Maternity Guidance for Oxford Anaesthetics Trainees

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# Introduction

Firstly – congratulations! Whilst this is usually an exciting time for people, we know it can sometimes feel a bit daunting to be a pregnant trainee. The guide below has been written to provide some information and support for trainees and trainers alike to help “demystify” the various logistical, Human Resources (HR) and training considerations encountered during pregnancy.

This guide should be read alongside the Anaesthetics & Health Education England (HEE) Supported Return to Training (SuppoRTT) paperwork and any maternity policies published by your employer.

And finally, a caveat! We are not financial advisors, however within this document we do give a simple overview of maternity pay. If you are in any doubt as to the impact on your own personal financial circumstances then please do seek professional advice!

# Pregnancy and working

## Who you have to tell and when?

Deciding when to tell people you are pregnant is quite a personal decision and there may be many factors influencing when and how you prefer to do this…

Although it is fairly common to tell people after either the 12 or 20 week scan it is worth taking into consideration that the first trimester can be very challenging in terms of pregnancy related symptoms and your employer and colleagues can only help you if they know what is going on. Additionally, you are only entitled to pregnancy related employment protections (such as time off for antenatal appointments) once you have informed your employer you are pregnant. (1)

From a legal standpoint, before **the end of 25th week of pregnancy** (also referred to as ‘the end of the 15th week before the Expected Week of Childbirth [EWC]’) you **must** have:

* Informed your employer (Trust HR dept) in writingthat you intend to take maternity leave;
* Decided a date on which you would like maternity leave to start (which must be after the start of the 29th week of pregnancy);
* Confirmed that you intend to return to work for an NHS employer for at least 3 months after your maternity leave ends; and
* Provided them with the original MATB1 form that will be given to you by your midwife on request (keep a copy for your records).

Most people tend to inform their employer before this stage as it can take some time to complete all the required paperwork and allow processing of your maternity pay.

Once your employer has been informed they need to reply in writing, detailing your paid and unpaid leave entitlements, expected date of return to work and any agreements made about how any accrued annual leave will be taken. (2)

Other people that you will need to inform include:

* Training Programme Director (TPD);
* Educational Supervisor (ES);
* College Tutor (CT);
* Clinical supervisor (CS);
* Rota-co-ordinator; and
* RCoA (will need to be aware of time out of training for calculation of CCT date) (3).

There is no defined time by which you must inform the above people but a reasonable amount of notice will be appreciated.

Don’t forget to tell any other professional organisations you are part of, such as the General Medical Council (GMC). Many have reduced fees that you can take advantage of during your maternity leave – see section 3.5.

## Antenatal care

You have a statutory right, once you have informed your employer that you are pregnant, to paid time off for antenatal appointments. This will include appointments with a midwife or obstetrician and for ultrasound scans, but can also include other appointments such as antenatal classes if they have been recommended by a doctor or midwife. (2)

Your partner (or baby’s father) is entitled to unpaid time off to attend 2 appointments (1).

Do try to give your department as much notice as possible of any appointments.

## Risk assessment

Once you have informed your employer that you are pregnant, a risk assessment should be carried out by Occupational Health (OH) in accordance with the Management of Health and Safety at Work Regulations 1999 to identify any risks. If any risks are identified, relevant preventative and protective measures should be taken.

“*If the risk cannot be removed employers must take the following actions:*

1. *Temporarily adjust her working conditions and/or hours of work; or if that is not possible,*
2. *Offer her suitable alternative work (at the same rate of pay) if available, or if that is not feasible; or*
3. *Suspend her from work on paid leave for as long as necessary, to protect her health and safety, and that of her child”* (4).

The typical risks considered are:

* + 1. Ionising radiation

There are radiation-related risks throughout pregnancy, which are related to the stage of pregnancy and the fetal dose absorbed. These risks are most significant during organogenesis (first 8 weeks) and the early fetal period (8-25 weeks); they are then somewhat less in the second trimester and least in the third trimester (5). The Ionising Radiations Regulations 1999 require the employer to ensure that, once the employee has notified them that she is pregnant, the equivalent dose to the foetus is unlikely to exceed 1 millisievert (mSv) during the remainder of the pregnancy. At this level of exposure there is no evidence to show that there is any significant risk of radiation effects to the foetus. Reassuringly, routine monitoring of staff working within imaging departments, including nuclear medicine, shows that 98% of staff do not exceed the ionising radiation dose limit of 1 mSv per year (6).

