

C27 Adoption Policy

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1. Introduction

- 1.1 The Trust is committed to providing a positive work environment where employees are able to balance their work and personal lives including parental responsibilities.
- 1.2 The Trust wholeheartedly believes in equality of opportunity for all employees and is committed to eliminating discrimination of any kind, including that arising from adoption and family commitments.
- 1.3 This policy reflects the above commitments as well as statutory rights and responsibilities.
- 1.4 This policy applies to all staff. Eligibility for provisions contained within this policy is stated where applicable.

2. Responsibilities

- 2.1 Employees and Managers are responsible for fully cooperating with this policy. They must ensure they provide information and/or documentation regarding their adoption leave and pay as required.
- 2.2 Employees and Managers are also responsible for responding to adoption related matters without undue delay and in accordance with the principles of this policy.
- 2.3 Human Resources are responsible for developing, reviewing and overseeing adoption provisions and procedures. They are also responsible for advising both employees and managers of requirements in accordance with this policy.

3. Principles

- 3.1 The Trust understands that adoption is an exciting time for new or expectant parents. However, it is also recognised that adoption leave and pay provisions can be complex and may cause anxiety; the Trust encourages employees to engage in early discussion with their manager and/or HR to allow uncertainties to be addressed at the earliest possible opportunity.
- 3.2 The Trust and employee will maintain a reasonable level of contact during a period of adoption leave regarding key information and updates. Managers and employees should agree the level and reasons for contact before the maternity leave commences.
- 3.3 Employment rights are protected whilst an employee is on adoption leave. Their contract and continuity of service will not be affected by adoption leave whether paid or unpaid.
- 3.4 Employees will accrue their full contractual leave entitlement during the period of their absence. This should be taken before or after the adoption leave period where possible. In some instances, it may be necessary to financially reimburse accrued annual leave, for example in the case of term-time workers.
- 3.5 Any salary amendments arising due to pay awards and increment dates will be applied at the contractual date and will take effect from the date the employee returns to work.
- 3.6 An employee who normally pays pension contributions is required to continue to do so whilst they are in receipt of adoption pay, regardless of whether they intend to return to work.
- 3.7 An employee returning to work from ordinary adoption leave is entitled to return to the same job that they occupied prior to commencing the period of leave with the same terms and conditions.
- 3.8 An employee returning from additional adoption leave is also entitled to return to the same job that they occupied prior to commencing the period of leave with the same terms and conditions. However, it is not reasonably practicable for the Trust to allow the employee to return to the same job, the employee may be offered suitable alternative work on terms and conditions that are no less favorable.
- 3.9 A fixed term contract may end during the adoption leave if there is a fair and justifiable reason for non-renewal. In these circumstances the statutory adoption leave will end on the expiry date of the fixed term contract. The right to statutory adoption pay will continue if the employee already qualifies for it.
- 3.10 The same redundancy rights apply to all employees including the requirement to consult. Those on adoption leave have the right to be offered any suitable alternative job if they're selected for redundancy ahead of colleagues, regardless of whether they are the most suitable person for the role.
- 3.11 Employees are eligible to apply for vacant posts whilst they are on adoption leave regardless of their intended return to work date. Details of vacancies can be found on the Trusts website.
- 3.12 Employees returning from adoption leave may want to amend their working arrangements. Whilst there is no automatic right to agree amendments to working hours or pattern, the Trust encourages all cases to be considered and approved where this is viable. Where this cannot be informally agreed, employees are able to exercise their right to submit a statutory flexible working request (see Flexible Working Policy).
- 3.13 Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.

- 3.14 If the employee decides during adoption leave that they do not wish to return to work, they should give written notice of their resignation to the company as soon as possible and in accordance with the terms of their contract of employment.
- 3.15 In the case of a joint adoption, there is the option for both parents to share adoption leave and pay. Please refer to the Shared Parental Leave Policy for full details including eligibility.
- 3.16 The HR department will use, retain and dispose of confidential records of adoption related matters in accordance with the requirement of GDPR.

