

## Adoption Policy

Date	Version	
March 2016	8.2	
<b>Purpose</b>		
This policy sets out the rights to Adoption Leave, the eligibility criteria and process to follow.		
<b>Who should read this document?</b>		
All staff, including Medical and Dental		
<b>Key messages</b>		
This Policy will allow the prime carer to take adoption leave, both paid and unpaid on an equivalent basis to staff entitled to maternity benefits.		
<b>Accountabilities</b>		
<b>Production</b>	HR Manager	
<b>Review and approval</b>	Director of Human Resources and Organisational Development	
<b>Ratification</b>	JSNC	
<b>Dissemination</b>	HR Manager	
<b>Compliance</b>	Director of Human Resources and Organisational Development	
<b>Links to other policies and procedures</b>		
Maternity Policy Paternity Policy		
<b>Version History</b>		
4.1	November 2008	Policy subgroup
4.2	December 2008	JSNC
4.3	January 2009	Minor amendments
5	December 2008	Trust Commitment to Valuing People amended in line with the Equality Act 2010. Electronic policy paths updated
6	November 2011	Extension to review date
7	January 2013	Review
8	March 2016	Legislation refresh
8.1	November 2018	Extended to April 2019 by HR SMT
8.2	August 2019	Extended to February 2020 by Richard Maguire & Lisa White
<b>Last Approval</b>		<b>Due for Review</b>
January 2013		Extended to February 2020

*The Trust is committed to creating a fully inclusive and accessible service. By making equality and diversity an integral part of the business, it will enable us to enhance the services we deliver and better*

*meet the needs of patients and staff. We will treat people with dignity and respect, promote equality and diversity and eliminate all forms of discrimination, regardless of (but not limited to) age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity.*

**An electronic version of this document is available on the Trust Documents Network Share Folder (G:\TrustDocuments). Larger text, Braille and Audio versions can be made available upon request.**

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## **1 Introduction**

Plymouth Hospitals NHS Trust is committed to the adoption of family friendly policies and work practices.

Employees may wish to refer to other policies to ensure the correct channel is used:

- Paternity Leave Policy
- Leave Policy
- Parental Leave Policy
- Maternity Leave Policy
- Carer Leave Policy

## **2 Purpose, including legal or regulatory background**

The Employment Act 2002 introduced statutory Adoption rights and Plymouth Hospitals NHS Trust recognises the responsibilities and needs of adopting parents.

Adoption leave will allow the prime carer to take adoption leave, both paid and unpaid on an equivalent basis to staff entitled to maternity benefits.

## **3 Definitions**

SAP – Statutory Adoption Pay

## **4 Duties**

Responsibilities of the HR and OD Team are to:

- Advise and support line managers and employees on the interpretation and application of this policy.
- Work in partnership with Senior Managers and Trade Union Representatives to ensure consistency and fairness in the way the policy is applied to employees, identify areas of ineffective practice and address as appropriate.
- Ensure training and education for line managers is available.

Responsibilities of the line manager are to:

- Ensure the policy is applied fairly and consistently and the correct process is followed.
- Ensure that employees are aware of their responsibilities in applying for adoption leave.
- Seek help and advice from HR Direct.

Responsibilities of the employee are to:

- Ensure they meet the eligibility criteria set out below.
- Ensure they follow the correct process when applying for adoption leave.

### **Statutory Adoption Leave (SAP)**

To be entitled to SAP employees must:

- Have worked for you continuously for at least 26 weeks by the week they were matched with a child.
- Be on your payroll and earn at least £112 a week in an 8-week period - the 'relevant period'.
- Give the correct notice.
- Provide proof of the adoption or surrogacy.

The amount of adoption leave and pay is the same as maternity leave and pay and depends on your length of service prior to being matched for adoption and your intentions following adoption leave. Adoption leave is 52 weeks, made up of 26 weeks Ordinary Adoption Leave and 26 weeks of Additional Adoption Leave.

