



## ADOPTION AND FOSTERING POLICY

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**VERSION 1**

The provisions of this policy, which was developed by a partnership group on behalf of Grampian Area Partnership Forum, apply equally to all employees of NHS Grampian except where any specific exclusions have been identified.

**NHS GRAMPIAN  
ADOPTION AND FOSTERING POLICY**

**If you have difficulty understanding the English language, this policy can be made available to you in a language of your choice.**

**This policy can also be made available, on request, in other formats e.g. in large print or on a computer disk.**

**For all requests for copies of this policy in another language, or in an alternative format, please call the Corporate Communications Team on 01224 554400.**

# NHS GRAMPIAN ADOPTION AND FOSTERING POLICY

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# **NHS GRAMPIAN ADOPTION AND FOSTERING POLICY**

## **1 INTRODUCTION**

NHS Grampian (NHSG) is committed to dealing sensitively and sympathetically with employees who are considering being the main carer in an adoption or fostering relationship and who seek time off in the initial stages of this process.

NHSG recognises the needs of the adoptive or foster parents in establishing a relationship with the child and in developing new routines. The aim of this policy is, therefore, to enable a member of staff who wishes to adopt or foster a child to take a period of leave that will enable the family to adjust to new circumstances.

Where both adoptive/foster parents are employed by the organisation, leave may be shared or taken in entirety by the primary carer. However, in certain circumstances, e.g. the adoption or fostering of a child with special needs, leave may be requested by both prospective parents. NHSG also recognises that a single person may adopt/foster.

The leave/pay outlined in this Policy applies whether one or more child is being adopted or fostered at the same time.

## **2 FOSTERING**

As fostering can be for varying lengths of time, from very short term to long term fostering, a flexible approach will be taken by NHSG. Employees should, therefore, discuss their intention to foster with their line manager at the earliest opportunity in order to identify a level of support that is appropriate to their circumstances.

For very short term fostering it would be more appropriate to consider time off under NHSG's Policy on Special and Carer Leave for Domestic, Personal and Family Reasons, which can be found on the intranet. Alternatively, employees can obtain a copy from their line manager, HR Team or Staff Side representative.

For longer term fostering, manager should consider providing time off under the arrangements for Adoption Leave/Pay (detailed below), or under the provisions of NHSG's Parental Leave, or Career Break, policies.

Each case should be treated individually in line with specific requirements.

### 3 PRE-ADOPTION LEAVE

Employees who wish to take advantage of this leave should advise their line manager, in writing, as soon as they are notified by the Adoption Agency that a child is to be placed with them for adoption, that they might require time off under the provisions of this policy.

The Adoption Agency concerned must be one which is legally approved within the UK and the employee will be required to produce proof of appointments when requesting leave to attend court sessions, interviews and other meetings required as part of the adoption process.

A maximum of 1 working weeks paid leave, which can be taken in days or part days as required, will be available for this purpose.

**N.B.** One working week means the number of hours the employee is contracted to work each week.

### 4 ADOPTION LEAVE/PAY

To request adoption pay/leave, employees are required to submit a completed Application for Adoption Pay/Leave form – see **APPENDIX 2** - and a letter from the appropriate Agency confirming the Adoption Placement, to the Maternity/Adoption Leave Officer. These documents should be submitted as soon as practicable to give maximum notice to NHSG.

As noted in Section 3, the Agency concerned must be one that is legally approved within the UK

Entitlement to time off with pay will be dependant upon the employee's length of service and also be related to whether they intend to return to work or whether they are undecided. These are outlined at 6.1 to 6.3 below.

In addition, the following points apply.

- Adoption leave can start no sooner than 14 calendar days before the placement.
- The employee concerned will retain the right to return to work on no less favourable terms and conditions of employment than those that applied immediately prior to their taking the adoption leave.

- If at the end of adoption leave the employee wishes to return to work on different hours, NHSG will endeavour to facilitate this wherever possible, with the employee returning to the same job, but on different hours. If this is not possible, NHSG must provide written, objectively justifiable reasons for this and the employee should return to work of a similar nature, at the same grade and status to that which they undertook prior to their absence on adoption leave. A discussion with their manager should take place as soon as possible if the employee wishes to request a return to work on different hours.
- If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect their right to return to their original job, under their original contract, at the end of the agreed period.
- The employee must give their manager 28 calendar days notice of their intended date of return to work, except where this is at the end of the full 52 week Adoption Leave period.
- A completed application should be sent to the Maternity/Adoption Leave Officer who will ensure that the relevant entitlement to pay and/or leave is confirmed and that the applicant and their Manager receive written confirmation of these details.
- After the employee's return to work, any further requirements for court hearings, social work visits etc., will be unpaid or considered under other policies which may apply e.g. Policy on Special and Carer Leave for Domestic, Personal and Family Reasons.
- If the employee fails to return to work for a minimum period of three months, under circumstances where they have indicated on their application that they will return, they will be required to repay an appropriate proportion of the Occupational Adoption Pay which they have received.
- If the employee returns to a bank contract, they will be required to work 122 hours over the first 6 months of return to gain the entitlement outlined in **Section 6.1**.

