

HUMAN RESOURCES POLICY

ADOPTION

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Document History

Version	Date	Significant Changes
1.0	April 2013	n/a
2.0	May 2015	n/a
3.0	Feb 2017	Reference to shared parental leave.
4.0	August 2020	shared parental leave, employees who do not qualify for SAP, timing of leave, pay step review, KIT days

Equality Impact Assessment

Date	Issues
13 December 2012	None
1 March 2017	Policy may be required in alternative formats.
11 August 2020	None

Policy Validity Statement

This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid. Policy users should ensure they are consulting the currently valid version of the documentation.

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1. POLICY STATEMENT

- 1.1 The Adoption Leave policy is designed to implement the statutory rights to leave following the placement of a child for adoption. Adoption leave and pay entitles eligible employees to take paid leave when a child is newly placed for adoption. It is available to individuals who adopt and to one member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave). Where the CCG employs both parents, one parent will be identified as the primary carer and will be entitled to leave under this policy. The other parent will be entitled to leave under the Paternity Leave policy and/ or the Shared Parental Leave Policy.

2. PRINCIPLES

- 2.1 Training and support will be provided to all Line Managers in the implementation and application of this policy

Entitlement to Adoption Leave

- 2.2 All employees will be entitled to 52 weeks Adoption Leave.

Entitlement to Occupational Adoption Pay under the NHS Scheme

- 2.3 An employee working full or part-time is entitled to Adoption pay under the NHS scheme provided that they;
- have completed at that time 12 months continuous service with one or more NHS employing authorities ending with the week in which they are notified of being matched with a child for adoption; **and**
 - notify the organisation on Form A1 within seven days of being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable and intends to return to work for a minimum period of three months with the same or another NHS employer; **and**
 - submit documentary evidence in the form of a 'matching certificate' from their adoption agency as proof of entitlement to leave.

Entitlements under the Scheme

- 2.4 An employee who **qualifies for full benefits and intends to return to work with the CCG** will be entitled to 52 weeks Adoption Leave, paid as follows:
- 8 weeks at full pay including any Statutory Adoption Pay (SAP) or equivalent benefits payable;
 - 18 weeks at half pay reduced only where half pay plus any SAP, Maternity Allowance (MA) or equivalent benefits payable exceeds full pay;
 - 13 weeks at SAP, if payable;
 - 13 weeks unpaid leave.
- 2.5 An employee who **qualifies for full benefits and does not intend to return to work** will be entitled to 52 weeks Adoption Leave, paid as follows:
- 6 weeks SMP, paid as 90% of full pay (average weekly earnings);
 - 33 weeks paid at the lesser of standard rate SAP or 90% of average weekly earnings, if payable;
 - 13 weeks unpaid leave.
- 2.6 An employee who **does not qualify for full benefits** but who has at least 26 weeks service leading into the week in which they are notified of having been matched with a

child **and** meets the earnings rule, whether or not they intend to return to work, will be entitled to 52 weeks Adoption Leave which will be paid as follows :

- 39 weeks paid at the lesser of standard rate SAP or 90% of average weekly earnings;
- 13 weeks unpaid leave.

- 2.7 An employee who **does not qualify for SAP** whether or not they intend to return to work will be entitled to 52 weeks Adoption Leave. No payments will be made during the adoption leave period.
- 2.8 Employees who do not qualify for SAP whether due to the continuous employment rule or because of another aspect of eligibility may get support from their local Council instead.

Timing of Leave

- 2.9 Leave can start from the date when a child begins living with the adopter or 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 (for UK adoptions). Leave can start on any day of the week.
For adoptions from overseas, the leave can begin from the date the child arrives in the UK, or within 28 days of that event.
In the event of a surrogacy arrangement, leave can start from the day the child is born or the day after.
- 2.10 Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 2.11 If the date of a placement changes, the employee should give 28 days notice to change the start date of their adoption leave, where this is reasonably practicable. In any event, as much notice as possible should be given and the adopter's manager must be kept informed.
- 2.12 If there is an established relationship with the child, e.g. fostering prior to adoption or when a step-parent is adopting a partner's child/children, there may be scope for local arrangements to be agreed on the amount of leave and pay in addition to time off for official meetings.

Other Provisions

Calculation of Pay

- 2.13 Adoption Pay is calculated on average earnings paid for two months prior to the start of the week after that in which the adopter is notified of having been matched with a child for adoption.