Strict adherence to proper working practices incorporated into local rules for all staff should ensure that all doses are as low as reasonably practicable. The employer must carry out risk assessments that consider the potential exposure of the foetus and highlight the need for specific restrictions in working practice, including reducing time spent in higher risk areas (e.g. cath labs, angio suites etc) (6). In practical terms, keep as far away as practicable from the patient and the X-ray tube while it is on, use protective screens wherever possible and limit exposure where possible(7).

Lead protective garments are vital for radiation attenuation. The vast majority of radiation exposure is from scattered radiation with 96%-98% absorbed by lead aprons and skirts. One must remain observant throughout pregnancy to ensure adequacy of fit and coverage of the apron as improper overlap will result in less effective radiation protection. (8)

* + 1. Magnetic Resonance

Pregnant staff are advised by the Medicines and Healthcare products Regulatory Agency (MHRA) not to remain in the scan room whilst scanning is underway due to concerns about acoustic noise. Positioning of patients and injecting contrast is ok. It is sensible to avoid situation where you will need to be in the scan room with the patient during a scan (e.g. useful to be doubled up with consultant who can remain present throughout). (9)

* + 1. Anaesthetic gases

There is some historical evidence that exposure to anaesthetic gases can increase the risk of miscarriage and congenital abnormalities, although this is not thought to be a significant risk providing that the gases are adequately scavenged. It may be prudent to avoid lists with a high turnover of inhalational inductions (such as paediatrics) during the first trimester or discuss with your ES and CT about undertaking an alternative module. If such cases are unavoidable, ask for breathing circuits with appropriate scavenging. (10)(11)(12)

* + 1. Infectious disease

Certain infections are known to be a potential risk to the foetus so you should avoid exposure to patients with these conditions wherever possible. Some common examples are cytomegalovirus, toxoplasmosis, chicken pox, rubella and listeria - if in doubt as to whether you should avoid contact with a patient with a particular condition then you can ask OH or microbiology for further advice. (13)

* + 1. Working patterns and physical activity at work

A number of areas relating to working patterns and physical activity have been studied by the Royal College of Physicians (RCP) to examine the effect that each has on the risk of pre-term delivery, miscarriage, small for gestational age, pre-eclampsia and gestational hypertension. The areas investigated (defined as “excessive work demands”) are:

1. Long hours (> 40 hours per week);
2. Shift work;
3. Prolonged standing (> 4 hours per day);
4. Lifting; and
5. Heavy physical work.

The RCP review concludes that best estimates generally suggest small increases in risk, but typically the data are also compatible with no effect or even a small benefit from work; thus there are no mandatory restrictions on working patterns or activities.

However, the review also concludes that the physical demands of late pregnancy (defined as >28 weeks) are such that you may “struggle to cope with excessive work demands” and it may be necessary to limit these. Employers should make reasonable adjustments to the areas outlined above to protect the health and safety of you and your child. Women with an adverse obstetric history or with obstetric risk factors and/or pregnancy complications need to receive individualised advice from their obstetrician or midwife. (14)

Any decisions to alter working patterns should be made on an individual basis. There is no fixed gestation at which trainees stop working night shifts, but this is often done during late pregnancy. (14) Should you wish to do this, it would be useful to discuss this with your CS, ES, CT, rota-writer and OH department in good time.If your obstetrician, your general practitioner or midwife writes a letter to say that working nights shifts will affect your health, then your employer must offer you suitable alternative work on the same terms and conditions as you currently are employed or suspend you on full pay. (4)

In practice, if you need to stop working night shifts or long days, you will normally do more daytime work to maintain your average hours. Please note that in these circumstances, or if there is not sufficient daytime work available, you should remain on the same pay since your employer must give you paid leave for any time for which they cannot provide suitable alternative work. (15)

In most circumstances, stopping night shifts **will not** affect your CCT date but this should be confirmed with your TPD if you are concerned or have had to significantly reduce your total hours of work.

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1. 1.

