



## **Appendix 15:Adoption and Fostering Leave Policy**

<b>Name</b>	<b>Adoption Leave and Fostering Policy</b>
<b>Summary</b>	This policy details provisions for new mothers returning to work, and covers health and safety considerations and provisions for new mothers wishing to breastfeed.
<b>Associated Documents</b>	
<b>Target Audience</b>	All staff
<b>Version number</b>	1.0
<b>PIN policy</b>	Supporting the Work-Life Balance
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<b>Document Author</b>	

## CONTENTS

Section	Page
<b>1. Policy Statement</b>	4
<b>2. Fostering</b>	4
<b>3. Adoption Leave and Pay</b>	4
<b>4. Return to Work Arrangements</b>	11
<b>5. Dignity at Work</b>	12
<b>6. Questions or Concerns</b>	12
<b>7. Resolution of Disagreements</b>	12
<b>8. Monitoring, Review and Evaluation</b>	12

### **Appendices:**

#### Appendix 1

Notification of adoption/fostering absence and/or application for adoption/foster leave pay

## Golden Jubilee Foundation Values Statement

What we do or deliver in our roles within the Golden Jubilee Foundation is important, but the way we behave is equally important to our patients, customers, visitors and colleagues. We know this from feedback we get from patients and customers, for example in “thank you” letters and the complaints we receive.

Recognising this, the Golden Jubilee Foundation have worked with a range of staff, patient representatives and managers to discuss and promote our shared values which help us all to deliver the highest quality of care and service across the organisation. These values are closely linked to our responsibilities around Equality.



Our values are that we will:

- Take responsibility for doing our own job well
- Treat everyone we meet in the course of our work with dignity and respect
- Demonstrate through our actions our commitment to quality
- Communicate effectively, working with others as part of a team
- Display a “can do” attitude at every opportunity.

Our policies are intended to support the delivery of these values which support employee experience.

## **1 Policy Statement**

Golden Jubilee Foundation (GJF) aims to deal sensitively and sympathetically with staff who are considering being the main carer in adopting or fostering a child and are looking for time off in the initial stages of this process.

We recognise that the needs of adoptive or foster parents are at least as great as those of natural parents in establishing a relationship with the child and in developing new routines. The GJF also recognises that a single person may adopt/foster a child and that an employee of either sex may adopt/foster a child.

This policy sets out the rights and responsibilities of employees who wish to adopt or foster a child and gives details of the arrangements for adoption leave and pay.

The policy aims to implement best practice in the processing of applications, management of employees who wish to adopt or foster a child and return to work arrangements following adoption leave.

This policy and procedure has been assessed for relevance and screened for equality impact, to identify and mitigate, where possible, any potential for the policy and procedure to have differential impact on employees having regard to their differences, such as ethnicity, gender, disability, age, sexual orientation, religion, literacy or belief.

## **2 Fostering**

Fostering can be for varying lengths of time, from very short-term to long-term fostering and the organisation will adopt a flexible approach to this. Staff should therefore discuss their intention to foster with their line manager as soon as possible to determine the level of support they consider appropriate to their circumstances.

For very short-term fostering, it would be more appropriate to consider time off under the Special Leave Policy but there is no guarantee that this will be granted. For longer-term fostering, the manager should consider providing time off under the arrangements for Adoption Leave/Pay (outlined below), Parental Leave or Career Breaks.

## **3 Adoption Leave and Pay**

The following provisions for adoption leave and pay are as set out in Section 35 of the NHS Terms and Conditions of Service Handbook and mirror those set out within Section 15 of the Handbook in respect of maternity leave and pay. However, they apply to all individuals employed by GJF, including the Executive Level and Senior Management cohort and Doctors and Dentists.

### **3.1 Eligibility**

All employees who adopt a child under the age of 18 through an approved adoption agency (or who adopt a child from overseas and have received 'official notification' in respect of that child),

and who will have primary care responsibility for this child, will have a right to take 52 weeks of adoption leave whether or not they return to NHS employment.

An employee will be entitled to paid and unpaid adoption leave under the NHS contractual adoption pay scheme if:

- i) they have 12 months' continuous service with one or more NHS employers ending with the week in which they are notified of being matched with the child for adoption;
- ii) they notify their employer in writing no later than seven calendar days after the date on which notification of the match with the child was provided by the adoption agency (or if this is not possible, as soon as is reasonably practicable thereafter):
  - a. of their intention to take adoption leave;
  - b. of the date the child is expected to be placed with the employee for adoption
  - c. of the date they wish to start their adoption leave - adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier (or in the case of adoption of a child from overseas, on the day on which the child enters Great Britain or on a chosen date no later than 28 days after that);
  - d. that they intend to return to work with the same or another NHS employer for a minimum period of three months after their adoption leave has ended;
  - e. and provide evidence of entitlement to adoption leave and pay by producing a 'matching certificate' from the adoption agency (or in the case of overseas adoption, a copy of the 'official notification' and, within 28 days of the child's entry into Great Britain, inform the organisation of the date of entry and provide evidence of this date in the form of a plane ticket or copies of entry clearance documents).