Implementation of A Pay Award Or Pay Step

- 2.14 Absence on Adoption Leave, whether paid or unpaid, counts as service towards the normal pay progression.
- 2.15 Where a pay award and/or pay step are implemented from a date prior to the paid Adoption Leave period, the Adoption Pay will be calculated as though the pay award had effect throughout the entire SAP calculation period. If a pay award is agreed retrospectively, the Adoption Pay will be recalculated on the same basis

- 2.16 Where a pay award and/or pay step is implemented from a date during the paid Adoption Leave period, the Adoption Pay due from the operative date of the pay award will be calculated as though the pay award had effect throughout the SAP calculation period. Again, if such a pay award were agreed retrospectively, the Adoption Pay should be recalculated on the same basis.

Employees on a Fixed-Term Contract

- 2.17 An employee on a fixed-term contract which expires after the week in which the adopter is notified of a match with a child for adoption will, subject to satisfying the conditions in 2.2, have their contract extended to enable them to receive 52 weeks adoption leave which includes occupational and statutory adoption pay and 13 weeks unpaid leave.

Under these circumstances, there will be no right of return to be exercised because the contract would have ended if the adoption had not occurred.

- 2.18 An employee not satisfying the conditions in 2.2 but who is entitled to SAP will, have their contract extended to allow them to receive SAP. The contract will not be extended to cover a period of unpaid leave.

Contractual Rights

- 2.19 All contractual rights, apart from remuneration, will continue to accrue during the whole adoption leave period.

Annual Leave

- 2.20 Annual leave will continue to accrue during both paid and unpaid adoption leave.
- 2.21 Where the amount of accrued leave would exceed the normal carry over provisions, the manager and employee should agree arrangements for the leave to be taken either prior to or immediately following the adoption leave period.
- 2.22 In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.
- 2.23 All adoption leave including unpaid adoption leave will count as service for the purpose of satisfying the service qualification for accruing additional annual leave entitlements.
- 2.24 Bank Holidays are not accrued whilst on paid or unpaid adoption leave.

Pension

- 2.25 Contributions will be deducted from salary as normal during paid Adoption Leave and continue to be payable during unpaid leave. On return to work, arrears of contributions will be recovered and deducted from salary, over an agreed period of time.

Paternity Leave

- 2.26 The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay (please refer to the Paternity Leave Policy and Procedure).

Shared Parental Leave

- 2.27 An employee who adopts and the partner of the adopter may be entitled to shared parental leave and pay. The HR39 Shared Parental Leave Policy applies to all eligible employees of the CCG who has a child placed for adoption on or after 5 April 2015.

Entitlement to Time off For Pre-Adoption Arrangements

- 2.28 An employee who is the Adopter or an employee who is the partner of the adopter may take reasonable time off with pay for adoption related meetings, as long as reasonable notice is given and proof of all appointments is provided.

Pay Progression Framework

- 2.29 The expectation is that an employee on adoption leave will progress through a pay progression gateway on the due date if concerns have not been raised about the employee's capability prior to adoption leave.

3. EQUALITY

- 3.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation,

4. Data Protection

In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

5. MONITORING & REVIEW

- 5.1 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

6. ASSOCIATED DOCUMENTATION

The following documentation is linked to this policy:

- HR39 Shared Parental Leave Policy
- HR09 Flexible Working Policy
- HR19 Other Leave Policy

PART 2

1. PROCEDURE

- 1.1 Employees must inform their manager of their intention to take adoption leave within seven days of them being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Form A1 should be completed for this purpose and the original sent to the Human Resources Department with a copy retained on the individual's personal file.
- 1.2 Adoption Leave can start on any day of the week. Any Annual Leave to be taken before the commencement of Adoption Leave should be taken into account
- 1.3 Employees need to inform their manager of the date the child is likely to be placed with them and the date they would like their adoption leave to start. The start date of leave may be changed provided that 28 days notice is given, unless this is not reasonably practicable.
- 1.4 Employees also need to provide a matching certificate from their adoption agency as evidence of their entitlement to Statutory Adoption Pay and leave, which includes basic matching and expected placement details. The original should be sent to Human Resources and a copy retained on file.
- 1.5 The employee will receive written confirmation within 28 days of receipt of Form A1 of:
 - their adoption entitlements, both paid and unpaid
 - their expected return date based on 52 weeks paid and unpaid leave unless an earlier return date has been given
 - details of any accrued annual leave that is to be taken at the end of the adoption leave period
 - the need to give at least 28 days notice if they wish to return to work before the expected return date. Form A2 to be included with the letter.

Return To Work

- 1.6 If an employee wishes to take full entitlement to leave, then no further notification of return to work need be given.
- 1.7 An employee wishing to return to work before the end of their full entitlement to leave must give at least 28 days notice of their date of return.

