

Workforce Directorate Policy

W19 - Leave Policy

Chapter 1: Adoption Leave Procedure

Amendment to this policy: April 2024.

The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024 introduce changes to the existing regulations. The amendments extend to England, Wales, and Scotland. The changes came into force from 6 April 2024.

This Amendment Regulations make provision to extend an existing statutory protection from redundancy that currently applies to those employees who are on maternity, adoption or shared parental leave (“relevant leave”).

The extension will mean this protection also applies to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave.

These amendments enhance the rights and protections for employees during family-related leave, ensuring fair treatment and stability in the workplace.

For further detail please see Appendix C.

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) 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) 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)?

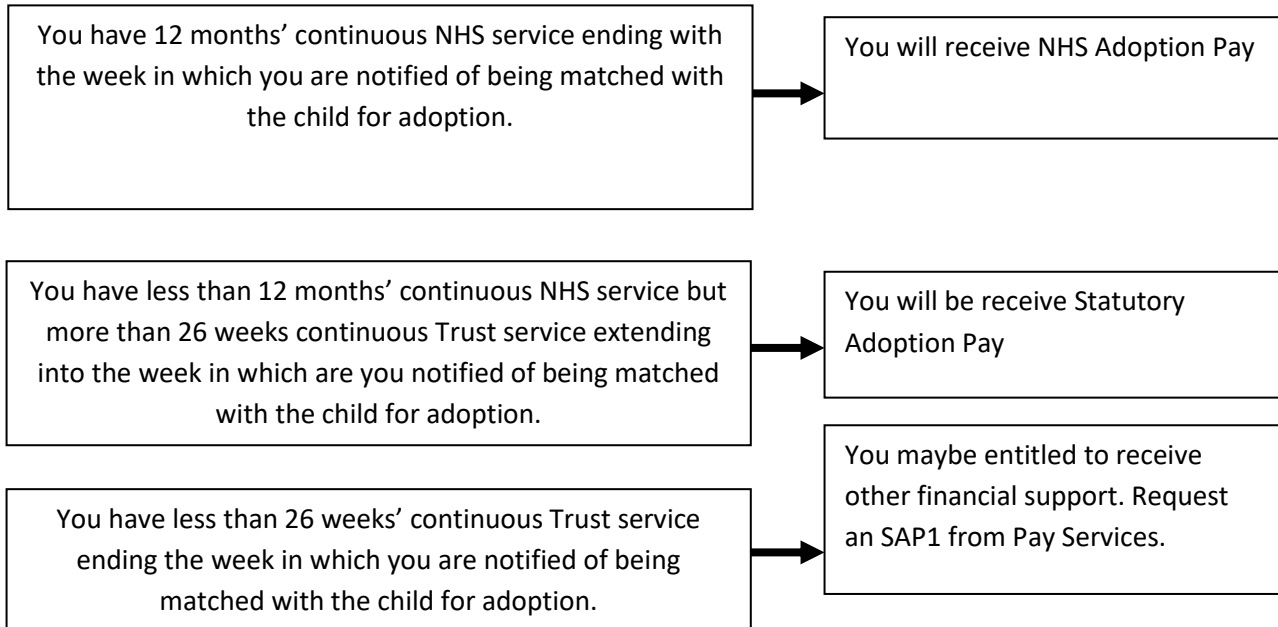
You are required to give at least 8 weeks' notice if you wish to return to work before the agreed return date.