## 5 KEEPING IN TOUCH

Before going on leave, the employee and their manager should discuss and agree, any voluntary arrangements for keeping in touch during the employee's period of adoption leave. This will include:

- any voluntary arrangements that the employee may find helpful to help them to keep in touch with developments at work and, nearer the time, anything which might help to facilitate their return to work

- arrangements for keeping the manager informed of any developments that may affect the employee's intended date of return to work

The manager and the manager may also agree a number Keeping in Touch Days (KIT days), which are intended to facilitate a smooth return to work at the end of a period of adoption leave. It is important that the discussions to plan and make arrangements for these take place before the employee's adoption leave commences and any agreements should take cognisance of the following:

- an employee may work for up to a maximum of 10 KIT days without bringing adoption leave to an end and any days of work will not extend the adoption leave period
- the KIT days do not need to be consecutive and can include training or other activities which enable the employee to keep in touch with the workplace
- participation in KIT days is entirely voluntary and must be by agreement. Neither the manager nor the employee can, therefore, insist upon them.
- the employee will be paid at their basic daily rate, less the appropriate adoption leave payment, for any hours worked on KIT days
- working for part of any day will count as one KIT day.
- the manager should consider the scope for reimbursement of reasonable childcare costs, or the provision of childcare facilities, to enable employees to take up the opportunity to work KIT days

## 6 ENTITLEMENTS TO LEAVE AND PAY

### 6.1 Returning to work

Where an employee is returning to work following a period of adoption leave, their entitlement to adoption leave and pay is calculated in line with the following table:

<b>Service at date of placement</b>	<b>Entitlement</b>
Less than 26 weeks NHS continuous service	A maximum of 52 weeks unpaid leave
26 weeks, but less than 1 years continuous NHS service	A maximum of 52 weeks leave, 39 weeks Statutory Adoption Pay and up to a further 13 weeks of unpaid leave.

<b>Service at date of placement</b>	<b>Entitlement</b>
1 or more years NHS continuous service	<p>A maximum of 52 weeks leave paid as follows:</p> <p>weeks 1 – 8 = Occupational Adoption Pay based on 100% of average weekly earnings and/or Statutory Adoption Pay where applicable (not exceeding full pay)</p> <p>weeks 9 – 26 = half pay + Statutory Adoption Pay (not exceeding full pay)</p> <p>weeks 27 - 39 = Statutory Adoption Pay</p> <p>weeks 40+ = Unpaid Adoption Leave</p>

## 6.2 Undecided regarding return to work

Where an employee is undecided as to whether they will return to work following a period of adoption leave they can reserve their decision until 7 weeks after the adoption.

Under these circumstances they will initially receive leave and/or pay in accordance with the “Not Returning” option (see 6.3 below). Once NHS Grampian receives the employee’s decision on whether or not they are returning to work, any remaining entitlements will be applied as outlined under 6.1 above or 6.3 below.

## 6.3 Not returning to work

The entitlements for employees who do not intend to return to work after adoption are based on length of service as noted below:

<b>Service at date of placement</b>	<b>Entitlement</b>
Less than 26 weeks NHS continuous service	No entitlement to pay.
26 weeks, but less than 1 years continuous NHS service	39 weeks Statutory Adoption Pay *
1 or more years NHS continuous service	<p>39 weeks Adoption Pay* as follows:</p> <p>weeks 1 – 6 = 6 weeks Occupational Adoption Pay</p> <p>weeks 7 – 39 = Statutory Adoption Pay where applicable</p>

\* As the period during which Adoption Pay is payable is regarded as service with the organisation, the date that the employee formally leaves NHS Grampian will be 39 weeks after the beginning of the period of Adoption Leave.

## **7 ADOPTION – WHERE THERE IS AN ESTABLISHED RELATIONSHIP**

Where there is an established relationship with the child, such as the employee being a step parent, or where full-time placement fostering has taken place prior to adoption, or where the child is already part of the family, the manager can only authorise time off for attendance at official meetings in line with **Section 6.1**.

