



Workforce

**Adoption, Fostering and Kinship
Policy: guide for employees**

This guide will help employees to understand the Adoption, Fostering and Kinship Policy. The policy supports employees who are adopting a child, fostering or in a kinship arrangement.

The following guide forms part of the standard for workforce policies. These policies apply to all eligible staff within NHSScotland, regardless of the Board they are employed by.

NHSScotland wants to create an inclusive workplace where employees can thrive and feel confident about their ability to balance their personal and professional responsibilities.

It is recognised that policies to support this are particularly important in NHSScotland given the predominantly female workforce who largely take on primary caring roles within the family. The guide covers:

What is the purpose of the Adoption, Fostering and Kinship Policy?	4
Adoption leave	4
Statutory Adoption Pay (SAP)	5
SAP examples.....	6
Occupational Adoption Pay (OAP)	6
OAP examples	7
Adoption Allowance (AA)	8
Bank and agency staff	8
Notification of adoption	9
Receiving a notification of adoption	9
Notification of adoption example	9
Pre-adoption leave	10
Antenatal care	10
Preparing for adoption leave	10
Keeping in Touch (KIT) days	10
Working when on adoption leave	11
Returning to work	11
Employees not returning to NHS employment	12
Annual leave and public holidays during adoption leave	13

Employees on a fixed-term or training contract	13
Rotational training contracts	14
Adoption disruption.....	14
Child bereavement	14
Pension contributions	15
Professional registration.....	15
Salary sacrifice arrangements during the OAP and SAP period of adoption leave.....	15
Fostering	15
Kinship.....	16
Links to other policies	16

What is the purpose of the Adoption, Fostering and Kinship Policy?

The Adoption, Fostering and Kinship Policy supports employees who are adopting a child. It makes sure they have adequate time to attend official meetings in the adoption process, and adoption leave to care for and bond with their child before returning to work. It also sets out the statutory and contractual rights employees are entitled to.

The procedures for supporting employees who are participating in a surrogacy arrangement mirror adoption unless otherwise stated.

The policy outlines the support available for fostering and kinship care.

Adoption leave

All employees adopting a child are eligible for 52 weeks of adoption leave. No minimum length of service is required for an employee to be eligible for adoption leave. Your manager cannot refuse adoption leave or change the amount of leave you want to take.

In addition to adoption leave, you may also be entitled to receive a combination of the following:

- Statutory Adoption Pay (SAP)
- Occupational Adoption Pay (OAP)
- Adoption Allowance (AA)

The eligibility requirements for each of these benefits are dependent on your:

- level of earnings
- length of service with your employing Board
- length of service with the NHS

You will be asked by your manager to provide copies of relevant documentation to confirm your eligibility. This may include confirmation of:

- the primary carer in an adoption arrangement made by an official adoption agency
- adopting a child from overseas and the adoption has been approved by the relevant UK authority

- the parent, through a surrogacy arrangement and committed to applying for a parental or adoption order

If you are adopting as a couple, only one parent can take adoption leave. The other parent may access the following:

- [New Parent Support Policy](#)
- [Shared Maternity and Shared Adoption Policy](#)

If you are currently under UK immigration control, you should contact the human resources department to discuss how your adoption leave may impact your visa conditions.

Statutory Adoption Pay (SAP)

You will be entitled to receive SAP through adoption arrangements if you:

- have been employed by your current employing Board for a minimum of 26 weeks before you are matched with the child
- received earnings above the lower earnings limit for National Insurance contributions during the 8 weeks before the end of the week you are matched with the child
- followed the application procedures set out in the Adoption, Fostering and Kinship Policy

You will be entitled to receive SAP through surrogacy arrangements if you:

- have been employed by your current employing Board for a minimum of 26 weeks by the 15th week before the baby's due date
- received earnings above the lower earnings limit for National Insurance contributions during the 8 weeks before the baby's due date
- followed the application procedures set out in the Adoption, Fostering and Kinship Policy

If you are adopting a child from overseas, the service requirement is the same. There are additional requirements, including:

- a declaration giving the date the child is expected to enter the UK
- confirmation that you will not also claim statutory paternity pay

If you are eligible for SAP, you will receive the following pay through your payroll department:

- the first 6 weeks of adoption leave will be paid at 90% of the employee's average weekly earnings
- the following 33 weeks are paid at a standard SAP rate set by the UK Government, or 90% of the employee's average weekly earnings if this is lower than SAP

SAP examples

If your weekly earnings are £100, you will receive the following:

- £90 per week for the first 6 weeks
- £90 per week for the following 33 weeks, as the rate of SAP is higher than £90 per week

If your weekly earnings are £500, you will receive the following:

- £450 per week for the first 6 weeks
- The rate of SAP per week for the following 33 weeks, as the rate of SAP is lower than £500 per week

Visit the UK Government website to find out more about:

- [Statutory Adoption Pay](#)
- [Adoption Leave](#)
- [Lower Earnings Limit for National Insurance contributions](#)

If you are not entitled to SAP, the employer must give a reason for refusal and provide you with a [Statutory Adoption Pay: non-payment explanation form - SAP1](#).