# Maternity leave

Each trust will have a maternity leave policy that you should make yourself familiar with alongside these guidelines. The British Medical Association (BMA) has a maternity leave calculator that you may find useful at [BMA Maternity Leave Calculator](http://www.bma.org.uk/pay-and-contracts/maternity-paternity-and-adoption/leave/maternity-leave-calculator)[[1]](#footnote-1).

## When maternity leave starts

Maternity leave cannot begin until the start of the 29th week of pregnancy (or the beginning of the 11th week before the EWC), and you will normally have to give a planned date of commencement of leave. This is often between 34 and 38 weeks but you may wish to work up until the week of expected delivery. This can be changed with 28 days notice (or by agreement).

If you are off sick with a pregnancy related condition after 36 weeks then your maternity leave will normally start at that time. Prior to 36 weeks the normal rules for sick leave and pay will apply. Occasional days of sickness in the last 4 weeks of pregnancy can be disregarded for this purpose, if you and your employer agree for you to keep working.

If the baby is born after 29 weeks but before the planned start date of maternity leave, then maternity leave starts automatically.

If the baby is born before the start of the 29th week, the rules are more complex and you should ask your HR Department for assistance or consult the NHS TCS handbook (2).

## How long to take?

There is a compulsory period of 2 weeks maternity leave starting from the day the baby is born during which you may not return to work.

Maternity leave is otherwise divided into 26 weeks of Ordinary Maternity Leave (statutory) and a further 26 weeks of Additional Maternity Leave (contractual). The maximum you can take is 52 weeks. You will also have annual leave that you can take at the beginning or end of your maternity leave, including that accrued whilst on maternity leave (16).

NB: According to the Junior Doctor Terms and Conditions of Service, it is only permissible, by agreement, to carry over a small amount of leave from one leave year to the next (5 days full time equivalent). (17) However, in the context of maternity leave, the Equality and Human Rights Commission say you must be allowed to carry over any unused part of your statutory leave entitlement of 28 days (which includes bank holidays). The law is not clear what happens to any leave entitlement over and above 28 days. (18)

This is a frequently reported area of difficulty and the best solution to avoid disputes is to discuss with HR early on how you will you use your full leave entitlement. This normally involves using some annual leave before your maternity leave starts (but bear in mind that if the baby is born early your maternity leave **MUST** start then) and some at the end of your maternity leave before you physically return to work (2).

How long you choose to take is a personal decision and may take into consideration a number of different factors, balancing how long you wish to spend at home, childcare options, financial considerations and professional influences. You will need to give your employer an expected return date, but this can be changed later (see section 3.4). It will automatically be assumed that you are taking the full 52 weeks unless you state otherwise.

## Maternity Pay

Maternity pay is split into two components:

1. Occupational Maternity Pay (OMP); and
2. Statutory Maternity Pay (SMP) or Maternity Allowance (MA).

Most individuals who are not eligible for SMP will be eligible for MA.

* + 1. OMP

To qualify for OMP you must have had 12 months **continuous NHS service** (not necessarily with the same employer) by the beginning of the 29th week of pregnancy (or by the start of the 11th Week before their EWC) and be employed by the NHS at that point. It is important to note that continuous service may have been broken if you have taken time away from the NHS or worked abroad – check with your HR department if you are uncertain.

The amount of OMP is based on your average weekly earnings, calculated over a period of at least eight weeks up to and including the last payday before the end of the qualifying week. The qualifying week is currently the 25th week of pregnancy (or the 15th week before the baby is due). Practically speaking this is usually the two most recent payslips you receive before the end of your 25th week of pregnancy.

If you are entitled to OMP and you intend to return to work for at least 3 months after maternity leave, you should receive 8 weeks full pay and 18 weeks half pay. Any alterations made to your earnings during this time may affect your maternity pay and should be considered carefully (e.g. strike action, salary sacrifice schemes - including Childcare Vouchers, additional hours, etc.).

You may discuss with your employer in advance making arrangements to receive your OMP entitlement in a different way, for example split equally over your planned maternity leave. If the duration of your maternity leave subsequently changes, it may be necessary to recalculate to ensure there have not been under or over-payments (2).

* + 1. SMP

To qualify for SMP you must have been employed by the **same employer** for a continuous period of 26 weeks into the 15th week before your EWC. The employer who is paying your National Insurance (NI) contributions in the 15th week before the baby is due will be responsible for paying your SMP, even if you move to another employer after the 25th week of pregnancy. If you move between trusts before the 25th week your entitlement to SMP might be affected and instead you may be eligible for MA.

