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## ADOPTION LEAVE POLICY

### 1. POLICY STATEMENT

- 1.1 This document outlines the Adoption Leave Policy and Procedure for The East of England Ambulance Service NHS Trust (the Trust). The Trust acknowledges that working adoptive parents should qualify for similar support and time off as working biological parents and, as such, affords them the rights detailed below in line with the Employment Act 2002 and the Works and Families Act 2006.
- 1.2 The Trust also operates an enhanced NHS contractual scheme, which is open to a new parent who meets (see Section 5.3) some additional criteria not required under statutory arrangements.
- 1.3 This policy has been written in partnership by management and staff side.
- 1.4 A glossary of commonly used adoption terms can be found at Appendix 1.

### 2. SCOPE

- 2.1 This policy applies to all eligible staff employed by the Trust.

### 3. ACCESS TO THE PROCEDURE

- 3.1 All employees are entitled to access to this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. Copies are also available from the Human Resources Department and any employee can seek guidance from line management, their trade union representative or the Human Resources Department.
- 3.2 Employees and Managers may also wish to consult related Trust policies such as Flexible Working Arrangements, Special Leave and Paternity Leave.

### 4. ROLES AND RESPONSIBILITIES

- 4.1 The Human Resources Department is responsible for keeping the provisions within this policy in line with employment legislation, best practice people management principles and NHS guidelines.
- 4.2 Managers, HR staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this policy

and procedure.

- 4.3 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.
- 4.4 Employees are responsible for obtaining information and advice regarding their entitlements and for providing such information and documentation as is necessary in order to secure these entitlements.

## **5. ELIGIBILITY**

- 5.1 To be eligible for adoption leave you must:
- be newly-matched with a child for adoption by an approved adoption agency; and
  - have worked continuously for the NHS for 26 weeks leading into the week in which you are notified of being matched with a child for adoption (the 'matching' week);
  - be the only partner taking adoption leave.
- 5.2 If there is an established relationship with the child, such as fostering prior to adoption or when a step-parent is adopting a partner's children, there is no statutory requirement to give adoption leave. However you may be eligible for other leave.
- 5.3 If both parents are employed by the Trust then the primary care giver can take adoption leave and the other may be able to take paternity leave and or parental leave, if they satisfy the qualifying criteria.

## **6. NOTIFICATION REQUIREMENTS**

- 6.1 Employees are required to inform their managers of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. This should be done using the Adoption Leave Notification Form (Appendix 2).
- 6.2 The employee is required to tell the Trust:
- when the child is expected to be placed with them (and to provide a Matching Certificate stating when the placement is due to begin);
  - when they want to start their adoption leave.
- 6.3 Once notified, the Trust will respond in writing to the employee within 28 days setting out their entitlements, the expected start date of adoption leave and the date on which they expect the employee to return to work.
- 6.4 The employee can change the date they want to start their adoption leave providing they give 28 days notice, unless this is not reasonably practicable. This should be done using the Change of Adoption Leave Start Date Notification Form (Appendix 3).

## **7. ADOPTION LEAVE**

- 7.1 There are two types of adoption leave: 26 weeks ordinary adoption leave (OAL), immediately followed by a further 26 weeks additional adoption leave (AAL), giving a total of up to 52 weeks.
- 7.2 Providing the employee has 26 weeks continuous service at the beginning of the matching week, they are eligible to qualify for both ordinary adoption leave and additional adoption leave.
- 7.3 All of OAL and the first 13 weeks of AAL attract some level of pay, unless the employee does not meet the eligibility criteria (see Sections 8 and 9 below).
- 7.4 OAL and the first 13 weeks of AAL pay could be:
- Statutory Adoption Pay (SAP);
  - NHS Contractual Adoption Pay.
- 7.5 Employees can choose to start their adoption leave:
- From the date of the child's placement (whether this is earlier or later than expected); or
  - From a pre-determined date no earlier than 14 days before the expected date of placement, and no later than the expected date of placement.
- 7.6 Leave can start on any day of the week.
- 7.7 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.
- 7.8 If for any reason the placement is unsuccessful and ends during the adoption leave period, then the employee will be allowed to continue the leave for a maximum of 8 weeks after the placement ends.