If you are not eligible for SAP, you may be able to claim Adoption Allowance directly from your Local Authority.

Occupational Adoption Pay (OAP)

You will be entitled to receive OAP if you:

- intend to return to work for at least 3 months after adoption leave
- have been continuously employed by one or more NHS employers for more than 12 months, at the week the adoption agency matches you with a child or 15th week before the baby's due date if applying via a surrogacy arrangement

For example, if you are matched with a child by the adoption agency on 5th May, you must have been continuously employed by one or more NHS employers before 5th May of the previous year.

If you are having a baby via surrogacy and the baby's due date is 5th May, the 15th week before the baby's due date is 20th January. You must have been continuously employed by one or more NHS employers before 20th January of the previous year.

If you are eligible for OAP, the first 8 weeks of adoption leave will be paid at your full pay rate.

The next 18 weeks will be paid at your half pay rate. You will also receive any SAP that you may be eligible for in addition to your half pay rate. The total amount you will receive will not exceed your pay rate.

For the next 13 weeks of adoption leave, you will receive any SAP that you may be eligible for.

If you take the full 52 weeks of adoption leave, the final 13 weeks are unpaid.

If you are not eligible for SAP, you may be able to claim Adoption Allowance directly from your Local Authority.

OAP examples

If your weekly earnings are £100, you will receive the following:

- £100 per week for the first 8 weeks
- £100 per week for the following 18 weeks, as the rate of SAP is higher than £100 per week, made up of £50 half pay plus SAP capped at your rate of full pay
- £100 per week for the following 13 weeks, as the rate of SAP is higher than £100 per week, capped at your rate of full pay
- No pay for the final 13 weeks

If you are eligible for SAP, and your weekly earnings are £500, you will receive the following:

- £500 per week for the first 8 weeks
- £400 to £500 per week for the following 18 weeks:
 - half pay rate at £250
 - SAP of between £150-£200 per week

- £150 to £200 per week for the following 13 weeks, which is the rate of SAP
- No pay for the final 13 weeks

If you are not eligible for SAP and your weekly earnings are £500, you will receive the following:

- £500 per week for the first 8 weeks
- £250 per week for the following 18 weeks, plus any Adoption Allowance you have claimed directly from your Local Authority
- any Adoption Allowance you have claimed directly from your Local Authority for the following 13 weeks

It may be possible to spread adoption pay to equalise payments across your adoption leave. You should contact your local payroll team.

Adoption Allowance (AA)

AA is a payment that may be available to employees who are adopting but are not eligible for SAP. AA is paid directly by the Local Authority into the employee's bank account. You should contact your local Jobcentre Plus for information on applying for AA.

If the employing Board has not employed you for a minimum of 26 weeks before you are matched with the child or the qualifying week in a surrogacy arrangement, you may be eligible for AA.

Employees should be encouraged to visit the Government websites to find out more about:

- [Adoption Allowance](#)
- [Adoption Leave](#)

Bank and agency staff

Bank staff have no entitlement to OAP or adoption leave. You may be entitled to SAP, depending on your level of earnings. Your employer may review entitlement to OAP in exceptional cases, such as if you can demonstrate regular work patterns over an extended period.

If you are a bank worker who can demonstrate a regular work pattern over an extended period, your manager should contact your local staff bank service for advice.

If you are an agency staff member, you may be entitled to adoption leave, SAP, and time off for official meetings and appointments in the adoption process if you are considered an agency employee. You should check with your agency.

Notification of adoption

Receiving a notification of adoption

Ideally, make your manager aware if you are starting an adoption process. This allows your manager to support you through this process and to make sure you are getting the relevant help and support that is available.

You can choose to start your adoption leave from the date of adoption or date of matching.