SMP is paid at 90% of full pay for 6 weeks and at a set lower rate for 33 weeks (39 weeks in total). It is liable for tax and NI contributions because it is treated as earnings. If OMP is payable, SMP is included in the 8 weeks of full pay from your employer. SMP is also payable in addition to the 18 weeks of half-pay - check online for the latest rates. (19) (20)

* + 1. MA

MA is paid at the same rate as SMP for 39 weeks or 90% of your average gross weekly earnings (before tax), whichever is the smaller. MA is not liable for tax and NI contributions and MA is not included in the in the 8 weeks of full pay (if eligible for OMP), as it is claimed and paid for through Jobcentre Plus and not the employer. Employers should subtract the amount of MA payable from your earnings if OMP and MA are payable.

To be eligible for MA you will need to have been employed for at least 26 weeks. You will need an MA claim form (MA1), your MATB1, original payslips/other proof of income and an SMP1 form from your employer. Applications should be made between 27th week pregnancy (14th week before you are due) and no later than 3 months after your Maternity Allowance Period (the payment period for MA)(20).

|  |
| --- |
| **Summary of maternity pay (for those entitled to OMP)** |
| 1-8 weeks | Full pay (which includes SMP or MA) |
| 9-26 weeks | Half pay + SMP/MA |
| 26-39 weeks | SMP/MA only |
| 39-52 weeks | Unpaid |

There is an online calculator available that you may find useful at [HMRC Maternity, Adoption & Leave Pay Calculator](https://www.gov.uk/government/collections/statutory-maternity-pay-and-leave)[[2]](#footnote-2) and NHS Employers publishes a useful [Maternity Factsheet](https://www.nhsemployers.org/~/media/Employers/Documents/SiteCollectionDocuments/Maternity%20Factsheet.pdf)[[3]](#footnote-3).

## Ending maternity leave

You do not need to give any further notice to your employer to return to work on the date that you originally indicated, but you must give 28 days notice to make alterations to this date.

If you do not return to work within 15 months of the beginning of your maternity leave (or three months of the end of SPL), you will be liable to repay the full amount of maternity or shared parental pay (SPP), less any statutory pay received. Your employer has the right to waive recovery of this sum if they believe it will cause undue harm or distress (2).

## Professional Subscriptions

It is worth checking whether you can benefit from reduced subscriptions from any professional organisations of which you are a member, some of which are detailed below. For each organisation, check their website or contact them directly for details.

* + 1. RCoA

It is possible to put your subscription in abeyance during the period of your maternity leave. You will not pay any fees, but will continue to receive your membership benefits(21).

* + 1. GMC

There is no specific discount for maternity leave, but you may qualify for a low-income discount. The annual fee can be reduced by 50% if your income is below a certain threshold for that renewal year and eligibility will therefore depend on your personal circumstances (22).

* + 1. Association of Anaesthetists

If you have decided to take maternity, parental or adoption leave for a minimum of 6 months, you are eligible to apply for a 90% discount against your Association of Anaesthetists membership fee (23).

* + 1. BMA

There is a reduced subscription rate for maternity leave (24).

* + 1. Medical indemnity organisations

Each organisation has their own rules about membership during maternity leave and you should contact them to discuss your options. It will normally include a free or heavily discounted rate, but you may risk losing some benefits if you suspend or cancel your membership completely (e.g. cover for good Samaritan acts) without first discussing it with them.

## Maintenance of contractual benefits

During your maternity leave you will continue to receive all contractual benefits other than remuneration, including the accrual of annual leave, public holidays and pay progression. If you are under transitional pay protection section 2 and are in receipt of annual pay increments, this continues while on maternity leave. If you are paid under the new contract arrangements (i.e. nodal pay points), pay is based on your training grade rather than time in service and maternity leave will chronologically delay your progression to the next point. (2) (17)

Many of the deanery Return to Training (RTT) courses are already funded (see section 5.2) but, as you retain your entitlement to study budget on the same basis as when not on maternity leave, funding should be available for other courses you may wish to attend on Keep In Touch (KIT) days under the normal terms and conditions of the study leave policy. (25)

# Other types of leave

## Shared Parental Leave (SPL)

You and your partner can share up to 52 weeks of SPL and up to 37 weeks of pay (minus any maternity leave/pay already claimed). SPP, where applicable, is paid at the same rate as maternity pay. You need to share the pay and leave within the first year after your child is born. It can be taken in blocks separated by work or all together, and you can choose to be off work together or to stagger the leave and pay. This can be taken at any time within that year, providing two weeks compulsory maternity leave has been taken first.

