



Adoption Leave and Pay Policy

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POL109 – Adoption Leave and Pay Policy

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Part of Trust’s publication scheme	Yes

The East of England Ambulance Service NHS Trust (EEAST) has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups.

All Trust policies can be provided in alternative formats.

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1. Introduction

- 1.1 At EEAST we recognise that adopting a new child and/or having a baby through surrogacy is an important and exciting time and we are committed to positively supporting you through the adoption process, adoption leave and your return to work.

2. Purpose

- 2.1 This policy is designed to be inclusive of all employees who are adopting a child. It is a guide for both you and your line manager outlining your rights, including:
- your entitlement to adoption leave and pay,
 - your entitlement to time off to attend appointments,
 - how and when you need to let us know, and
 - how your pay and terms and conditions are affected during your adoption leave.

3. Scope

- 3.1 This policy applies to all EEAST employees. It does not apply to casual or agency workers.

4. Duties

- 4.1 **Managers** are responsible for:
- actioning requests for adoption leave in accordance with this policy and in a way that does not discriminate,
 - informing the HR representative as soon as practicable.
- 4.2 **Managers, HR, and Trade Union Representatives** are responsible for providing advice and guidance to employees on the application of this policy.
- 4.3 **Employees** requesting adoption leave are responsible for:
- complying with the application process and timescales specified in this policy,
 - informing their line manager of any changes to agreed leave dates in line with the notice periods outlined in this policy.

5. Definitions (for the purposes of this policy)

5.1 The following definitions are used in this policy:

Primary Adopter	If you are adopting a child alone, you can take adoption leave as the primary adopter.
	If you are one of a couple jointly adopting a child, only one of you (the primary adopter) can take adoption leave. You should decide between yourselves who will take it.
Co-adopter	If you are one of a couple jointly adopting a child, the co-adopter can elect to take paternity (new parent support) leave instead, where eligible.
Statutory Adoption Pay (SAP)	A payment made to eligible employees (see Section 7.2 for eligibility criteria and how it is paid).
Occupational Adoption Pay (OAP)	An enhanced payment made to eligible employees (see Section 7.3 for eligibility criteria and how it is paid).
Placement	Placement is when your child officially moves into the family home and the bonding process begins.
Official notification	Permission from a UK authority for an adoption abroad.
Adoption order	This is an order giving full parental responsibility for a child to the approved adopter(s), and when the adoptive parent(s) becomes the child's legal parent(s).
Parental order	This transfers parentage from a surrogate mother to the intended parent(s). This is a process that can only happen once the baby is born and is subject to conditions.

6. Letting us know

6.1 You are encouraged to let your line manager know that you are intending to adopt as soon as you feel comfortable to, so that decisions can be made to support you.

6.2 UK Adoptions

6.2.1 To receive your entitlements you are required to notify your line manager within seven days of being matched with a child of:

- your intention to take adoption leave,
- the date on which the child is expected to be placed with you, and
- the date you wish to start your adoption leave.

6.3 Surrogacy arrangements

6.3.1 To receive your entitlements you are required to notify your line manager by the end of the 15th week before the expected week of childbirth of:

- your intention to take adoption leave,
- the baby's expected due date, and
- the date you wish to start your adoption leave.

6.4 Overseas adoptions

6.4.1 To receive your entitlements you are required to notify your line manager within 28 days of receipt of your official notification of:

- the date of your official notification,
- your intention to take adoption leave, and
- the date when you expect your child to arrive in the UK.

6.4.2 Adoption leave can only commence after your child has entered the UK and must start no later than 28 days after your child has entered the UK. You must therefore also:

- inform your line manager of the actual date your child arrives in the UK within 28 days of this date,
- provide a minimum of 28 days' notice of when you wish to commence your adoption leave, and

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- provide appropriate documentation and proof of the adoption, including but not limited to the official notification and evidence that the child has entered the UK, e.g., a plane ticket.
- 6.5 You should let your line manager know by completing the **Adoption Leave Notification Form (POL109-01)**.
- 6.6 On receipt of your completed Adoption Leave Notification Form, your line manager will:
- respond, or liaise with HR for a response, in writing within 28 days using the template **Adoption Leave Acknowledgement letter (POL109-02)**, letting you know your paid and unpaid leave entitlements, your expected date of return to work, and the requirement to give at least 28 days' notice if you wish to return to work before the expected return date.
 - forward you a copy of the **Adoption Support Plan (POL109-03)**, or you can access this yourself on the intranet.