## **8 ANNUAL LEAVE/PUBLIC HOLIDAYS**

Annual leave and Statutory and Public Holidays will continue to accrue during the entire period of Adoption Leave, whether paid or unpaid i.e. leave will not be lost as a result of taking Adoption Leave.

Where an employee is unable to take accrued annual leave, Statutory or Public Holidays as a result of an absence on Adoption Leave, they may carry over their full balance of leave to the next leave year i.e. they will **not** be subject to the normal carry-over provisions.

It will, however, be mutually beneficial to both the employee and their manager to agree what annual leave and Statutory and Public Holidays the employee will take prior to their formal adoption leave period (both paid and unpaid) and the amount to be carried over, **before** they proceed on adoption leave.

**N.B.** As adoption leave is not considered to be a break in service, the total amount of adoption leave will count as service when calculating future annual leave entitlement based on years of service.

## **9 INCREMENTAL DATE**

An employee's normal incremental date will not be deferred as a result of absence on adoption leave, irrespective of whether this leave is paid or unpaid.

## **10 CONTRACTUAL RIGHTS**

During a period of adoption leave, the employee will retain all contractual rights, except remuneration.

## **11 FIXED TERM OR TRAINING CONTRACTS**

An employee on a fixed term contract, who satisfies the conditions for entitlement to Adoption Leave and whose contract expires after the eleventh week before the expected date of placement, will have their contract extended to enable them to receive their full entitlement to Adoption Leave.

If the right to return to work cannot be exercised because of the termination of the contract, Adoption Pay **cannot** be reclaimed from the employee.

In the case of employees who have one or more years continuous service, either whole or part-time, an absence on Adoption Leave (paid or unpaid) up to 52 weeks before another NHS appointment will not constitute a break in service.

Employees who do not have enough service to receive Occupational Adoption Pay may be entitled to Statutory Adoption Pay (SAP) – advice on entitlements can be obtained from the Maternity/Adoption Leave Officer.

In cases where the contract expires after the fifteenth week before the expected date of placement, but before fourteen weeks after the expected date of placement, the contract will be extended to allow the employee to receive SAP.

If the employee is on a planned rotation of appointments, they have the right to return to work in the same post, or in the next planned post, irrespective of whether the contract would have ended if the adoption had not occurred. In these circumstances and where it is the wish of the employee, the contract will be extended to enable them to complete the agreed programme of training.

## **12 PLACEMENT FAILURE/DEATH OF CHILD**

In the event that a placement fails during a period of adoption leave, the leave and any pay due will continue for a further 8 weeks from the date that the child leaves the household.

In the event of the death of the child during a period of adoption leave, the leave and any pay due will continue for a further 8 weeks from date of the death of the child.

## **13 EXTENSIONS TO ADOPTION LEAVE**

Adoption leave cannot be extended beyond an employee's period of entitlement. Where an extension to adoption leave is requested, it will be treated as a normal application for unpaid leave or a career break and granted or refused depending upon the circumstances of each individual case. Alternatively, it could be taken, subject to management agreement, as part of the employee's annual leave, or Parental Leave entitlement.

## FURTHER POSSIBLE IMPLICATIONS OF ADOPTION AND FOSTERING LEAVE

### 1 SUPERANNUATION

#### 1.1 Returning to work

As adoption leave is counted as continuous service, superannuation contributions are deducted as follows:

- (i) During paid adoption leave, superannuation deductions will be based on the amount actually paid to the employee during this period and not on earnings immediately before the period of Adoption Leave.
- (ii) During unpaid adoption leave, superannuation deductions will be based on the rate of pay in force immediately prior to the period of leave.

When the employee returns to work following a period of unpaid adoption leave, their superannuation contributions for that period will be deducted by arrangement with them. Any tax rebate due to be received during a period of adoption leave will be used to offset superannuation arrears. If this is not agreeable to the employee they must contact the Payroll Department to make alternative arrangements.

#### 1.2 Undecided regarding returning to work

Where an employee is undecided whether they will return to work following adoption leave, Superannuation deductions will cease, as in **1.3** below. Where an employee subsequently decides to return to work, **1.1** above applies, as appropriate to the individual's case and deductions are taken from the additional Adoption Pay entitlement for returning to work.

#### 1.3 Not returning to work

Where an employee decides not to return to work after a period adoption leave, their superannuation deductions will cease the day before the commencement of adoption leave, regardless of whether or not they are entitled to six weeks Occupational Adoption Pay.

### 2 PATERNITY LEAVE

The secondary carer may apply for paternity leave in accordance with the provisions of NHS Grampian's Paternity Leave Policy.