### **3.2 Continuous service**

In order to calculate whether the employee meets the qualification set out in paragraph 3.1 (i) to have had 12 months of continuous service with one or more NHS employers, reference should be made to the provisions of the NHS Terms and Conditions of Service Handbook sections 15.61 to 15.65.

### **3.3 Notification**

In addition to 3.1 (ii) above, employees should be encouraged to notify their line manager as soon as possible after they are notified of being matched with the child for adoption. The rules

regarding notification apply irrespective of the employee's entitlement to paid leave under this policy.

### **3.4 Confirming adoption leave and pay**

An employee should be written to upon receipt of their application form (Annex 1), detailing what they must do (if anything) and their entitlements to pay and leave together with dates (where these can be confirmed).

Following discussion with the employee, the employer should confirm in writing:

i) the employee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement);

ii) unless an earlier return date has been given by the employee, their expected return date, based on their 52 weeks paid and unpaid leave entitlement under this agreement;

iii) the length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal adoption leave period; and

iv) the need for the employee to give at least 28 days of notice if they wish to return to work before the expected return date.

### **3.5 Paid adoption leave**

#### **3.5.1 Amount of pay**

Where an employee intends to return to work the amount of contractual adoption pay receivable is as follows:

i) for the first eight weeks of absence the employee will receive full pay, less any Statutory Adoption Pay (including any dependents' allowances) receivable;

ii) for the next 18 weeks the employee will receive half of full pay, plus any Statutory Adoption Pay or Maternity Allowance (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay; and

iii) for the next 13 weeks, the employee will receive any Statutory Adoption Pay or Maternity Allowance that they are entitled to under the statutory scheme.

By prior agreement with the employer, occupational adoption pay may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the adoption leave period.

### **3.5.1 Calculation of adoption pay**

Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Adoption Pay entitlements, subject to the qualifications set out within section 15.23 of the NHS Terms and Conditions of Service Handbook.

### **3.6 Unpaid contractual leave**

Employees are also entitled to take a further 13 weeks as unpaid leave to bring the total of leave to 52 weeks. However, this may be extended by local agreement in exceptional circumstances.

### **3.7 Commencement and duration of leave**

An employee may begin their adoption leave on the day the child is placed for adoption, or up to 14 days earlier (or in the case of adoption of a child from overseas, on the day on which the child enters Great Britain or on a chosen date no later than 28 days after that).

#### **3.7.1 Changing the adoption leave start date**

If the employee subsequently wants to change the date from which they wish their leave to start, they should notify their employer at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable beforehand).

### **3.8 Contractual rights**

During adoption leave (both paid and unpaid) an employee retains all of their contractual rights, except remuneration.

#### **3.8.1 Increments**

Adoption leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave. The expectation is that an employee on adoption leave would progress through a KSF gateway on the due date, if concerns had not been raised about the ability to meet their KSF outline prior to adoption leave.

#### **3.8.2 Accrual of annual leave and public holidays**

Annual leave and public holidays will continue to accrue during adoption leave, whether paid or unpaid, provided for by this agreement.

Where the amount of accrued annual leave and public holidays would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) adoption leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.

### **3.8.3 Pensions**

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

## **3.9 Line Management Contact**

Line managers should keep in contact with the employee throughout the period following receipt of notification of matching and during adoption leave, providing information and support where required and a link to the workplace.

### **3.9.1 Pre-Adoption Leave Discussion**

Before going on leave, the line manager and the employee should meet to discuss the practicalities of the employee's approaching adoption leave. The employee should already have been informed by this stage of their adoption leave and pay entitlement.

The meeting will provide the opportunity:

- To discuss the final arrangements for the employee's adoption leave;
- To discuss with the employee how their work will be covered during the adoption leave, including who will take over their tasks, how the handover will be managed and any other practicalities that arise;
- To discuss and agree any arrangements for keeping in touch during the employee's adoption leave, including:
  - i) The employee's right to keeping-in-touch days and whether or not they might be interested in exercising this right;
  - ii) how the line manager will keep in touch with the employee while they are on adoption leave, what information they might expect to receive and by what means;
  - iii) keeping the employer in touch with any developments that may affect their intended date of return;
- To discuss how the employee's annual leave entitlement will be managed while they are on adoption leave;
- For the employee to raise any other issues that they would like to discuss.