7. Eligibility

7.1 Adoption Leave

7.1.1 You have the right to adoption leave from your first day working at EEAST.

7.1.2 Statutory Adoption Leave lasts for up to 52 weeks, made up of 26 weeks ordinary adoption leave (OAL) followed immediately by 26 weeks' additional adoption leave (AAL). You can decide how much adoption leave you wish to take.

7.1.3 To be eligible for adoption leave you must be the primary adopter:

- in the adoption arrangement made by an official adoption agency (UK adoptions),
- through a surrogacy arrangement and commit to applying for a parental or adoption order (see www.gov.uk/legal-rights-when-using-surrogates-and-donors and seek HR advice),
- in an overseas adoption and have received official notification of permission from a UK authority,

- who is fostering a child permanently and becoming their legal parent ('fostering to adopt').

If you are genetically related to the surrogate child (as either the egg or sperm donor), you can choose to take paternity leave and pay instead of adoption leave and pay but cannot take both.

7.1.4 Only one period of adoption leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

7.1.5 You do not qualify for adoption leave or pay if you arrange a private adoption, become a special guardian or kinship carer, adopt a stepchild or a family member.

7.2 Statutory Adoption Pay (SAP)

7.2.1 SAP is payable for up to 39 weeks of your adoption leave if you meet all the following conditions:

- You have been continuously employed for at least 26 weeks at the end of your qualifying week, which is:
 - a) by the week you were matched with a child (UK adoption), or
 - b) by the 15th week before the baby's due date (if applying via a surrogacy arrangement and where you are eligible and intend to apply for a parental order), or
 - c) when you start getting adoption pay (overseas adoption).
- You have weekly average earnings (in the eight weeks prior to the qualifying week) of at least the lower earnings limit for national insurance contributions,
- You have given the correct notice as detailed in Section 6,
- You provide written confirmation:
 - a) from your placing authority of the matching decision, e.g., matching certificate (UK adoption), or
 - b) in the form of a parental statutory declaration that you intend to apply for a parental order in the six months after the baby's birth and expect the order to be granted (surrogacy arrangements); or

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- c) from the UK authority’s official notification confirming you are allowed to adopt and evidence that the child has entered the UK (overseas adoption).

7.2.2 If you are not eligible, Payroll will provide you with a SAP1 Form explaining why you cannot get SAP. However, you should contact your adoption agency as you may be able to receive financial support in relation to your adoption placement.

7.2.3 The rate of SAP is included in Table 1:

Table 1		
Weeks	Pay	Duration
1-6	90% of your average weekly earnings	6 weeks
7-39	A rate set by the government for the relevant tax year, or at 90% of your average weekly earnings (whichever is the lower)	33 weeks
40-52	Unpaid	13 weeks

7.3 NHS Occupational Adoption Pay (OAP)

7.3.1 You will be entitled to OAP if you meet all the following conditions:

- you are the primary adopter made by an official adoption agency, or are the intended parent through a surrogacy arrangement and commit to applying for a parental or adoption order;
- you have 12 months continuous service with one or more NHS employers by either:
 - a) the beginning of the week in which you are notified of being matched with a child for adoption (UK adoption); or
 - b) the 15th week before the baby’s due date if applying via a surrogacy arrangement and where you are eligible and intend to apply for a parental order; or
 - c) the beginning of the week when you start getting adoption pay (overseas adoption).
- you have met the notification rules as detailed in Section 6,

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- you provide written confirmation as detailed in Section 7.2.1.
- you intend to return to work on contracted hours, with EEAST or another NHS employer, for a minimum period of three months after your adoption leave has ended.

7.3.2 The rate of OAP is included in Table 2:

Table 2		
Weeks	Pay	Duration
1-8	Full pay (less any SAP receivable)	8 weeks
9-26	Half of full pay, plus any SAP receivable (this will not exceed full pay)	18 weeks
27-39	Any SAP entitlements under the statutory scheme	13 weeks
40-52	Unpaid	13 weeks

Full pay is calculated using the average earnings in the eight weeks prior to the last pay day before the qualifying week (earnings are based on what is paid and not what was worked)

7.3.3 You can arrange for your OAP (not SAP) to be paid in a different way, e.g., a combination of full and half pay, or a fixed amount paid equally over the adoption leave period. Please speak to your line manager and/or HR representative if you would like to arrange this, or if you would like to receive a forecast of your adoption pay.

7.3.4 Where OAP has been paid in a different way, and you subsequently choose to access shared parental leave and pay, we may need to recalculate payments to ensure that there has not been any over or underpayment of entitlements.