4. Notification of Adoption

- 4.1 Employees are encouraged to give their manager an early indication of their intention to adopt.
- 4.2 Employees should be complete a Maternity/Adoption Form and submit it to the HR department. Specific requirements of notification are dependent on the circumstances of adoption.
- 4.2.1 In the cases of adoption in the UK, the employee should write to HR confirming the following information within 7 days of being matched with a child:
- the date that the employee intends to start adoption leave
 - the expected duration of adoption leave
 - the expected or actual date the child is placed with them
- 4.2.2 In the case is surrogacy arrangements, the employee should write to HR at least 15 weeks before the due date confirming:
- the date the baby is due
 - the date the employee intends to start adoption leave
 - the expected duration of adoption leave
- 4.2.3 In the case of overseas adoptions, employees must write to HR to confirm:
- the date of their 'official notification' and the expected date the child arrives in the UK. This must be done within 28 days of receiving the notification.
 - the actual date the child arrives in the UK. This must be done within 28 days of the arrival date.
 - the start date and expected duration of adoption leave. They are required to provide 28 days' notice.
- 4.3 The Trust will formally respond to the employee's notification of their adoption intentions within 28 days.
- 4.4 The employee is permitted to change the start date of their adoption leave subject to them providing 28 days' notice prior to the earlier of their new or intended started date.
- 4.5 If an employee decides to change their return to work date to that initially intended, they are able to do so by providing 8 weeks' notice prior to the earlier of their new or intended return date.

5. Adoption and Surrogacy Appointments

- 5.1 In the case of adoption, the primary adopter can take paid time off for up to five adoption appointments. Where this is a joint adoption, the other adopter can take unpaid time off for up to two appointments.
- 5.2 In the case of surrogacy, employees who will become the legal parents of a child are entitled unpaid time off to accompany the birth mother at up to two antenatal appointments.
- 5.3 Employees are required to provide evidence of the appointments to their manager upon request.

6. Adoption Leave

6.1 Adoption leave is available to:

- individuals who are newly matched with a child for adoption by an approved adoption agency
- one member of a couple where a couple adopt jointly (they may choose which partner takes adoption leave. The other partner may be entitled to paternity leave or maternity support leave)
- employees who have 26 weeks continuous service leading into the week in which they are notified of being matched with a child for adoption.

6.2 Eligible employees can take up to 52 weeks adoption leave; this is 26 weeks' ordinary adoption leave (OAL) and up to 26 weeks' additional adoption leave (AAL).

6.3 Adoption leave can start:

- the date the child starts living with the employee or up to 14 days before the expected placement date (UK adoptions)
- when an employee has been matched with a child to be placed with them by a UK adoption agency
- when the child arrives in the UK or within 28 days of this date (overseas adoptions)
- the day the child is born or the day after (parents in surrogacy arrangements)

6.4 AAL will commence immediately following OML.

7. Statutory Adoption Pay

7.1 Statutory Adoption Pay (SAP) is a payment made by an employer on behalf of the Department for Work and Pensions to eligible employees during their adoption leave.

7.2 To qualify for SAP, an employee must have:

- worked for the Trust for at least 26 weeks continuously up to the day that they are matched with a child
- average earnings of equal or above the National Insurance lower earnings limit (*£116 per week as at April 2018*). Average weekly earnings are calculated on the total gross payments made to the employee during an 8-week period.
- given the HR Department appropriate notice in accordance with section 4.
- In the case of adoption, provide proof of the adoption which includes;
 - name and address of the agency and employee
 - date the child was matched, for example the matching certificate
 - the expected or actual date of placement, for example a letter from the agency
 - the relevant UK authority's 'official notification' confirming the parent is allowed to adopt (overseas adoptions only)
 - the date the child arrived in the UK, for example a plane ticket (overseas adoptions only)
- in the case of surrogacy, provide a statutory declaration confirming that:
 - they intend to apply for a parental order
 - they expect the order to be granted

7.3 SAP is payable for up to 39 weeks at the following rates:

- 90% of average weekly earnings for the first 6 weeks

- £145.18* or 90% of average weekly earnings (whichever is the lower) for the remaining 33 weeks

*amount payable as at April 2018. Current values are available here: <https://www.gov.uk/employers-adoption-pay-leave>