### **12 months continuous NHS service (Trust scheme)**

An employee who indicates that they intend to return to work following adoption leave, and who has at least 12 months continuous NHS service prior to being notified of being matched for adoption will be advised of the following entitlement:

39 weeks paid leave, during which the employee will receive:

- Full pay for the first eight weeks
- Half pay plus SAP for the next 18 weeks (providing this does not exceed normal full pay)
- SAP for the remaining 13 weeks.
- Followed by 13 weeks unpaid leave.

Employees to whom this entitlement applies are required to return for a minimum period of three months. This can be to different hours of work, a different post or a different NHS employer.

Employees who elect to receive Occupational Adoption pay must return to the NHS for a minimum period of 3 months following the expiry of Adoption Leave.

### **At least 26 weeks continuous NHS Service**

NHS service (Statutory scheme) An employee who indicates that they intend to return to work following adoption leave, and who has at least 26 weeks continuous NHS service prior to being notified of being matched for adoption will be advised of the following entitlement:

- 39 weeks paid leave, during which the employee will receive:
- 90% of their normal full pay for the first six weeks;
- SAP for the remaining 33 weeks.

- Followed by 13 weeks unpaid leave.

### **Less than 26 weeks' continuous NHS service**

An employee who indicates that they intend to return to work following adoption leave, and who has up to 26 weeks continuous NHS service prior to being notified of being matched for adoption will be advised of the following entitlement:

- 52 weeks unpaid leave.

Irrespective of their entitlement to Statutory Adoption Pay, the employee will have a statutory entitlement to 52 weeks unpaid leave.

### **Not returning to work following adoption leave**

An employee who indicates that they do not intend returning to work following adoption leave, but who has at least 26 weeks continuous NHS service prior to being notified of being matched for adoption will be advised of the following entitlement:

- 39 weeks paid leave, during which the employee will receive:
- 90% of their normal full pay for the first six weeks;
- SAP for the remaining 33 weeks.
- Followed by 13 weeks unpaid leave.

An employee who indicates that they do not intend returning to work following adoption leave, but who has less than 26 weeks continuous NHS service prior to being notified of being matched for adoption will be advised of the following entitlement:

- 52 weeks unpaid leave

In cases of joint adopters, either partner will be able to choose to take adoption leave. The person electing not to take it may be entitled to Additional Paternity Leave and/or Paternity Leave (refer to Paternity Leave policy). Section 11 of this Policy details the employee's entitlements to this leave.

The average weekly earnings are calculated over the two pay dates prior to the matching week.

### **Failure to return to work**

Should you take an option that requires your return to duty following adoption leave, but decide not to return to work or do not submit a letter of appointment from another NHS employer within 15 months of commencing Adoption Leave, you will be required to repay all adoption payments except those due to you under statute.

## **6 Employee Obligation**

The employee must give notice, in writing, to their manager of their intention to take adoption leave within seven days of having been notified that they have been matched with a child, or as soon as reasonably practicable. They must also inform their manager of:

- The expected date of placement
- The date the employee wishes the leave to commence
- The fact they are the prime carer
- A copy of the 'matching' certificate

An adoption leave application form must be submitted when the above information is supplied. (see appendix four).

The employee must give their manager 28 calendar days notice of when they wish their adoption leave to start. This can be a date up to 14 days before the expected date of placement, or as soon as the child is living with the employee. If the employee wishes to change the commencement date they are required to give 28 calendar days notice, or as soon as reasonably practicable.

The Workforce team will write to the employee confirming the date of return from Adoption Leave on receipt of the Adoption Leave application form. It will be assumed that the full leave entitlement is being taken. If the employee wishes to return to work before the end of their Adoption Leave they must give 28 calendar days notice of the date they wish to return.

## **7 Entitlement for Employees Who are Adopting from Overseas**

Employees are entitled to take adoption leave when adopting a child who lives outside the United Kingdom and enters Great Britain in connection with or for the purposes of adoption from overseas.

To qualify for adoption leave an employee must:

- be an employee
- Be the child's adopter
- Have worked continuously for the Trust for at least 26 weeks by the date they want to start their leave
- Have been told officially that they are getting a certificate saying they are eligible to adopt.

Paternity leave and/or additional paternity leave and pay are available to:

- The partner of an individual who adopts
- One member of a couple where a couple adopt jointly.