To be eligible for SPL, both parents must share responsibility for the child at birth. An employee working full-time or part-time will be entitled to paid and unpaid SPL under the NHS occupational SPL and pay scheme if they:

1. Have 12 months continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth;
2. Notify their employer of their wish to take SPL via the relevant process recognised by their employers, with a minimum of eight weeks notice; and
3. Confirm that the other parent meets the statutory “employment and earnings test” by being an employed or self- employed earner in the UK for a total of 26 weeks (not necessarily continuously) in the 66 weeks preceding the week the child is due to be born. The individual must have earned at least an average of £30 (gross) a week in 13 of those 26 weeks (not necessarily continuously). (2)

For the latest and further information visit [www.nhsemployers.org](http://www.nhsemployers.org) and [www.gov.uk](http://www.gov.uk).

## New Parent Support Leave (NPSL)/Paternity Leave

NPSL builds on statutory paternity leave and applies to the father of the child, the mother’s spouse or partner or nominated carer, and comprises two weeks of leave, which can be taken around the time of birth. Employees granted NPSL will receive full pay during this time if they have 12 months of continuous service with their current or any other NHS employer.

It may be possible to make other arrangements or for further unpaid leave to be to be agreed locally, where this is considered necessary. If employed by the NHS and not eligible for two weeks of pay during their NPSL, it may still be possible to claim Statutory Paternity Pay (2).

If not employed by the NHS, there should still be the same entitlements, if eligible, to leave, although the amounts of pay may be different (cannot be less than the statutory amounts) (26). It will be necessary to find out what is available from the relevant employer.

## Dependents Leave

All employees have the right to reasonable time off to deal with an emergency, such as a child falling ill or having an accident at school. The amount of time off is that necessary to deal with the immediate problem. There is no legal requirement for your employer to pay you for this time off (27).

# Returning to work

You have the right to return to your job under your original contract and on no less favourable terms and conditions. If, at the end of maternity leave or SPL, you wish to return to work with different hours, your employer has a duty to facilitate this. Wherever possible, you will return to work with those different hours in the same job. If this is not possible, your employer must provide written, objectively justifiable reasons for this. You should return to the same pay band and work of a similar nature and status to that which they held prior to their maternity or shared parental absence. If it is agreed that you will return to work on a flexible basis - including changed or reduced hours - for a temporary period, this will not affect your right to return to your job under your original contract, at the end of the agreed period (2).

## Full time or Less Than Full Time (LTFT)

The decision on what proportion of time you wish to work on your return, if you decide to return to work, is personal and dependant on many factors relating to you and your family.

If LTFT is an option for you, information on how to apply and other details are available in the Oxford School of Anaesthesia LTFT Guide (May 2019), available from [Oxford School of Anaesthesia and ICM website](https://oxfordanaesthesia.org/ltft)[[4]](#footnote-4).

## SuppoRTT programme

This delivers structured advice and resources for trainees taking a career break, particularly if you have been away from work for over three months. There is a wide range of support available and guidance can be found from [Oxford School of Anaesthesia and ICM](https://oxfordanaesthesia.org/return-to-practice)[[5]](#footnote-5).

It is strongly recommended that you familiarise yourself with this programme at your earliest opportunity, as **some of the processes, meetings and paperwork need to begin before you go on maternity leave**. It contains advice on:

* Meetings and paperwork required;
* Re-orientation, KIT and SPLiT (Shared Parental Keeping in Touch) days;
* Available RTT courses;
* Suitable Continuing Professional Development;
* Supernumerary and Enhanced Supervised Periods; and
* Professional development coaching.