## **8. ELIGIBILITY FOR STATUTORY ADOPTION PAY**

- 8.1 During the period of OAL (and the first 13 weeks of AAL if matching is on or after 1 April 2007), an employee will be eligible for Statutory Adoption Pay (SAP) if they satisfy both of the following conditions:
- they have been working continuously for the NHS for at least 26 weeks prior to the matching week; and,
  - that their average weekly payments during the last 8 weeks have been at a level that is no less than the lower earnings limit for National Insurance contributions.
- 8.2 Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions do not qualify for SAP. However, they should contact their adoption agency as they may be able to receive financial support in relation to their adoption placement.

- 8.3 The rate of Statutory Adoption Pay is the same as the standard rate of Statutory Maternity Pay, or 90% of average weekly earnings if this is less.

**9. ELIGIBILITY FOR NHS CONTRACTUAL ADOPTION PAY**

During the period of OAL (and the first 13 weeks of AAL if matching is on or after 1 April 2007), an employee will be entitled to NHS Contractual Adoption Pay if they satisfy all of the following conditions:

- They have twelve months continuous service with one or more NHS employer/s ending with the matching week;
- They meet the notification rules as detailed above;
- They intend to return to work with the same or another NHS employer for a minimum of 3 months after the adoption leave has ended:

The rate of NHS Contractual Adoption Pay for the first 8 weeks is full pay less any SAP or adoption payment. Full pay is calculated using the average earnings in the eight weeks prior to the matching week.

The next 18 weeks are paid at half pay plus any SAP or adoption payment receivable, providing this total does not exceed full pay.

Employees who have matches on or after 1 April 2007 will also be eligible for a further 13 weeks of SAP at the same rate as standard maternity pay (SMP), or 90% of the employees average weekly earnings if this is less than SMP.

- 9.4 By prior agreement with the Trust, NHS Contractual Adoption Pay may be paid in a different way. For example, a fixed amount spread over the adoption leave period.

**10. KEEPING IN TOUCH ('KIT')**

- 10.1 Before going on adoption leave, the Trust and the employee should discuss and agree any arrangements for keeping in touch during the employee's period of adoption leave. This may include:

- Any voluntary arrangements that the employee may find helpful to help them keep in touch with developments at work and facilitate their return;
- Keeping the Trust in touch with any developments that may affect their intended date of return.

- 10.2 The employee may also request, subject to the agreement of the Trust, to carry out up to 10 days' work during the adoption leave without bringing it to an end or jeopardising their right to adoption pay. These days can be taken as individual days or block weeks. Where an employee chooses to work less than a full day, e.g. attending for a 2 hour training course, this is classed as using one of the 10 allocated 'KIT' days.

- 10.3 Employees will be paid equivalent to full pay for actual KIT hours or days worked. Any applicable SAP paid will be off-set against this figure in order that the employee will not be paid more than equivalent to full pay.

**11. RETURN TO WORK**

- 11.1 An employee who intends to return to work at the end of their full adoption leave will not be required to give any further notification to the Trust.
- 11.2 If an employee wishes to return to work before the expected date of return, they must give at least 56 days notice using the Form at Appendix 4.
- 11.3 An employee has the right to return to their job under the original contract and on no less favourable terms and conditions when returning from OAL. However, on return from AAL the employee will only have the right to return to a similar job.

**12. RETURNING ON FLEXIBLE WORKING ARRANGEMENTS**

- 12.1 If at the end of adoption leave the employee wishes to return to work on Flexible Working Arrangements, the Trust has a duty to consider the request. All such requests will be considered under the Trust's Flexible Working Arrangements Policy.
- 12.2 If the request is refused, the Trust will provide written, objectively justifiable reasons for refusal and an opportunity to appeal against the decision. A refusal of a flexible working request does not affect the employee's right to return to their job under her original contract, if returning from OAL, or to a similar job if returning from AAL.
- 12.3 Under the Flexible Working Arrangements policy, it may be possible to agree a temporary trial period. Should the arrangements not be made permanent at the end of this trial period, the employee will retain their right to return to their job under their original contract, or a similar job if returning after AAL, at the end of the agreed period.