To qualify for leave and pay an employee who adopts from overseas must have received an official notification. The law defines official notification as written notification, issued by or on behalf of the relevant domestic authority, that the authority is prepared to issue a certificate to the overseas authority covered with the adoption of the child, or has issued a certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

### **First notification stage**

You must notify the Trust of:

- The date you got official notification
- The date you expect your child to enter Great Britain

When you must do this depends on how long you have worked for the Trust:

- Within 28 days of receiving official notification if you have worked for them for 26 weeks
- Within 28 days of completing 26 weeks' service

### **Second notification stage**

You must give at least 28 days' notice of the actual date you want your Adoption Leave to start. You can give this notice at the first notification stage if you know the date. You cannot start your Adoption Leave before your child enters Great Britain.

### **Third notification stage**

You must advise the Trust of date your child actually entered Great Britain - within 28 days of the date of entry.

### **Commencing the adoption leave**

Employees may choose to start their leave:

- From the date the child enters the United Kingdom (UK).
- From a fixed date (as notified to the Trust) no later than 28 calendar days after the date the child enters the UK.
- The leave can start on any day of the week.
- Only one period of leave will be available irrespective of whether more than one child enters the UK as part of the same arrangement.
- Statutory adoption leave is not meant to be used to cover the period the employee spends travelling overseas to arrange the adoption or visiting the child. Employees must use other leave arrangements to cover this period.
- If the child ceases to live with an employee during the adoption leave period, the employee can continue adoption leave for up to eight weeks after this point.

## **8 During Adoption Leave**

If the employee is not going to return, relevant notice must be given and a termination form must be completed.

Although there is no longer a statutory right to contact the employee before they return to work the Workforce Development team will write to the employee 5 weeks before the expected date of return, to confirm when the employee is intending to return to work.

If the employee wishes to change their return date, from that specified on their adoption application form, they must give the Trust 28 calendar days notice.

## **9 Annual Leave**

Contractual annual leave will accrue during the adoption leave period.

Annual leave can be taken in agreement with your line manager. It is advised that an employee takes as much annual leave as possible before they commence adoption leave. If it is not possible to do so for example, because their adoption leave coincides with the start of the new leave year, then the employee may be entitled to carry over their annual leave entitlement to the next leave year.

However, in situations where the Trust deems that the employee has had the opportunity to take their annual leave prior to commencement of adoption leave, for example, because their commencement date is midway through, or towards the end of the annual leave year, then they may not be entitled to carry their leave forward to the next annual leave year.

If an employee wishes to take their annual leave after Adoption Leave, it must be after the expiry of the total Adoption Leave period (up to 52 weeks).

## **10 Keeping In Touch (KIT) Days**

Before going on Adoption Leave, the Line Manager and employee should discuss and agree any arrangements for keeping in touch during the employee's Adoption Leave.

This could include any voluntary arrangements that the employee may find helpful to keep in touch with developments at work, and nearer the time of the employee's return, to help facilitate their return to work keeping the employer in touch with any developments that may affect the intended date of return.

Employees will be entitled to KIT days which are intended to facilitate a smooth return to work from adoption leave. An employee may work up to 10 KIT days without bringing their adoption leave to an end. Any days worked will not extend the adoption leave. The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace.

The employee will be paid at their basic daily rate, less appropriate adoption leave payment for KIT days worked. Working for part of any one day will count as one KIT day. Any such work must be by agreement and neither the employer nor the employee can insist upon it.

An employee should be aware that their basic daily rate is calculated in the following way:

Annual salary / 365 = daily rate

Therefore, they will not receive payment for all hours worked if they work a longer shift and this payment will not include the normal enhancements for unsocial hours.

## **11 Contract Hours On Return**

The Trust has a legal duty to consider applications for flexible working requests. If the employee requests a change in their working arrangement they are required to complete the application form in the Flexible Working Policy.

Managers are required to give reasonable consideration to any such requests. They should only refuse if there is a clear business reason to do so. (Please refer to the Flexible Working Policy).

## **12 NHS Pension Scheme**

Whilst on Adoption Leave pension contributions will be based on pensionable pay i.e. during periods of occupational adoption pay.

Please ensure that all issues covered in this section are discussed with each individual employee.