Failure to Return to Work

- 1.8 An employee who has notified the organisation of their intention to return to work for a minimum of three months for the same or another NHS employer, and fails to do so within 15 months of the beginning of their adoption leave will be liable to refund the whole of their adoption pay, less any Statutory Adoption Pay received.
- 1.9 In cases where the CCG considers that to enforce this provision would cause undue hardship or distress, the organisation has the discretion to waive the right of recovery.

2. KEEPING IN TOUCH

- 2.1 Before going on adoption leave employees should discuss and agree with their Line Manager any voluntary arrangements for keeping in touch during their leave. It should be noted that staff absent on adoption leave should receive details of vacancies and

other pertinent business information; this is normally done via the post to the employee's home address or through a pre agreed communication method e.g. personal email

- 2.2 Keeping in Touch (KIT) days allow employees to do a limited amount of work under their contract during the Adoption Pay Period without loss of SAP for the week. They are intended to facilitate a smooth return to work for an employee returning from adoption leave and can include training or other activities which enable the employee to keep in touch with the workplace.
- 2.3 An employee may work a maximum of 10 KIT days without bringing their adoption leave to an end. Any days of work will not extend the adoption period.
- 2.4 Working for part of any day will count as a whole KIT day.
- 2.5 The employee will be paid at their basic daily rate for the hours worked less appropriate occupational/ statutory adoption leave payment for KIT days. Where an employee works a KIT day during the full occupational adoption pay period, they will receive a full day in lieu off notice upon their return to work. Where an employee works a KIT day during the half occupational adoption pay period, they will receive a half day pay in lieu of notice to be taken upon their return to work. Where an employee works a KIT day during the statutory pay or nil pay periods, the employee will receive payment for the hours worked at their usual basic rate, less statutory pay.
- 2.6 Any work must be by agreement and neither the employer nor the employee can insist upon it.
- 2.7 In certain circumstances, the CCG may consider the reimbursement of reasonable childcare costs in order to enable the employee to take up the opportunity to work KIT days.
- 2.8 For further information on how payment of KIT days is calculated please see the Maternity Leave Policy (HR17)

REQUEST FOR ADOPTION LEAVE - 1 YEARS CONTINUOUS SERVICE

FULL NAME	DEPARTMENT
PERSONAL NUMBER	START DATE WITH CCG
CONTINUOUS NHS SERVICE DATE	EXPECTED DATE OF PLACEMENT

MATCHING CERTIFICATE ATTACHED **YES/NO** If not, please forward as soon as reasonably practicable

I have read and understood the Adoption Leave Policy issued by the CCG and wish to claim;

	PLEASE TICK YOUR OPTION
<p>52 weeks Adoption Leave, including 39 weeks occupational and statutory adoption pay and unpaid leave of up to 13 weeks. I will return to work no later than 52 weeks after the commencement of my leave.</p> <p>I hereby declare that;</p> <ol style="list-style-type: none"> 1. It is my intention to return to work for at least 3 months after my Adoption Leave. 2. If I do not return for at least 3 months I agree to repay any money not due to me. 3. I will inform the CCG in writing not later than 28 days before my date of return unless I intend to take my full entitlement to leave. 	
<p>OR</p> <p>52 weeks Adoption Leave paid for 39 weeks at the lesser of standard rate SAP or 90% of average weekly earnings (if I qualify) with a further 13 weeks unpaid leave and the right to return to work.</p>	
<p>OR</p> <p>52 weeks Adoption Leave paid for 39 weeks at the lesser of standard rate SAP or 90% of average weekly earnings (if I qualify). I <u>do not</u> wish to return to work.</p>	

I wish my first day of adoption leave to be:	
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SIGNED	DATE
DESIGNATED SIGNATORY	DATE
HUMAN RESOURCES DIVISION	DATE

Please forward the original of this form to Human Resources WITHIN SEVEN DAYS OF BEING NOTIFIED OF BEING MATCHED WITH A CHILD FOR ADOPTION.

REQUEST FOR ADOPTION LEAVE - 26 WEEKS CONTINUOUS SERVICE

FULL NAME	DEPARTMENT
PERSONAL NUMBER	START DATE WITH CCG
CONTINUOUS NHS SERVICE DATE	EXPECTED DATE OF PLACEMENT

MATCHING CERTIFICATE ATTACHED **YES/NO** If not, please forward as soon as reasonably practicable

I have read and understood the Adoption Leave Policy issued by the CCG and wish to claim;

I wish my first day of adoption leave to be:	
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	PLEASE TICK YOUR OPTION
OR 52 weeks Adoption Leave paid for 39 weeks at the lesser of standard rate SAP or 90% of average weekly earnings (if I qualify) with a further 13 weeks unpaid leave and the right to return to work.	
OR 52 weeks Adoption Leave paid for 39 weeks at the lesser of standard rate SAP or 90% of average weekly earnings (if I qualify). I <u>do not</u> wish to return to work.	