7.4 **Pre-adoption meetings**

7.4.1 If you are the primary adopter, you are eligible for paid time off work to attend up to five adoption appointments after you have been matched with a child. These will be recorded on your Adoption Support Plan and GRS, as appropriate.

7.4.2 If you are the co-adopter, you are eligible for unpaid leave to attend up to two pre-adoption meetings after you have been matched with a

child. Unpaid leave, up to six and a half hours per meeting can be accessed. Please contact your line manager to request time off in line with our Special Leave Policy.

7.4.3 Wherever possible, you should try to arrange pre-adoption meetings outside your core hours, or near to the start or end of your working day and give your line manager as much notice as possible.

7.5 Shared Parental Leave

7.5.1 If you and your partner (the co-adopter) meet the eligibility and notice requirements, you may choose to end your adoption leave and pay early and take shared parental leave instead. This will enable you and your partner to take it in turns to have periods of leave to care for your child, return to work while your partner takes leave, or take leave at the same time as each other.

7.5.2 Further information can be found in our Shared Parental Leave Policy.

8. Changing your adoption leave start date

8.1 If you wish to change your adoption leave start date, where this is applicable (see Section (9)), you must inform your line manager by completing a **Change of Adoption Leave Start Date Notification Form (POL109-04)** at least 28 days before your intended new adoption leave start date, or if that is not possible, as soon as reasonably practicable.

8.2 On receipt your line manager will write to you within 28 days of the start of your adoption leave confirming the revised date that you must return to work based on your full 52-week entitlement to adoption leave.

9. Starting your adoption leave

9.1 You can choose to start your adoption leave:

- (for UK adoption) on the day the child is placed with you for adoption or on a fixed date up to 14 days before this date;
- (for overseas adoption) on the date your child has entered the UK, or within 28 days of this date;
- (for surrogacy arrangements) on the day your baby is born, or the day after if you are at work on that day.

9.2 **Fostering for adoption**

9.2.1 If you have been approved by your adoption agency under a ‘concurrent’ or ‘fostering for adoption’ arrangement, you may choose to start your adoption leave when a fostering placement is made or when the child is matched with you for adoption.

9.2.2 Only one set of adoption leave is payable per placement.

9.2.3 If you have received fostering allowances and payments during the fostering phase of placement, this will not affect any adoption pay payable under this agreement.

10. Adoption disruption

10.1 If after you have started adoption leave, the adoption breaks down (is disrupted) you will be entitled to continue your adoption leave and receive the appropriate payment for that time.

11. Keeping in Touch

11.1 As part of your Adoption Support Plan, and before going on adoption leave, you should discuss and agree with your line manager any arrangements for keeping in touch. This may include:

- any voluntary arrangements that may help you keep in touch with developments at work, and nearer the time, to help facilitate your return,
- keeping your line manager in touch with any developments that may affect your intended date of return.

11.2 KIT days are intended to facilitate a smooth return to work, and you may work up to a maximum of 10 KIT days (75 hours) as follows:

- they will not bring your adoption leave to an end,
- they will not extend your adoption leave period,
- they can be worked consecutively or not, and can include training or other activities which enable you to keep in touch with the workplace,
- they cannot be worked during the first two weeks of adoption leave,
- working for part of a day will count as one KIT Day, i.e., attending a training course for two hours will be classed as using one KIT Day,

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- you will be paid equivalent to full pay for the actual hours worked, less any applicable OAP or SAP. Your line manager will arrange for an HR2a form to be completed. Once you have signed this, your line manager will authorise and send to HR Support Services to arrange payment,
- if you work a KIT Day in the full pay period, your line manager will make arrangements to add the total number of hours worked to your GRS record (time owing) to be taken once you have returned to work,
- if you work a KIT Day in the half pay period, your line manager will make arrangements to add half of the total number of hours worked to your GRS record (time owing) to be taken once you have returned to work,
- to enable you to take up the opportunity to work KIT days, we will consider the reimbursement of reasonable receipted childcare costs up to a maximum of £40 per day (based on average childminder costs in England from The Family and Child Care Trust Survey). Each case will be considered by the budget holder on an individual basis. Please note that this may have tax implications.

12. Return to work

- 12.1 You have the right to return to your job under your original contract and on no less favourable terms and conditions.
- 12.2 If you intend to return to work at the end of your full adoption leave, you will not be required to give any further notification to your line manager.
- 12.3 If you wish to return to work early you must give at least 28 days' notice by completing and returning the **Change of Adoption Leave Return Date Notification Form (POL109-05)**.
- 12.4 As part of your pre-return to work meeting (see Adoption Support Plan), your line manager will arrange completion of an HR2a form to confirm your return from adoption leave. Once you have signed this, your line manager will authorise and submit to HR Support Services. If this is not completed and submitted by the payroll cut-off date, it may result in a delay to your salary being reinstated.