Appendix A

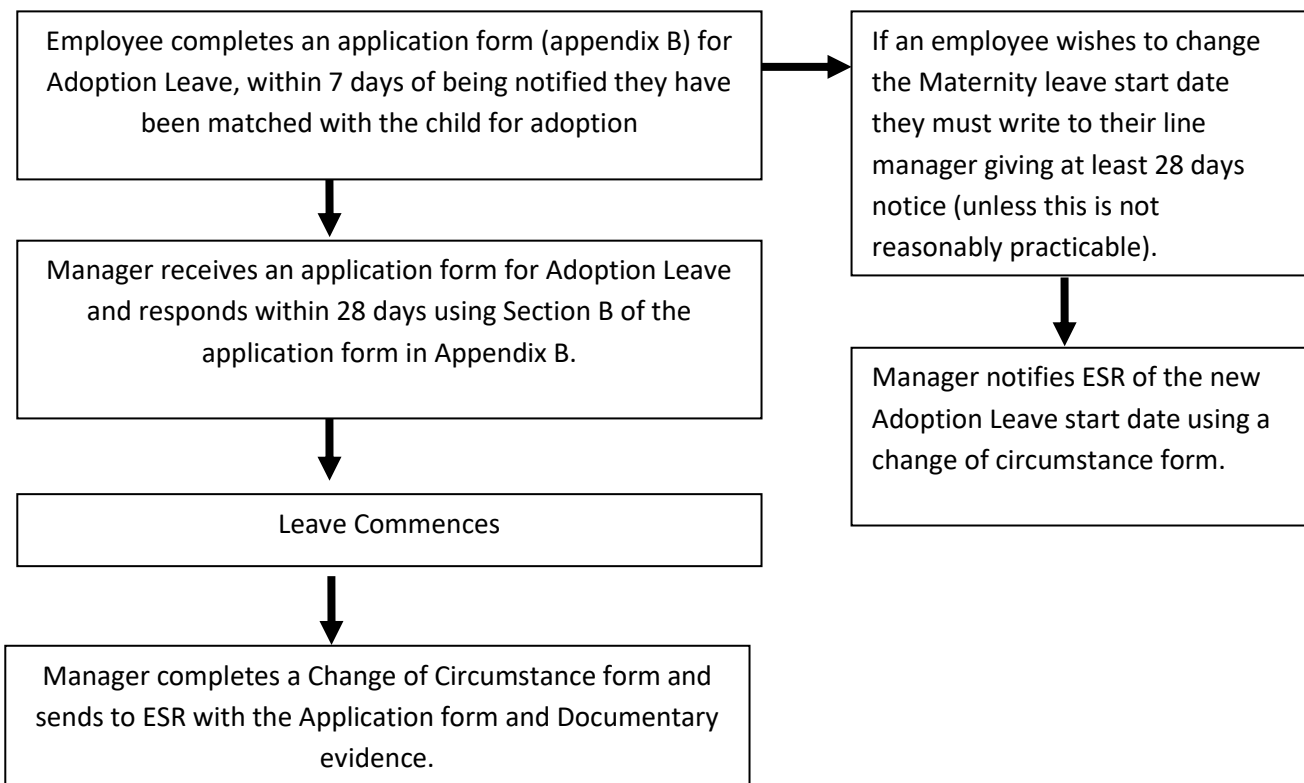
Overview of Adoption Leave, Pay & Procedure

Eligibility

Amount of Pay



Application process



Appendix B

Application for Adoption Leave - HR25

Section A - To be completed by the employee:			
Part 1 – Personal Details			
First Name:		Surname:	
Employee No:		Department:	
Start Date with Trust:		Start Date with NHS:	
Part 2 – Notification and Evidence			
I wish to request Adoption Leave and advise the following dates:			
Date matched with child		Date child is expected to be placed	
Date of commencement of Adoption Leave			
Have you had a break in service of more than 3 months in the year before the week you were notified you had been matched with the child for adoption? (Please circle)		YES	NO
If yes, what were the dates?		to:	
I have attached the necessary documentary evidence from the Adoption Agency and understand that should I wish to change the commencement date of leave I must write to my Manager giving at least 28 days' notice (or as soon as is reasonably practicable).			<input type="checkbox"/>
Part 3 – Adoption Leave			
I understand I can take up to 12 months maternity leave			<input type="checkbox"/>
Part 4 – Adoption Pay Request			
Please select ONE of the following options as defined in section 4 of the policy : (please tick)			
I wish to apply for NHS Adoption pay, and have met the criteria in section 15.7 of the NHS terms and conditions of service handbook. <ul style="list-style-type: none"> I confirm I intend to return to work at Shrewsbury and Telford Hospital NHS Trust or a different NHS employer for a minimum period of 3 months following my Adoption Leave. I understand that should I fail to return to work I will be expected to repay the Trust the difference between SAP to which I was entitled and the NHS rates paid. 			<input type="checkbox"/>
I wish to apply for Statutory Adoption Pay (SAP) as I have more than 12 months continuous service with the NHS but I do not intend to return to work with the Trust or another NHS Trust.			<input type="checkbox"/>
I wish to apply for Statutory Adoption Pay (SAP) as I have more than 26 weeks but less than 12 months continuous service			<input type="checkbox"/>
I have less than 26 weeks service and understand I am not entitled to Statutory or NHS Adoption Pay, please send me an SAP1 form.			<input type="checkbox"/>
Part 5 – Declaration			
I have read and understand the Adoption Leave terms and conditions and wish to apply for leave and pay as indicated above. I have attached the required documentation and believe I meet the criteria as detailed in the policy.			
Signed:		Date:	