You should notify your manager that you have been matched with or have adopted a child before the end of the week the adoption agency notifies you. If it is a surrogacy arrangement, you should notify your manager by the 15th week before the baby's due date. You must submit:

- copies of relevant documentation to confirm eligibility, for example:
 - written confirmation of approval to adopt or the adoption and permanence form
 - under surrogate arrangements, a MATB1 form or evidence of an application for a parental order
- a completed [adoption leave form](#)

If you fail to meet these timescales, this could result in a delay to any pay you are eligible to receive during adoption leave.

Notification of adoption example

If the adoption agency confirms on Wednesday, 5 May, that you have been matched with a child, you should notify your manager by the end of this week.

If you are having a baby via surrogacy and the baby's due date is Wednesday, 5 May, you should notify your manager no later than Saturday, 22 January.

You may wish to inform your manager of the adoption before submitting the adoption form and confirmation of your eligibility.

Your manager should respond in writing in a timely manner.

Pre-adoption leave

Your manager should take a person-centred approach depending on your individual circumstances.

You are entitled to paid time off to attend official meetings in the adoption process, such as court sessions and interviews. This includes meetings with the child.

You should provide reasonable notice of these meetings or appointments. Your manager may ask you to provide evidence of the appointment where available.

You can take a maximum of 5 working days pro rata to attend these meetings.

You are encouraged to arrange appointments outside working hours or at the start or end of the working day. However, this may not always be possible, and your manager should be as flexible as possible.

Antenatal care

Intended parents who are eligible and intending to apply for a parental order are entitled to unpaid time off to accompany the surrogate to antenatal appointments.

Your manager may ask you to provide evidence of the appointment where available.

You are encouraged to arrange appointments outside working hours or at the start or end of the working day. However, this may not always be possible, and your manager should be as flexible as possible.

Preparing for adoption leave

Before you start your adoption leave, you should discuss arrangements to keep in touch during your absence from the workplace. These arrangements should include methods for your manager to inform you about departmental updates, organisational updates, and career development opportunities.

Keeping in Touch (KIT) days

You can ask to return to work for a maximum of 10 days during your adoption leave. KIT days can be consecutive or not. If you work more than 10 days, your adoption leave will automatically end.

If you are on an unpaid period of leave, you should be paid the relevant enhancements for the shift worked. If the KIT day falls within the full pay period, you will receive one day in lieu once you have returned to work. If the KIT day falls within the half-pay period, you will receive a half day in lieu once you have returned to work.

Working for part of any day will count as one KIT day from the 10-day allowance.

Any KIT days should be agreed between you and your manager. Your manager is encouraged to support these requests wherever possible.

You do not have to work KIT days, and you cannot be forced to take them.

Working when on adoption leave

You are permitted to work 10 KIT days in your substantive or bank role within your organisation. If you work for more than 10 days, your adoption leave will automatically end.

You may be permitted to work with a second employer whilst on adoption leave.

Both employers must employ you at the qualifying week. There is no limit to the number of hours or days you can work with your secondary employer.

If you take up secondary employment after the qualifying week, your statutory adoption pay from your primary employer will stop.

Health Boards are separate employers. You may be able to work for another Health Board while on adoption leave if they employ you at the qualifying week.

Returning to work

You should plan with your manager for your return to work. The plan should include your return date, use of annual leave, equipment, and systems access.

You may want to change your hours or other working arrangements on return from adoption leave. If so, you should request the change under our flexible working policies:

- [Flexible Work Pattern Policy](#)
- [Flexible Work Location Policy](#)

You have the right to return to your job under your original contract of employment. If this is not possible, because the post no longer exists, your manager should follow your employing Board's organisational change policy.

If you wish to return to work earlier than previously agreed, you must provide at least 28 days' notice of your intention to return.

In the case of adoption disruption, your manager should take a person-centred approach to allow you to return to work earlier than planned, only if you wish to.

In the case of pregnancy loss for employees entering a surrogacy arrangement, your manager should take a person-centred approach to allow you to return to work earlier than planned, only if you wish to.

If you are entitled to OAP, you must return to NHS paid employment for a minimum of 3 months. Your employment does not have to be with the same employing Board. It can be any NHS employer in the UK. You should provide a copy of your appointment letter to your manager. Bank and agency work does not count as a return to employment.

If you have more than one post, your entitlement to OAP is not affected, provided you are returning to one of your substantive posts.

Employees not returning to NHS employment

If you decide to resign, you must provide your manager with written notice as specified in your employment contract. You can resign and leave at any point during your adoption leave. You may continue to be paid any SAP that is outstanding.

If you do not return to NHS paid employment for a minimum of 3 months after your adoption leave has ended, you must repay your OAP. Your manager can discuss the option to use accrued annual leave to count as paid employment with your manager.