### **3 SICK LEAVE**

An employee who is on adoption leave, whether paid or unpaid, cannot be on sick leave at the same time and, consequently, cannot receive sick pay. Sick leave can only commence and/or be paid once the adoption leave has expired. Adoption Leave expires on the date specified by the employee, by giving their manager 28 days notice of their intention to return, which may be prior to the end of the maximum period of leave entitlement.

### **4 LEASED CARS**

Where an employee who has contracted for private use of a Leased Car is absent from work on adoption leave for an extended period of between 27 and 52 weeks, there will be no financial penalty where they choose to continue private use at the contracted charge, **or** to temporarily return the vehicle until the end of their adoption leave. Any termination of the Lease will be in line with the Car Leasing Policy which can be found on the intranet. Alternatively, employees can obtain a copy from their line manager, HR Team or Staff Side representative.

**NHS GRAMPIAN  
APPLICATION FOR ADOPTION PAY/LEAVE**

<b>PART A – EMPLOYMENT DETAILS</b>				
Full name: _____		Pay number: _____		
Home address: _____				
				Post code: _____
Home tel. number: _____		Work tel. number: _____		
Grade _____		No of hours worked per week _____		
Ward/department _____				
Date of commencement of current employment _____				
If the period of employment with your current employer is less than 1 year, please give details of previous employment over the last year				
EMPLOYER	GRADE	HOURS WORKED	DATE COMMENCED	DATE LEFT
Expected date of placement _____				

**PART B – ENTITLEMENT**

On the basis of the service details given in Part A above, I consider that the employee will be eligible for the Adoption Pay/Leave entitlement(s) indicated below.

<b>REF NO.</b>	<b>ENTITLEMENT</b>	<b>PLEASE TICK</b>
1	52 weeks Unpaid Adoption Leave - Returning to work thereafter.	
2	26 weeks Paid Occupational Adoption Leave, plus unpaid leave permitting return to work up to 52 weeks from commencement of Adoption Leave.	
3	6 week Occupational Adoption Leave, plus permitting return to work up to 52 weeks from the commencement of Adoption Leave (a) Not Returning to Work (b) Undecided	
4	39 weeks Statutory Adoption Pay (if applicable), plus unpaid leave permitting return to work up to 52 weeks from the commencement of Adoption Leave	

AUTHORISED BY :  _____	DATE:  _____
MANAGER (NAME):  _____	PAYROLL CONTACT:  _____

**PART C – CHECKLIST**

- (1) You have the right to return to your post unless you yourself find suitable alternative employment. Any alteration to your current hours must be arranged and agreed with your Manager prior to your date of return.
- (2) Employees on a fixed term contract will have their contract extended to cover the period of Adoption Pay, provided they satisfy the conditions of entitlement to Adoption Leave.
- (3) Your maximum period of Adoption Leave will expire on ...../...../.....
- (4) The Maternity/Adoption Leave Co-ordinator and your Manager will require 28 days notice in writing of your intended date of return.

- (5) You are contractually entitled to accrue annual leave and public holiday entitlement whilst on Adoption Leave.
- (6) SAP 39 weeks – 6 weeks at 90% of average earnings for the 8 week/2 month period prior to the end of the Qualifying Week / 33 weeks at the lesser of 90% of average earnings or £..... ( current rate )
- (7) Please make arrangements with your Manager for despatch or collection of pay slips. You may be required to provide self-addressed envelopes if you wish them posted to you.
- (8) Your Adoption Pay will currently expire on ...../...../.....

**PART D - CLAIM TO BE COMPLETED BY EMPLOYEE**

- (1)** I confirm that I have received information and advice with regard to my entitlements.

I have read the NHS Grampian Adoption and Fostering Policy, which contains guidance on Adoption Pay and Adoption Leave and understand that my entitlement is as indicated on Part B of this form. I accept the conditions under which these provisions are granted and now wish to apply for adoption pay/leave in accordance with entitlement ref. \_\_\_\_\_ I confirm that my date of leaving/commencement of Adoption Leave will be \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**(2) EMPLOYEE UNDERTAKING**

This undertaking need not be signed if you are undecided whether you wish to return to work.

I undertake to return to NHS Grampian, or to another body constituted under the National Health Service Act or National Health Service (Scotland) Acts, for a minimum period of 3 months (or 6 months on completion of 122 hours of bank work) after the expiry of all leave for Adoption purposes. I understand that if I fail to comply with this undertaking I will be required to reimburse the appropriate occupational Adoption pay

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_