- 12.5 If you do not intend to return to work, for EEAST or another NHS employer, for a minimum of three months after your adoption leave has ended, you may still be entitled to SAP (see Section 7.2).

13. Return on Flexible Working Arrangements

- 13.1 If you wish to return to work on different hours, please discuss this as part of your Adoption Support Plan and submit a request under our Flexible Working Policy. Your line manager will facilitate this, wherever possible.

The process can take two months to complete, occasionally longer, so please allow sufficient time for your flexible working request to be considered prior to your return to work.

- 13.2 If it is agreed that you will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect your right to return to your job under your original contract, at the end of the agreed period.
- 13.3 If it is not possible to agree your request, your line manager will provide you with written, objectively justifiable reasons and an opportunity to appeal against the decision.
- 13.4 A refusal of a flexible working request does not affect your right to return to your job under your original contract, or to return to work on the same pay band and work of a similar nature and status (with the requested reduced hours).

14. Sickness following the end of adoption leave

- 14.1 If you are absent due to sickness following the date you were due to return to work, normal sickness absence provisions will apply as necessary and in line with our Sickness Absence Management Policy.

15. Failure to return to work

- 15.1 If you notified us of your intention to return to work and you fail to return to EEAST or a different NHS employer for a total of 3 months within 15 months of the beginning of your adoption leave, you will be liable to refund the whole of your adoption pay (OAP), less any SAP received.

- 15.2 If you return to a different NHS employer, HR will liaise with Finance, and the employer will be informed of this financial obligation and asked to provide evidence to support the compliance of this requirement.
- 15.3 In exceptional circumstances, we may waive the right to recover OAP where this would cause extreme hardship or distress. Authorisation to do this would require the agreement of the Director of Finance.
- 15.4 For those on fixed-term contracts, where there is no right of return to be exercised because the contract would have expired if adoption leave had not occurred, the repayment provisions set out in Section 17.1 do not apply.

16. Contractual rights

16.1 Adoption leave (both OAL and AAL) does not constitute a break in service, and all the terms and conditions of your contract except pay will continue. Your pay will be replaced with OAP and/or SAP if you are eligible for it. Your other benefits will continue as set out below.

16.2 Pay Band Progression

16.2.1 While on adoption leave you will progress through your pay step on the date the pay step is due unless a pay-step review meeting has taken place prior to the commencement of adoption leave which confirmed that the required standards for pay progression would not be met.

16.2.2 If a pay-step review cannot be held prior to your pay-step date the pay-step point should be automatically applied in your absence.

16.3 Accrual of annual leave

16.3.1 You will continue to accrue your contractual annual leave entitlement during your adoption leave.

16.3.2 You should make every effort to take any outstanding annual leave before commencing adoption leave or immediately after your adoption leave has ended. The amount of annual leave to be taken in this way, or carried over, should be discussed, and agreed with your line manager as part of your Adoption Support Plan.

16.3.3 Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions, providing this would not cause a breach of the Working Time Regulations 1998.

16.4 Pension

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

16.5 Lease car

16.5.1 If you have a lease car you are contractually entitled to retain this benefit during adoption leave and will still be deducted pay for private use. If you drop to no pay during adoption leave, the deductions will be accumulated and recovered with higher deductions from pay when you return to work.

16.5.2 If you lease a vehicle through EEAST you should seek your own advice regarding personal tax / any HMRC rules and tax implications prior to commencing adoption leave.

17. Fixed-term contracts / training contracts

17.1 If you are on a fixed-term or training contract and you are eligible for OAP, but your contract will expire after the qualifying week (i.e., after the 11th week before the week you were matched with a child, the 15th week before the baby's due date if applying via a surrogacy arrangement, or the start of), you will have your contract extended to enable you to receive 52 weeks adoption leave (including OAP and SAP). You will not have any entitlement to a role with EEAST at the end of your adoption leave unless you have been selected for another role through a competitive interview.

17.2 If you are on a fixed-term or training contract and you do not meet the twelve months continuous service requirement for OAP, you may still be eligible for SAP. You should contact your line manager / HR representative for advice in this situation.

18. Withdrawing the right to OAP

18.1 You are only entitled to OAP whilst you are employed by EEAST. If your employment comes to an end, during the qualifying period or during adoption leave, so does your entitlement to OAP. An example of this would be dismissal.