**13. FAILURE TO RETURN TO WORK**

- 13.1 Any employee who fails to return to work for 3 months for the same or a different NHS employer within 15 months of the beginning of their adoption leave, will be liable to refund the whole of their NHS contractual adoption pay, less any SAP received.
- 13.2 In exceptional circumstances the Trust may, at its discretion, waive their rights to recovery of NHS Contractual Adoption Pay, where doing so would cause extreme hardship or distress. Authorisation to do this would require the agreement of two Trust Directors.
- 13.3 For those on fixed-term contracts, where there is no right of return to be exercised because the contract would have expired if adoption had not occurred, the repayment provisions set out in 13.1 do not apply.

**14. CONTRACTUAL RIGHTS**

- 14.1 During ordinary and additional adoption leave an employee retains all of their contractual rights except remuneration.

- 14.2 Absence on ordinary and additional adoption leave for up to 52 weeks shall not constitute a break in service.

**15. ACCRUAL OF ANNUAL LEAVE**

- 15.1 Annual leave will continue to accrue during all adoption leave, whether paid or unpaid.

- 15.2 Where the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the Trust and employee for the employee to take annual leave before and/or after the formal adoption leave period. This should be discussed and agreed between the Trust and employee in conjunction with Human Resources.

**16. OFFICIAL ADOPTION LEAVE MEETINGS**

- 16.1 Paid time-off will be permitted to allow employees to attend official meetings in the adoption process.

**17. PENSIONS**

Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Superannuation Regulations.

**18. POLICY REVIEW**

- 18.1 This policy will be reviewed on an annual basis or amended in the light of new employment legislation and/or relevant case law.

**Glossary**

Matching process = Point in time where adoption process starts (files exchanged, suitability assessed etc.)

Placement = When the child officially moves into the family home and the bonding process begins (this is when actual adoption leave is taken).

AAL = Additional Adoption Leave

OAL = Ordinary Adoption Leave

SAP = Statutory Adoption Pay

**Adoption Leave Notification**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	
<b>I intend to take adoption leave commencing on:</b>	
<b>The date on which my child is expected to be placed for adoption is:</b>	
<b>The date on which I was notified by the adoption agency of having been matched with the child was:</b>	
<input type="checkbox"/> I enclose my Matching certificate issued by my adoption agency stating when the placement is due to begin.	
(tick box as appropriate)  <input type="checkbox"/> I intend to return to work after my adoption leave.  <input type="checkbox"/> I do not intend to return to work after my adoption leave and will therefore leave the Trust's employment on the last day prior to the commencement of my adoption leave.	
<b>Signed:</b>	
<b>Name (Printed):</b>	
<b>Dated:</b>	
To qualify for adoption leave, you must return this form to your Line Manager no later than seven days after the date on which notification of the match with the child was given to you by the adoption agency.	
<i>For Line Manager's use only:</i>	
<b>Signature of Line Manager:</b> _____ <b>Date Received:</b> _____	
<i>For the Human Resources Department use only:</i>	
<b>Date received by HR Dept:</b> _____ <b>Date letter issued:</b> _____	

**Appendix 3**

**Change of Date of Adoption Leave Start Date Notification**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	
<b>I previously notified you that I wished to commence my adoption leave on:</b>	
<b>I now wish to vary this date. Instead of commencing my adoption leave on the above date, I would like to start my leave on:</b>	
<b>The date on which my child is expected to be placed for adoption is:</b>	
<b>Signed:</b>	
<b>Name (Printed):</b>	
<b>Dated:</b>	
Please return to your line manager at least 28 days prior to the new date on which you wish your adoption leave to commence (refer to section 6.4).	
<i>For Line Manager's use only:</i>	
<b>Signature of Line Manager:</b> _____	
<b>Date Received:</b> _____	
<i>For the Human Resources Department use only:</i>	
<b>Date received by HR Dept:</b> _____	
<b>Date letter issued:</b> _____	

**Change of Adoption Leave Return Date Notification**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	
<b>My expected date of return from adoption leave is:</b>	
<b>I now wish to vary this date. Instead of returning from adoption leave on the above date, I would like to return on:</b>	
<b>Signed:</b>	
<b>Name (Printed):</b>	
<b>Dated:</b>	
Please return to your Line Manager at least 56 days prior to the new date in which you wish to return from adoption leave.	
<i>For Line Manager's use only:</i>	
<b>Signature of Line Manager:</b> _____	
<b>Date Received:</b> _____	
<i>For the Human Resources Department use only:</i>	
<b>Date received by HR Dept:</b> _____	
<b>Date letter issued:</b> _____	