### **3.9.2 Keeping in touch days**

To facilitate the process of keeping in touch, it is important that the employer and employee have early discussion to plan and make arrangements for Keeping in Touch days (KIT days) before the employee's adoption leave takes place.

To enable employees to take up the opportunity to work KIT days, employers should consider the scope for reimbursement of reasonable childcare costs or the provision of childcare facilities.

KIT days are intended to facilitate a smooth return to work for employees returning from adoption leave.

An employee may work for up to a maximum of 10 KIT days without bringing their adoption leave to an end. Any days of work will not extend the adoption leave period.

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.

Any such work must be by agreement and neither the employer nor the employee can insist upon it.

The employee will be paid at their basic daily rate for the hours worked, less appropriate adoption leave payment for KIT days worked.

Working for part of any day will count as one KIT day.

### **3.10 Pre-Adoption Leave**

Reasonable time off should be given to attend official meetings in the adoption process, such as court sessions and interviews.

Staff 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 and that time off may be required and proof of appointment will be required to support requests for leave.

In normal circumstances a maximum of five days (one working week) will be available for this purpose.

### **3.11 Miscellaneous provisions**

#### **3.11.1 Fixed-term contracts or training contracts**

Employees subject to fixed-term or training contracts which expire between 11 weeks before and six weeks after the date of adoption and who satisfy the conditions in paragraphs 3.1 (i), and 3.1 (ii) (a), (b) and (d), shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid contractual and statutory adoption pay, and the remaining 13 weeks of unpaid adoption leave.

Absence on adoption leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

If there is no right of return to be exercised because the contract would have ended if adoption leave had not occurred, the repayment provisions set out in paragraph 2.10 above will not apply.

Employees on fixed-term contracts who do not meet the 12 months' continuous service condition set out in paragraph 3.1 (i) above, may still be entitled to Statutory Adoption Pay.

An employee on a fixed-term contract, satisfying the conditions for paid entitlement to leave, and whose contract expires between 11 weeks before and six weeks after the date of adoption, will have their contracts extended to enable them to receive 26 weeks' paid leave. If the right to return to work cannot be exercised because of the termination of the contract, pay cannot be reclaimed.

### **3.11.2 Rotational training contracts**

Where an employee is on a planned rotation of appointments with one or more NHS employers, as part of an agreed programme of training, they shall have the right to return to work in the same post or in the next planned post, irrespective of whether the contract would otherwise have ended if adoption leave had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

### **3.11.3 Employees not returning to NHS employment**

An employee who satisfies the conditions in paragraph 3.1, except that they do not intend to work with the same or another NHS employer for a minimum period of three months after their adoption leave is ended, will be entitled to pay equivalent to Statutory Adoption Pay, which is paid at 90 per cent of their average weekly earnings for the first six weeks of their adoption leave and to a flat rate sum for the following 33 weeks.

### **3.11.4 Employees with less than 12 months' continuous service**

If an employee does not satisfy the conditions in paragraph 3.1 for occupational adoption pay, but has 26 weeks' continuous service with their employer leading into the week in which they are notified of being matched with a child for adoption, they may be entitled to Statutory Adoption Pay, depending on their earnings level.

If the employee's earnings are too low for them to qualify for Statutory Adoption Pay, they may be entitled to other welfare benefits. In such circumstances, the employee should seek further information from their local Job Centre Plus or social security office.

### **3.11.5 Information about statutory maternity/adoption and paternity leave and pay**

There are occasions when employees are entitled to other statutory benefits/allowances and Information about all statutory maternity/adoption and paternity rights can be found using the following links:

<https://www.gov.uk/search?q=maternity+leave>

<https://www.gov.uk/search?q=statutory+maternity+payml.html>

Information about health and safety for new and expectant mothers at work can be found using the following link:

<http://www.hse.gov.uk>

## **4 Return to Work Arrangements**

**4.1** 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 employer, although if they wish to return early, they must give at least 28 days' notice.

**4.2** An employee has the right to return to their job under their original contract and on no less favourable terms and conditions.

**4.3** The line manager will arrange to meet with the employee on their return to work (ideally at the start of their first day back at work, but as soon as is reasonably practicable) who will be responsible for dealing with any housekeeping matters and ensuring that they settle in smoothly. In order to assist further in this regard, their manager will also:

- Arrange a catch-up meeting to update the employee on developments in their absence not previously notified to them;
- Discuss the arrangements for handing work back to them;
- Arrange for them to meet with other work colleagues to enable them to re-familiarise themselves with the workload and the relevant systems of work;
- Discuss any training needs and ensure that these are addressed as soon as possible after their return;
- Introduce them to any new members of staff;
- Advise on parental leave entitlement;
- Confirm the right to request flexible working arrangements;
- Discuss any other operational matters.