**If you are returning to work after Adoption Leave a reduction in your working hours will affect how your membership to the NHS Pension Scheme is accrued.**

**A full years membership to the pension scheme is based on full time hours being worked (e.g. 37.5 hours per week). If your hours are less than full time your membership will be accrued on a pro rate basis, e.g. 18.75 hours per week worked over 12 month period equates to 6 months pension membership.**

For more information please contact the Pensions Department on 01752 437620

## **13 Occupational Benefits During Adoption Leave**

Employees have the right to the same non pay benefits adoption leave. This includes any benefits provided through salary sacrifice, for example the bike scheme, childcare vouchers, on site corporate nursery scheme, car lease scheme, buying additional annual leave and car parking.

## **14 Parental Leave**

Parental leave is available to any employee in the NHS who has nominated caring responsibility for a child under the age of 14 (18 in cases of adoption or disabled children). Employees should refer to the Parental Leave Policy for further information.

## **15 Maintaining Professional Registration**

Employees who require professional registration for their post must keep their registration up to date whilst on adoption leave. Any periods of lapsed registration will be fully investigated and could result in formal action being taken against the employee in line with the Performance and Conduct Policy.

## **16 Overall Responsibility for the Document**

The Director of People is responsible for ratifying this document. The Deputy Director of HR has overall responsibility for the dissemination, implementation and review of this policy.

## **17 Consultation and Ratification**

The design and process of review and revision of this policy will comply with The Development and Management of Trust Wide Documents.

The review period for this document is set as default of five years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the procedures described.

This document will be approved by the Joint Staff Negotiating Committee (JSNC) and ratified by the Director of People.

Non-significant amendments to this document may be made, under delegated authority from the Director of People by the nominated author. These must be ratified by the Director of People and should be reported, retrospectively, to the JSNC.

Significant reviews and revisions to this document will include a consultation with named groups, or grades across the Trust. For non-significant amendments, informal consultation will be restricted to named groups, or grades who are directly affected by the proposed changes

## **18 Dissemination and Implementation**

Following approval and ratification, this policy will be published in the Trust's formal documents library and all staff will be notified through the Trust's normal notification process, currently the 'Vital Signs' electronic newsletter.

Document control arrangements will be in accordance with The Development and Management of Trust Wide Documents.

The document author(s) will be responsible for agreeing the training requirements associated with the newly ratified document with the named Director of People and for working with the Trust's training function, if required, to arrange for the required training to be delivered.

## **19 Monitoring Compliance and Effectiveness**

The Trust will undertake a regular audit of the processes specified in this policy. It should be noted that the responsibilities in this policy are enforceable and that managers (and employees where applicable) failing to uphold their responsibilities may find themselves in breach of internal disciplinary policies.

## **20 References and Associated Documentation**

[www.gov.org.uk](http://www.gov.org.uk)

<b>Core Information</b>				
<b>Document Title</b>	Adoption Policy			
<b>Date Finalised</b>	March 2016			
<b>Dissemination Lead</b>	Richard Maguire			
<b>Previous Documents</b>				
<b>Previous document in use?</b>	Yes			
<b>Action to retrieve old copies.</b>				
<b>Dissemination Plan</b>				
<b>Recipient(s)</b>	<b>When</b>	<b>How</b>	<b>Responsibility</b>	<b>Progress update</b>
All staff		Email	Document Control	