- 18.2 This does not prevent you claiming SAP if you have met the qualifying conditions.

19. Policy review

- 19.1 This policy will be reviewed on a three yearly basis or amended in the light of new employment legislation and/or relevant case law.

Appendix A

Equality Impact Assessment

EIA Cover Sheet		
Name of process/policy	Adoption Leave and Pay Policy	
Is the process new or existing? If existing, state policy reference number	Existing (POL109)	
Person responsible for process/policy	HR	
Directorate and department/section	People Services	
Name of assessment lead or EIA assessment team members	EQIA Panel	
Has consultation taken place? Was consultation internal or external? (please state below):	Internal consultation through HR Policy Subgroup members	
The assessment is being made on:	Guidelines	
	Written policy involving staff and patients	X
	Strategy	
	Changes in practice	
	Department changes	
	Project plan	X
	Action plan	
	Other (please state)	

Equality Analysis

What is the aim of the policy/procedure/practice/event?

This policy is designed to be inclusive of all employees who are adopting a child, and is a guide outlining an employees entitlement to adoption leave and pay, time off to attend appointments, how and when to let us know, and how their pay and terms and conditions are affected during adoption leave.

Who does the policy/procedure/practice/event impact on?

Race	<input checked="" type="checkbox"/>	Religion/belief	<input checked="" type="checkbox"/>	Marriage/Civil Partnership	<input checked="" type="checkbox"/>
Gender	<input checked="" type="checkbox"/>	Disability	<input checked="" type="checkbox"/>	Sexual orientation	<input checked="" type="checkbox"/>
Age	<input checked="" type="checkbox"/>	Gender re-assignment	<input checked="" type="checkbox"/>	Pregnancy/maternity	<input checked="" type="checkbox"/>

Who is responsible for monitoring the policy/procedure/practice/event? **HR**

What information is currently available on the impact of this policy/procedure/practice/event?

Having reviewed and updated the policy and completed a full consultation process, no negative impact was raised, and with the evidence available there is no negative impact.

Do you need more guidance before you can make an assessment about this policy/procedure/ practice/event? **No**

Do you have any examples that show that this policy/procedure/practice/event is having a positive impact on any of the following protected characteristics?
Yes/No, if yes please provide evidence/examples:

Race	<input type="checkbox"/>	Religion/belief	<input type="checkbox"/>	Marriage/Civil Partnership	<input type="checkbox"/>
Gender	<input type="checkbox"/>	Disability	<input type="checkbox"/>	Sexual orientation	<input type="checkbox"/>
Age	<input type="checkbox"/>	Gender re-assignment	<input type="checkbox"/>	Pregnancy/maternity	<input type="checkbox"/>

Please provide evidence:

This policy is designed to be inclusive of all employees who are adopting a child.

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Are there any concerns that this policy/procedure/practice/event could have a negative impact on any of the following characteristics? Yes/No, if so, please provide evidence/examples: **No**

- | | | | | | |
|---------------|--------------------------|-----------------------------|--------------------------|-----------------------------------|--------------------------|
| Race | <input type="checkbox"/> | Religion/belief | <input type="checkbox"/> | Marriage/Civil Partnership | <input type="checkbox"/> |
| Gender | <input type="checkbox"/> | Disability | <input type="checkbox"/> | Sexual orientation | <input type="checkbox"/> |
| Age | <input type="checkbox"/> | Gender re-assignment | <input type="checkbox"/> | Pregnancy/maternity | <input type="checkbox"/> |

Please provide evidence:

Having reviewed and updated the policy and completed a full consultation process, no negative impact was raised, and with the evidence available there is no negative impact.

Action Plan/Plans – SMART

Specific

Measurable

Achievable

Relevant

Time Limited

Evaluation Monitoring Plan/how will this be monitored?

Who – see **Monitoring Table**

How

By

Reported to

Appendix B - Monitoring Table

What	Who	How	Frequency	Evidence	Reporting arrangements	Acting on recommendations	Change in practice and lessons to be shared
Audit of employee experience, and that the policy and procedure is being applied consistently, fairly and accurately for all employees who are adopting.	Head of HR People Partnering	Monitor GRS, ESR and ER Tracker data	Annually	Number of grievances/complaints received in relation to the adoption leave procedure.	Reported to and discussed at People Committee where required	Head of HR People Partnering will address any actions or changes required.	Any change in practice will be identified and: <ul style="list-style-type: none"> • process updated with HR People Partnering team. • HRBP / line manager training implemented • policy updated where required.