Section B - To be completed by the Manager:	
On receipt of the above application form I confirm:-	Date Completed
I have discussed the policy and its implications with the employee above.	
I have discussed and confirmed the dates as accurate according to the information with which I have been provided.	
I have confirmed the employee's paid and unpaid leave entitlements under NHS Terms and Conditions of Service (or statutory entitlements if the employee does not qualify)	
I have confirmed that unless an earlier return date has been given by the employee, her expected return date, based on her 52 weeks paid and unpaid leave entitlement is Date	
I have confirmed with the employee to give at least 8 weeks of notice if she wishes to return to work before the expected return date.	

	No. of hours	Dates
Accrued Annual leave and General Public Holidays during period of leave		
Number of hours to be taken prior to commencement of leave		
Record of discussion prior to leave		

Name (Print):		Job Title:	
Signed:		Date:	
Is this a revised application? (ie has this application been submitted previously but the date has now changed)	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date copy of this application, evidence & ESR Change of Circumstances form sent to ESR:	

Line Manager Action:

Please

- retain a copy of the signed documentation, evidence and ESR Change of Circumstances form on the individual's personal file and
- send the Application for Adoption Leave to ESR with an ESR Change of Circumstances form.

Please note if the commencement of leave date changes a new Application for Adoption Leave must be completed and a further copy and change of circumstance form sent to Pay Services indicating that this is a revised application.

Appendix C: The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024

1. Introduction

- The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024 introduce changes to the existing regulations. The amendments extend to England, Wales, and Scotland.
- The changes are likely to come into force from 6 April 2024.
- This new Amendment Regulations make provision to extend an existing statutory protection from redundancy that currently applies to those employees who are on maternity, adoption or shared parental leave (“relevant leave”).
- The extension will mean this protection also applies to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave.
- In summary, these amendments enhance the rights and protections for employees during family-related leave, ensuring fair treatment and stability in the workplace. The policy background and national research that led to these regulations and published in 2016, found that approximately one in nine mothers (11%) reported that they were either dismissed, made compulsorily redundant (when others in the workplace were not), or treated so poorly they had to leave their job.

2. Key points of the Amendment Regulations:

- Extension of existing redundancy protections while on maternity, adoption or shared parental leave which now cover pregnancy and a period after return to work.
- Workers taking this kind of leave should be offered any suitable alternative employment in a redundancy situation.
- The protection is for 18 months from either the expected week of childbirth or the placement for adoption.
- The same applies to Shared Parental Leave provided that the parent has taken a period of at least 6 consecutive weeks leave.
- These new protections will apply to pregnancies disclosed to the employer on or after 6 April 2024, and any maternity, adoption and shared parental leave ending on or after 6 April 2024.
- Currently, where a redundancy situation arises when an employee is on leave, the employer is required to offer the employee a suitable alternative vacancy where one is available.

3. Extending redundancy protection

- The Maternity, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 extend the redundancy protection so that it also applies:
 - **During pregnancy:**

- The redundancy protection during pregnancy will start when an employee tells their employer about the pregnancy. If the employee is entitled to statutory maternity leave, then the protected period of pregnancy ends on the day the statutory maternity leave starts, and the redundancy protection will continue during statutory maternity leave as currently.
- If the pregnancy ends and the employee is not entitled to statutory maternity leave, the protected period ends two weeks after the end of the pregnancy. In these circumstances, the employer needs to be informed of the pregnancy before the protected period of pregnancy would have ended.
- **To new parents for a period after a qualifying period of relevant leave has ended (“the additional protected period”):**
 - for those taking maternity leave the additional protected period ends 18 months from the expected week of childbirth unless the employee has informed the employer of the date of birth of the child. In that case the additional protected period ends 18 months after the date of birth of the child.
 - for those taking adoption leave the additional protected period ends 18 months after the placement of the child.
 - For those taking 6 or more consecutive weeks of shared parental leave but who have not taken maternity or adoption leave, the additional protected period ends 18 months after the date of birth of the child.
 - For those taking less than six consecutive weeks, the current position will continue to apply, which means that the redundancy protection will apply where the redundancy situation arises during any period the employee is on shared parental leave.
 - The additional protected period applies when the employee is not on qualifying “relevant leave” and runs for whatever remains of the 18 month period.