**4.4** Work should be handed back to the employee on a gradual basis with the aim that they will be completely up to speed and handling a workload appropriate to their contracted working hours within an agreed period following their return from adoption leave.

## **4.5 Returning on flexible working arrangements**

If, at the end of adoption leave, the employee wishes to return to work on different hours, the NHS employer has a duty to consider this and to seek to facilitate this, wherever possible. The employee will return to work on different hours, in the same job. If this is not possible, the employer must provide written, objectively justifiable reasons for this and the employee shall, wherever possible, be given the option to return to a role at the same pay band and undertaking work of a similar nature and status, to that which they held and undertook prior to their adoption leave absence. It may not be possible for an employee to have their flexible working request accommodated either in their existing role or through the provision of an alternative role.

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 the employee's right to return to their job under their original contract, at the end of the agreed period.

## **4.6 Sickness following the end of adoption leave**

In the event of illness following the date the employee was due to return to work, normal sick leave provisions will apply as necessary.

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

If an employee who has notified their employer of their intention to return to work for the same or a different NHS employer, in accordance with the above paragraph 3.1 (ii) (c) above, fails to do so within 15 months of the beginning of their adoption leave, they will be liable to refund the whole of their adoption pay, less any Statutory Adoption Pay, received. In cases where the employer considers that to enforce this provision would cause undue hardship or distress, the employer will have the discretion to waive their rights to recovery.

## **5 Dignity at Work**

The GJF is committed to providing all reasonable support to employees who adopt or foster. Colleagues should be sensitive to this issue and should adopt a supportive attitude towards such employees. Every employee has the right to be treated with dignity at work and this requirement is particularly relevant and important to employees who adopt or foster. It is a requirement of this policy that all employees of the organisation respect this principle.

## **6 Questions or Concerns**

GJF recognises that, from time to time, employees may have questions or concerns relating to their adoption or fostering rights. It is the policy of GJF to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the adoption and fostering provisions are complex, if an employee is or is seeking to adopt/foster a child, they should clarify the relevant procedures with Human Resources to ensure that they are followed correctly.

## **7 Resolution of Disagreements**

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No request for leave under this policy will be unreasonably withheld. Should a disagreement arise, the individual has the right to raise a formal grievance. It may be preferable in such circumstances, however, for the manager to seek advice on resolving the matter from an appropriate member of the HR Team and a Trade Union/or Professional Organisation representative.

## **8 Monitoring, Review and Evaluation**

This policy will be monitored, reviewed and evaluated every three years by the Partnership Forum, taking into consideration legislative changes and developments in good practice to ensure it meets the needs of all employees.

### **(Annex 1)**

#### **Notification of adoption/fostering absence and/or application for adoption/foster leave pay**

##### **Section A (to be completed by all applicants)**

Full name	
Home address	
Staff pay number	
Place of work	
Job title/Grade start	
Date and length of service	
Type of contract (e.g. permanent/fixed-term etc.)	
Expected date of adoption/fostering	

##### **Section B (to be completed by staff that intend or may intend to return to work)**

I am aware that my application for Adoption/Foster Leave will be considered in accordance with the conditions of service which have been explained to me. I enclose a copy of the Certificate of Adoption/Fostering, and declare that I shall return to work for an NHS employer for at least a period of three months:

(Please tick appropriate box)

No later than 26 weeks from the start of my period of adoption/fostering

No later than 52 weeks from the start of my period of adoption/fostering

I am uncertain at this time as to whether I will return to work

I understand that if I do not return to work for a period of at least three months following my adoption leave, I am to repay any payments made to me as set out in the Terms and Conditions of Service.

Signed ..... Date .....

**Section C  
(to be completed by staff who do not intend to return to work)**

I intend to resign and my last working day will be .....

I have read and understood the Terms and Conditions set out and enclose a copy of my Certificate of Adoption.

Signed ..... Date .....

**Section D  
(to be completed by Head of Department)**

I am aware of the applicant's intention following a period of adoption/foster leave:

(Please tick appropriate box)

To return to work no later than 26 weeks from the start of the adoption/foster leave

To return to work no later than 52 weeks from the start of the adoption/foster leave

I am aware the applicant does not intend to return to work

The applicant is not sure whether they will return to work

I acknowledge receipt of the application form and confirm that the information contained in it is accurate.

Signed ..... Date .....

Designation .....

**Section E  
(to be completed by the Human Resources department)**

(Please tick appropriate box)

The applicant intends to return to work/may return to work following the adoption/foster leave and is entitled to leave as detailed in the enclosed copy letter

The applicant intends to resign following the adoption and is entitled to pay as detailed in the enclosed copy letter

Signed ..... Date .....

Designation .....