<b>Review</b>		
<b>Title</b>	Is the title clear and unambiguous?	Yes
	Is it clear whether the document is a policy, procedure, protocol, framework, APN or SOP?	Yes
	Does the style & format comply?	Yes
<b>Rationale</b>	Are reasons for development of the document stated?	Yes
<b>Development Process</b>	Is the method described in brief?	Yes
	Are people involved in the development identified?	Yes
	Has a reasonable attempt has been made to ensure relevant expertise has been used?	Yes
	Is there evidence of consultation with stakeholders and users?	Yes
<b>Content</b>	Is the objective of the document clear?	Yes
	Is the target population clear and unambiguous?	Yes
	Are the intended outcomes described?	Yes
	Are the statements clear and unambiguous?	Yes
<b>Evidence Base</b>	Is the type of evidence to support the document identified explicitly?	Yes
	Are key references cited and in full?	Yes
	Are supporting documents referenced?	Yes
<b>Approval</b>	Does the document identify which committee/group will review it?	Yes
	If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	Yes
	Does the document identify which Executive Director will ratify it?	Yes
<b>Dissemination &amp; Implementation</b>	Is there an outline/plan to identify how this will be done?	Yes
	Does the plan include the necessary training/support to ensure compliance?	Yes
<b>Document Control</b>	Does the document identify where it will be held?	Yes
	Have archiving arrangements for superseded documents been addressed?	Yes
<b>Monitoring Compliance &amp; Effectiveness</b>	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	Yes
	Is there a plan to review or audit compliance with the document?	Yes
<b>Review Date</b>	Is the review date identified?	Yes
	Is the frequency of review identified? If so is it acceptable?	Yes
<b>Overall Responsibility</b>	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	Yes

Core Information	
<b>Manager</b>	Alison Gregory, HR Manager
<b>Directorate</b>	HR & OD
<b>Date</b>	January 2013
<b>Title</b>	Adoption Policy
<b>What are the aims, objectives &amp; projected outcomes?</b>	The aim of this policy is to highlight to employees their right to take adoption leave
Scope of the assessment	
Collecting data	
<b>Race</b>	<p>There could potentially be an impact on staff whose first language isn't English, so this policy can be made available in alternative formats.</p> <p>Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>
<b>Religion</b>	<p>There is no evidence to suggest there is an impact on religion regarding this policy. Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>
<b>Disability</b>	<p>There is no evidence to suggest there is an impact on disability regarding this policy. Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The policy can be made available in alternative formats should there be a requirement.</p> <p>The Trust will consider flexible working requests upon return to work</p>
<b>Sex</b>	<p>There is no evidence to suggest there is an impact on sex regarding this policy. There have been two members of staff that have taken up adoption leave since April 2011 and whilst both were female, adoption leave is available to any employee meeting the eligibility criteria regardless of sex.</p> <p>Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>
<b>Gender Identity</b>	<p>There is currently no data collected to show the impact in this area, however, this will be monitored through feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>

<b>Sexual Orientation</b>	<p>There is no evidence to suggest this policy will have a negative impact on sexual orientation as adoption leave is available to any employee meeting the eligibility criteria regardless of sexual orientation.</p> <p>Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>			
<b>Age</b>	<p>There is no evidence to suggest there is an impact on disability regarding this policy. Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>			
<b>Socio-Economic</b>	<p>There is currently no data collected to show the impact in this area, however, this will be monitored through feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>			
<b>Human Rights</b>	<p>There is currently no data collected to show the impact in this area, however, this will be monitored through feedback from staff and trade union representatives.</p> <p>The Trust will consider flexible working requests upon return to work</p>			
<b>What are the overall trends/patterns in the above data?</b>	<p>No trends or patterns identified at this stage. However, data will be monitored and any trends or patterns will be identified and appropriate actions will be put in place.</p>			
<b>Specific issues and data gaps that may need to be addressed through consultation or further research</b>	<p>There is currently no data to monitor the impact on gender identity, socio-economic and human rights.</p>			
<b>Involving and consulting stakeholders</b>				
<b>Internal involvement and consultation</b>	HR Business Partners			
<b>External involvement and consultation</b>				
<b>Impact Assessment</b>				
<b>Overall assessment and analysis of the evidence</b>	<p>There could potentially be an impact on staff whose first language isn't English, so this policy can be made available in alternative formats.</p> <p>Data will be monitored through workforce data reporting and feedback from staff and trade union representatives.</p> <p>The policy can be made available in alternative formats should there be a requirement.</p> <p>The Trust will consider flexible working requests upon return to work</p>			
<b>Action Plan</b>				
<b>Action</b>	<b>Owner</b>	<b>Risks</b>	<b>Completion Date</b>	<b>Progress update</b>
Provide document in alternative formats and languages if requested	Healthcare Clinical Governance Office	Potential cost impact	ongoing	This action will be addressed as and when the need occurs.
Monitoring of workforce data on a regular basis	HR Business Partner/E & D Lead		On-going	Action will be taken as and when required.