In cases where the repayment of OAP would cause undue hardship or distress, employers have the discretion to waive the rights to recovery.

Annual leave and public holidays during adoption leave

Annual leave and public holidays will accrue as normal during adoption leave. You may use accrued annual leave, before or following adoption leave, to either delay the start of adoption leave or your return date.

Annual leave must be taken and will not be paid in lieu. You should discuss this with your manager and request leave in line with your Board's annual leave policy. You may wish to use the [annual leave calculator](#).

Employees on a fixed-term or training contract

If you are on a fixed-term or training contract that expires between 11 weeks before and 6 weeks after the requested date for adoption leave to begin, you will have your contract extended. You can choose for your adoption leave to start from the date of adoption or date of matching. The extension period will be up to the end of your adoption leave to allow you access to OAP entitlements. You will continue to accrue annual leave entitlements during any extension period.

If your contract ends before 11 weeks prior to the date of adoption, you will not have your contract extended or receive OAP. However, you may be entitled to SAP or AA. Your employer must confirm a reason for refusal and provide you with a [Statutory Adoption Pay: non-payment explanation form – SAP1](#).

If you are applying via a surrogacy arrangement and on a fixed-term or training contract that expires after the 15th week before the baby's due date, you will have your contract extended. The extension period will be up to the end of your adoption leave to allow you access to OAP entitlements.

If you are applying via a surrogacy agreement and your contract ends before 15 weeks prior to the baby's due date, you will not have your contract extended or receive OAP. However, you may be entitled to SAP

or AA. The employer must confirm a reason for refusal and provide you with a [Statutory Adoption Pay: non-payment explanation form – SAP1](#).

Rotational training contracts

If you are on a rotational training contract, your manager is responsible for making sure the employing Board is aware of your intention to take adoption leave.

Where there is a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, you have the right to return to work after adoption leave in the same post or the next planned post.

Adoption disruption

You should contact your manager in the event of an adoption placement breakdown. Your manager should support you during this difficult time. You should be informed of support mechanisms, which may include occupational health services and employee counselling. Further information is available:

- [employee support](#)
- [support organisations](#)

You are entitled to access your adoption leave and pay entitlements. If you wish to return to work earlier, you should discuss this with your manager.

Child bereavement

If you lose a child, there is support for you during this difficult time. You should be made aware of support mechanisms, which may include occupational health services, employee counselling, and support organisations. Further information is available:

- [employee support](#)
- [support organisations](#)

Child bereavement leave provisions are detailed within the [Special Leave Policy](#). This leave can only be accessed once adoption leave has ended.

Pension contributions

SPPA pension contributions will continue during SAP and OAP. Normally, you will pay any outstanding contributions for your unpaid period of adoption leave on your return to work. If you do not repay these contributions, you will not be credited with pensionable service for this period.

For private or other pensions, you will need to check with your pension provider.

Professional registration

You are required to maintain your professional registration during adoption leave as you continue to be employed by the organisation. It is up to you to consider how you will maintain your professional competence. However, adoption provisions can support you in doing so through access to KIT days.

Salary sacrifice arrangements during the OAP and SAP period of adoption leave

You are entitled to the benefit of the terms and conditions of employment which would have applied had you not been absent. Examples include:

- cycle to work scheme
- credit union arrangement

You should seek advice from the payroll department.

Fostering

Your manager should take a person-centred approach depending on your individual circumstances.

You should meet with your manager to discuss your intention to foster as soon as possible to determine the appropriate level of support required.

For very short-term fostering, you may request time off under the [Special Leave Policy](#). However, approval is not guaranteed.

For longer-term fostering, your manager should consider providing time off under the arrangements for:

- adoption leave where the placement of the child is prior to formal adoption
- [new parent support leave](#)
- [career break](#)

Kinship

Your manager should take a person-centred approach depending on your individual circumstances.

You should meet with your manager to discuss your kinship arrangements as soon as possible to determine the appropriate level of support required.

If you need time off, you should request it under the following policies:

- [Special Leave Policy](#)
- [Flexible Work Location Policy](#)
- [Flexible Work Pattern Policy](#)
- [Career Break Policy](#)

Links to other policies

You may need to cross-reference with other policies, including:

- [Maternity Policy](#)
- [New Parent Support Policy](#)
- [Shared Maternity and Shared Adoption Policy](#)
- [Parental Leave Policy](#)
- [Special Leave Policy](#)
- [Flexible Work Location Policy](#)
- [Flexible Work Pattern Policy](#)
- [Career Break Policy](#)