Appendix 1 - Checklist of important points

|  |  |
| --- | --- |
| **Pregnancy** |  |
| Before 25th week of pregnancy | Tell your employer (HR) about pregnancy, provide MATB1 and confirm when you want maternity leave to start |  |
| As soon as possible after employer informed of pregnancy | Risk assessment to be completed by employer +/- visit OH |  |
| Set up antenatal care and notify employer of any time off required |  |
| Inform TPD |  |
| Inform CT |  |
| Inform ES (+/- CS) |  |
| Consider rota changes to reduce “excessive work demands” if required (during late pregnancy or before if required) and inform department |  |
| 3rd trimester | Inform RCoA |  |
| Inform GMC |  |
| Inform defence union |  |
| Confirm maternity pay arrangements with employer |  |
| Apply for MA if necessary |  |
| Check your (and your partner’s) entitlement to take SPL if desired |  |
| Partner apply for NPSL/paternity leave if desired |  |
| 10-12 weeks before maternity leave | Pre-Absence Meeting and Pre-Absence Form with ES[[6]](#footnote-6) |  |
|  |
| **Returning to work** |
| As early as possible (at least 3-6 months prior) | Apply for LTFT if desired |  |
| Any time during maternity leave | Arrange RTT/other courses/professional development coaching |  |
| Arrange re-orientation, KIT/SPLiT days |  |
| 8-12 weeks before returning | Meet with ES/TPD and complete Initial Return Meeting form |  |
| At least 28 days before returning | Give employer 28 days notice of return to work date, if taking less than 52 weeks maternity leave and have changed agreed return date |  |
| Have work risk assessment performed if required, in particular if breastfeeding |  |
| Towards end of supernumerary period | Meet ES and complete Return Review form (including sign off for return to normal duties if appropriate)6  |  |

Appendix 2 - Worked pay example

A Doctor earns £36,000 total annual salary. She has worked continuously for the NHS for more than 12 months and started at her current trust on August 1st:

* EDD is May 21st meaning she will have completed at least 26 weeks employment at this trust by the time she reaches the beginning of her 26th week of pregnancy;
* Entitled to both SMP and OMP;
* Paid a total of £5538.46 during the qualifying weeks;
* The average weekly income for the qualifying weeks is £692.31;
* SMP will therefore be £623.08 for 6 weeks then £151.20 (current rate published online as of Sept 2020) for 33 weeks;
* Total maternity pay through the NHS scheme will be:
	+ - £692.31 for 8 weeks (full pay);
		- £346.16 + £151.20 = £497.36 for 18 weeks (half pay + flat rate SMP);
		- £151.20 for 13 weeks (flat rate SMP only); and
		- Unpaid for 13 weeks (Weeks 40-52).

This would be paid monthly as usual, but you should have the option of being paid an average salary over the 12 months (in this example approx. £1,371.38 per month).

Other permutations of the above are where:

1. The doctor’s employer changes after the 25th week of pregnancy, in which case they will still be entitled to SMP but this will be paid by the employers for whom she was working during the 25th week of pregnancy (who were paying the NI contributions) – not the new employer; or
2. The doctor moves, due to a rotational contract, to another employer breaking the 26 weeks continuous period of employment. In this situation, there will be an entitlement to MA rather than SMP.

In each of these situations, the overall amounts paid to the doctor will be the same, as long as they have the 12 months of continuous NHS service; it is only the source of the pay that changes. One other difference of note is that SMP is liable for tax and NI contributions, where MA is not.

Abbreviations

BMA British Medical Association

CCT Certificate of Completion of Training

CS Clinical Supervisor

CT College Tutor

ES Educational Supervisor

EWC Expected Week of Childbirth

GMC General Medical Council

HEE Health Education England

HR Human Resources

HSE Health and Safety Executive

KIT Keeping in Touch (day)

LTFT Less Than Full Time

MA Maternity Allowance

MHRA Medicines and Healthcare products Regulatory Agency

NI National Insurance

NPSL New Parent Support Leave

OH Occupational Health

OML Ordinary Maternity Leave

OMP Occupational Maternity Pay

RCoA Royal College of Anaesthetists

RCP Royal College of Physicians

RTT Return to Training

SMP Statutory Maternity Pay

SPL Shared Parental Leave

SPLiT Shared Parental keeping in Touch (day)

SPP Shared Parental Pay

SuppoRTT Supported return to training

TCS Terms and Conditions of Service

TPD Training Programme Director

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6. Part of the SuppoRTT programme process (see section 5.2) [↑](#footnote-ref-6)