- 7.4 The above payments are subject to lawful PAYE deductions including tax, national insurance and pension contributions if applicable. Deductions arising from salary sacrifice arrangements cannot be applied to SMP, including but not exclusively court orders, child support agency payments, child care vouchers. Employees should contact the Payroll department to discuss their individual queries.
- 7.5 If more than one child is placed for adoption within 39 of weeks of the SAO for the first child, the second placement is considered as a separate arrangement. SAP entitlement of up to 39 weeks will commence the date that the second child is laced with the adopted. Where periods of SAP overlap, payment of the first period of SAP will continue. This means there may be 2 payments of SAP for the same week.
- 7.6 There are situations in which the right to SAP will cease, including:
- The employee is taken into legal custody
 - The employee is in receipt of statutory sick pay
 - The employee starts work for another employer
 - The child is removed from the parent
 - The child dies
 - The child stops living with the adopted
 - The employee returns to work

It is the responsibility of the employee to inform the HR department where any of these situations occur.

- 7.7 If the employee is not eligible to receive SAP, the department confirm this in writing accompanied with an SAP1 form. This will advise the employee of the reason that SAP cannot be paid.

8. Occupational Adoption Pay

- 8.1 Occupational adoption pay (OAP) is the enhanced element of adoption pay which employees may be entitled to if they have completed at least one year of continuous service with the Trust or other Local Authorities at the date that they are matched with a child; or in the case of surrogacy have one year's continuous service at the 11th week before the expected week of childbirth.
- 8.2 OAP payments mirror the Trust's occupational maternity scheme. This is different for Teaching and Support staff that derives from nationally agreed terms and conditions; specifically, the 'Burgundy Book' for teachers and 'Green Book' for support staff.

8.2.1 Teaching Staff entitlement is:

- 4 weeks at full pay, offset against SAP
- 2 weeks at 90%, offset against SAP
- 12 weeks at half pay OR 20 weeks at 3/10th of pay, plus SAP up to the combined maximum of full pay.

8.2.2 Support Staff entitlement is:

- 6 weeks at 90%, offset against SAP
- 20 weeks at half pay, plus SAP up to the combined maximum of full pay.

- 8.3 In the cases of both teaching and support staff the initial 6 weeks OAP enhancement applies to all. The latter 12/20 weeks is subject to the employee returning to work for a period of 3/5 months respectively.
- 8.4 An employee who returns to work on reduced hours will be required to return for a longer period than detailed in 8.3. The extended period will reflect the proportional adjustment to their pre-adoption working hours.
- 8.5 An employee who doesn't return to work is obliged to repay the 12/20 weeks OAP at half pay. Similarly, if they return to work but do not remain employed for the required length of service post-adoption leave, they will be required to repay an apportioned amount of the 12/20 weeks OAP.
- 8.6 Employees who do not know whether they will be returning to work are encouraged to request that OAP is withheld to prevent a repayment situation. Should they later opt to return to work, the equivalent OAP may be paid when they reach qualifying service.

9. Keep in Touch Days

- 9.1 Employees may carry out up to 10 days' paid work during the period of adoption leave without affecting their adoption payments. These are referred to as Keeping in Touch (KIT) days. Working for part of a day will count as one whole day in terms of entitlement.
- 9.2 KIT days can be used for any work activity undertaken for the purpose of keeping the employee in touch with the workplace.
- 9.3 KIT days are subject to agreement with both the employee and manager based. Neither party can insist on these taking place without the others agreement.
- 9.4 If the employee completes KIT days, they will receive any adoption pay due plus payment for the hours worked.

10. Policy Status and Review

Written by	HR Manager		
Owner	HR Director		
Version	V1/2018	Status	Approved
Equality Impact Assessment	Initial Impact Assessment	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Full Impact Assessment	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
JCC Consultation date	09/10/2018 – 31/10/2018		
Approval date	27/11/2018 (Executive Team)		
Review date	01/04/2019		
Comments	This policy supersedes the separate adoption leave and pay provisions that existed in East and West Sussex		

Appendix a: Adoption Entitlement Flowchart

