adoption leave.

KIT days don't need to be consecutive. They can include training or other activities which enable the employee to keep in touch with the workplace. Working for part of any day will count as one KIT day from the 10-day allowance.

KIT days are paid as if the employee is at work and include any Occupational Adoption Pay (OAP) or Statutory Adoption Pay (SAP) if the employee is not eligible for OAP. The combination of OAP and SAP cannot exceed normal average weekly pay. If a KIT day is worked in the full pay period, the employee will receive a day of paid leave in lieu once they have returned to work. If a KIT day is worked on a day of leave in the half-pay period, the employee will receive a half day of paid leave in lieu once they have returned to work.

Adoption pay

Employees may be eligible for payment of OAP. If an employee is not eligible for OAP due to insufficient service, they may meet the criteria for payment of SAP.

Statutory Adoption Pay (SAP)

SAP is a benefit for employees on adoption leave. The UK Government determines the conditions and amount, but it is the employer who pays SAP to their employees.

Employees are paid 90% of their average earnings in the first 6 weeks of adoption leave. The next 33 weeks are paid at a standard SAP rate, or 90% of average earnings if this is less.

Average earnings are calculated based on earnings over the 8 weeks before the end of the qualifying week.

Employer and employee [pension contributions](#) will continue to be paid during paid periods of adoption leave.

SAP eligibility

To qualify for SAP, through adoption arrangements, an employee must have:

- 26 weeks of continuous service by the week they are matched with the child
- followed the application procedures set out in this policy
- average earnings above the [lower earnings limit for National Insurance contributions](#) during the 8 weeks before the end of the week they are matched with the child

To qualify for SAP, through surrogacy arrangements, an employee must have:

- 26 weeks of continuous service by the 15th week before the baby's due date followed the application procedures set out in this policy
- average earnings above the [lower earnings limit for National Insurance contributions](#) during the 8 weeks before the baby's due date

If the employee adopts a child from overseas, the service requirement is the same. However, there are additional requirements, including:

- a declaration giving the date the child is expected to enter the UK
- confirmation that the employee will not also claim statutory paternity pay

An employee's SAP can begin on the date the child is placed with them for adoption. It can be the following day if the employee is at work on that date. Otherwise, SAP can begin on a predetermined date no more than 14 days before the date on which the child is expected to be placed with them. In a surrogacy case, SAP starts on the day on which the child is born, or if the employee is at work on that date, the following day.

All eligible employees will receive SAP even if they do not intend to return to work after adoption leave.

Occupational Adoption Pay (OAP)

OAP provides enhanced benefits to employees who intend to return to work after adoption leave.

The employee will receive full pay for the first 8 weeks of adoption leave, including any SAP entitlement. They'll then receive half pay for the next 18 weeks and SAP or adoption allowance if entitled. The total will not exceed an employee's full pay.

For the next 13 weeks, the employee will receive any SAP or adoption allowance entitlement. They will receive no pay for the final 13 weeks of adoption leave.

To qualify for OAP, employees must have 12 months of continuous service with one or more NHS employers. The continuous service period ends with the:

- week the adoption agency matches them with a child
- 15th week before the baby's due date if applying via a surrogacy arrangement

To calculate continuous service eligibility criteria, the employer should [consult the relevant NHS Terms and Conditions of Service Handbook](#).

There are notification requirements which must be fulfilled to be eligible for OAP. For more information, see the following:

- [Guide for managers](#)
- [Guide for employees](#)
- [Adoption leave form](#)

Employees returning to NHS employment

Employees who intend to return to NHS employment for at least 3 months after their adoption leave ends will be entitled to OAP.

Employees are also entitled to take a further 13 weeks of unpaid leave to bring their total adoption leave period to 52 weeks. In exceptional circumstances, an employee may have their unpaid leave extended by local agreement.

By prior agreement, an employer may pay the employee's OAP differently. For example, a fixed amount spread equally over the adoption leave period or a combination of full pay and half pay.

Employees not returning to NHS employment

Employees who do not return to NHS employment for a minimum of 3 months after adoption leave must repay their adoption pay less any SAP. Employers will have the discretion to waive the rights to recovery if repayment would cause the employee undue hardship or distress.

Adoption Allowance (AA)

Employees who do not meet SAP or OAP criteria should contact their local Jobcentre Plus office to ask about AA. Unlike SAP and OAP, AA is not paid by the employer. Instead, AA is paid directly by the Local Authority.

Placement of multiple children

Only one period of adoption pay and leave is available if more than one child is placed in the same adoption placement.

Adoption disruption

Should the adoption breakdown, the employee will be entitled to continue their adoption leave and receive the appropriate payment for that time.

Bank and agency staff

Bank staff are not entitled to OAP or adoption leave. However, they may be entitled to SAP, depending on their level of earnings. The employer may review entitlement to OAP in exceptional cases, such as if the worker can demonstrate regular work patterns over an extended period.

Agency staff may be entitled to adoption leave and SAP if they are considered an employee of the agency. This should be checked with the relevant agency.

Returning to work

The employee should give at least 28 days of notice if they wish to return to work before the expected return date.

Employees returning from adoption leave have the right to return to their job under their original contract. Their terms and conditions must be no less favourable than before.

Employees on a fixed-term or training contract

An employee may be on a fixed-term or training contract that expires between 11 weeks before and 6 weeks after the date of adoption. If this is the case, and they satisfy the eligibility criteria, the employer will extend the employee's employment contract, so they receive 52 weeks of adoption leave, OAP, and SAP.

Rotational training contracts

Employees, such as doctors and dentists on the Scottish Medical Training programme, are employed on regional training contracts. They must notify their manager within the placement board about their intention to take adoption leave.

The placement board will notify the employing board of the employee's intention to take adoption leave. The employing board will confirm the employee's adoption leave and pay entitlement. Provisions relating to an employee on a rotational training contract are outlined in the relevant NHS Terms and Conditions of Service Handbook.

Occupational child bereavement leave

All bereaved parents are eligible to receive 2 weeks' bereavement leave with occupational bereavement pay. This includes any entitlement to statutory parental bereavement pay. Intended parents who experience a stillbirth from the 24th week of pregnancy are also eligible for child bereavement leave. Employees and managers should refer to the [Special Leave Policy](#).

Fostering procedure

Fostering can be short-term or long-term. Managers should adopt a flexible approach to this.

Employees should discuss their intention to foster with their manager as soon as possible to determine the appropriate level of support required.

For very short-term fostering, the manager should consider providing time off under the [Special Leave Policy](#). However, approval is not guaranteed. For longer-term fostering, the manager should consider providing time off under the arrangements for:

- adoption leave where the placement of the child is prior to formal adoption
- [new parent support leave](#)
- [career break](#)

Kinship procedure

Employees should discuss kinship arrangements with their manager as soon as possible to determine the appropriate level of support required.

Employees who need time off should request it under the following policies:

- [Special Leave Policy](#)
- [Flexible Work Pattern Policy](#)
- [Career Break Policy](#)

Resolution of disagreements

Should a disagreement arise, the employee has the right to raise matters under the [Grievance Policy](#). It may be appropriate for either party to seek advice on resolving the matter from HR colleagues or a trade union representative. They should seek early resolution wherever possible.

Related policies

The following policies are related to the Adoption, Fostering and Kinship Policy:

- [Maternity Policy](#)
- [New Parent Support Policy](#)
- [Shared Maternity and Shared Adoption Policy](#)
- [Parental Leave Policy](#)
- [Special Leave Policy](#)
- [Flexible Work Location Policy](#)
- [Flexible Work Pattern Policy](#)
- [Career Break Policy](#)