SIGNED	DATE
DESIGNATED SIGNATORY	DATE
HUMAN RESOURCES DIVISION	DATE

Please forward the original of this form to Human Resources WITHIN SEVEN DAYS OF BEING NOTIFIED OF BEING MATCHED WITH A CHILD FOR ADOPTION.

REQUEST FOR ADOPTION LEAVE - LESS THAN 26 WEEKS CONTINUOUS SERVICE

FULL NAME	DEPARTMENT
PERSONAL NUMBER	START DATE WITH CCG
CONTINUOUS NHS SERVICE DATE	EXPECTED DATE OF PLACEMENT

	PLEASE TICK YOUR OPTION
52 weeks Adoption Leave and the right to return to work. If I have worked and paid National Insurance contributions in 26 out of the 66 weeks ending with the week before the expected week of confinement I may be entitled to up to 39 weeks SAP	
OR I wish to terminate my employment because of my Adoption of a child.	

MATCHING CERTIFICATE ATTACHED **YES/NO** If not, please forward as soon as reasonably practicable

I have read and understood the Adoption Leave Policy issued by the CCG and wish to claim;

I wish my first day of adoption leave to be:	
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SIGNED	DATE
DESIGNATED SIGNATORY	DATE
HUMAN RESOURCES DIVISION	DATE

Please forward the original of this form to Human Resources WITHIN SEVEN DAYS OF BEING NOTIFIED OF BEING MATCHED WITH A CHILD FOR ADOPTION.

Appendix 1 Equality Impact Assessment

What impact will the new policy/system/process have on the following:
Age - Consider and detail age related evidence. This can include safeguarding, consent and welfare issues Appropriate methods of communication of the Policy have also been carefully considered to ensure they reach all ages of the workforce. Email and the internet can be accessed by all users in the workplace. The benefits provided within this policy are not restricted by age.
Disability - Consider and detail disability related evidence. This can include attitudinal, physical and social barriers as well as mental health/ learning disabilities The disability status of the workforce across the region is unknown therefore relevant tools could be made available to staff that potentially do have a disability that the organisations are unaware of. The policy should be able to be communicated in alternative methods as required for those with a disability and/or visual impairment such as braille, large font, interpreters etc. The benefits provided within this policy are available to all staff.
Gender reassignment (including transgender) - Consider and detail evidence on transgenderpeople. This can include issues such as privacy of data and harassment. The policy does not include vocabulary that could cause offense or discriminate against any staff members who have undergone or are undergoing gender reassignment or that identify as transgender. The benefits provided within this policy are available to all staff.
Marriage and civil partnership - Consider and detail evidence on marriage and civil partnership. This can include working arrangements, part-time working, caring responsibilities. The content of this policy does not include vocabulary that discriminates against staff that may be married or in a civil partnership. The benefits provided within this policy are available to all staff.
Pregnancy and Maternity - Consider and detail evidence on pregnancy and maternity. This can include working arrangements, part-time working, caring responsibilities. The policy does not discriminate against staff that are currently pregnant or on maternity leave and can be accessed while on maternity leave or any other leave of absence via the organisation's website.
Race - Consider and detail race related evidence. This can include information on difference ethnic groups, Roma gypsies, Irish travellers, nationalities, cultures, and language barriers. The policy does not include vocabulary or content that discriminates against staff on the grounds of race. The benefits provided are available to all staff.
Religion or belief - Religion is defined as a particular system of faith and worship but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. The policy does not discriminate against staff that hold any particular religion or belief. The benefits provided are available to all staff.

Sex/Gender - Consider and detail evidence on men and women. This could include access to services and employment.

The Policy does not discriminate between staff that are men or women.

Sexual orientation - Consider and detail evidence on heterosexual people as well as lesbian, gay and bisexual people. This could include access to services and employment, attitudinal and social barriers.

The content of this policy and vocabulary used does not discriminate against staff based on their sexual orientation. The benefits provided are available to all staff.

Carers - Consider and detail evidence on part-time working, shift-patterns, general caring responsibilities.

The content of this policy and vocabulary used does not discriminate against staff who have carer responsibilities. The benefits provided are available to all staff.

Other Identified Groups and Health Inequalities - Consider and detail evidence on groups experiencing disadvantage and barriers to access and outcomes. This can include different socio-economic groups, geographical area inequality, income, resident status (migrants, asylum seekers). What is the potential impact of your work on health inequalities?

Other groups have been considered however as the policy is for staff there are no additional impacts on health inequalities.

Alternative formats of this policy will be provided on receipt of individual request.