

Lead Employer Trust

Parental Leave Policy

POLICY INFORMATION SHEET

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Summary of Changes

Date of Change	Changes made	Location of changes	Changes approved	Version Control
05 April 2016	<p>This policy consolidates the following existing policies:</p> <ul style="list-style-type: none"> • Parental Leave (v. 30) • Maternity Leave Policy (v. 6.0) • Maternity Support (Paternity) Policy (v. 1.0) • Adoption Leave Policy (v.2.0) <p>This new policy also incorporates shared parental leave.</p>	New document	25 October 2016	Version 1.0
11 April 2019	<p>Section 4: Shared Parental Leave</p> <p>Due to the change in T&Cs by NHS employers and Enhanced SPL now offered – this has been reflected in the policy.</p>	Page 16 second line		Version 3.0
05 June 2019	Section 6: Keeping in Touch (KIT) days – time limited on how long a individual has to claim.	Page 21		Version 4.0
April 2020	Section 6: Supported Return to Work	Page 22		Version 5.0
September 2020	Section 1: Maternity Leave, Pay Section 3: Adoption/Surrogacy	Page 6 Page 12 & 13		Version 6.0
March 2021	Parental Bereavement Leave Occupational Pay	Pages 8 & 20 Pages 5, 10, 12		Version 7.0
January 2022	Foster to Adopt Breastfeeding	Pages 12 & 13 Page 9		Version 8
January 2023	Review	No Changes		Version 9
May 2023	Equality Impact Assessment	Page 24	30 th May 2023	Version 9
December 2023	Review – grammar and EIA update	All pages		Version 9

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INTRODUCTION

The Lead Employer Trust's (LET) Parental Leave Policy sets out an employee's entitlements in relation to maternity, maternity support (paternity), adoption, shared parental and unpaid parental leave.

SECTION 1: MATERNITY LEAVE

Eligibility

Any employee who becomes pregnant is eligible for maternity leave providing they comply with the notice requirements outlined below.

Leave entitlement

All pregnant employees are entitled to up to 52 weeks statutory maternity leave. Only one period of leave will be available even in the case of multiple births.

Employees must take a minimum of two weeks leave after giving birth - this is known as the "compulsory maternity leave period". Any employer who allows an employee to work during the compulsory maternity leave period will be guilty of a criminal offence and liable to a fine.

Maternity leave can commence any time between the 11th week before the Expected Week of Childbirth (EWC) and the EWC itself.

Pay

The qualifying week for maternity leave is the end of the 15th week before the EWC. An employee's maternity pay entitlement is dependent on their length of continuous service with both the LET and within the NHS. The entitlement to pay is as follows:

SERVICE AT QUALIFYING WEEK	PAY ENTITLEMENT
Less than 26 weeks continuous LET employment <u>and</u> less than 12 months continuous NHS employment	52 weeks unpaid leave
More than 26 weeks continuous LET employment <u>but</u> less than 12 months continuous NHS employment	39 weeks Statutory Maternity Pay (SMP) 13 weeks unpaid leave
More than 12 months continuous NHS employment	8 weeks at full pay 18 weeks at half pay plus SMP (if eligible) 13 weeks SMP 13 weeks unpaid

The calculation for maternity pay is based on the last two months up to and including the pay day before the end of the qualifying week (15th week before the EWC).

Occupational Maternity Pay (OMP)

For the purpose of calculating whether an employee is entitled to OMP (i.e. full and half pay), continuous service with one or more NHS employers will be taken into consideration. NHS employers include health authorities, NHS Boards, NHS Trusts, Primary Care Trusts and the Northern Ireland Health Service.

A break in service of three months or less will be disregarded, although this will not count as service, including:

- a) Employment under the terms of an honorary contract;
- b) Employment as a locum with a general practitioner for a period not exceeding 12 months;

- c) A period of up to 12 months spent abroad as part of a definite programme of postgraduate training on the advice of the Postgraduate Dean or College or Faculty Adviser in the speciality concerned;
- d) A period of voluntary service overseas with a recognised international relief organisation for a period of 12 months – this may be exceptionally extended for a further 12 months at the discretion of the employer which recruits the employee on their return;
- e) Absence on an employment break scheme in accordance with Health Education England’s North East team’s out of programme (OOP) process and the Reference Guide to Postgraduate Specialty Training in the UK (the “Gold Guide”).
- f) Absence on paid or unpaid maternity leave as provided under this agreement.

An employee may opt to have their OMP paid as a fixed amount spread equally over the leave period - this provision will apply to OMP only and not the SMP element. The pay arrangements cannot be changed after 28 days before the maternity pay starts. Please note that choosing to receive payments this way may have implications for your pension contributions, and you should contact your LET Payroll Officer for further information.

Statutory Maternity Pay (SMP)

An employee will qualify for SMP if they satisfy the following criteria:

- They have 26 weeks continuous NHS service at 15 weeks before EWC;
- They are still employed by the NHS at 15 weeks before EWC;
- They earn more than the Lower Earnings Limit for National Insurance contributions;
- They are still pregnant at 11 weeks before EWC;
- They have stopped working;
- They have complied with the eligibility criteria.

Statutory Maternity Pay is a legal entitlement which employers are required to pay on behalf of the Government. The weekly amounts are reviewed annually, and the current rates are available from the LET or at <https://www.gov.uk/maternity-pay-leave/pay>.

If an employee who is eligible for SMP leaves the Trust or is dismissed after the start of the 15th week before the expected week of confinement, she is entitled to be paid SMP by the LET providing she is eligible, however if the employee leaves for another NHS organization they will pay the SMP. SMP will commence on the date notified as the start date for maternity leave. If the employee leaves or is dismissed before giving notice of when her maternity leave is to commence, payment will begin either at the beginning of the 11th week before the expected week of confinement, or at the start of the week after her employment with the Trust ends (if not commencing a new NHS organisation), whichever is the latter.

If an employee would like to return to work but is unsure about accepting their full entitlement because they may be unable to return, they may wish to consider the Minimum Payment Option. Under this option, the LET will only pay the minimum amount to which they would be entitled by law, i.e. SMP, where eligible. The balance they would have received under the NHS scheme would be withheld until the maternity leave had finished and they had returned to work for the minimum three-month period.

If an employee leaves LET employment after the start of the 15th week before the EWC, the LET will continue to pay SMP until the end of the 39th week of maternity leave or the date the employee returns to work with their new employer, whichever is sooner. However, if they employee leaves to commence a new NHS Organisation they will pay the SMP.

Application and notice requirements

To access maternity leave and pay, an employee must give notice of your intention to take maternity leave by the 15th week before EWC. The employee must tell their HR Officer at the LET and their line manager:

- The fact that they are pregnant;
- The expected week of childbirth (EWC);
- When they wish to start their maternity leave.

The employee and their manager must complete the [Maternity Leave Application Form](#) and forward this to their HR Officer at the LET.

The LET will respond to the request in writing within 28 days, outlining the date on which they expect the employee to return to work if the full maternity leave entitlement is taken or an earlier date if indicated on the application form.

The employee will also need to send your Maternity Certificate (MAT B1 Form) to their LET HR Officer no later than 28 days before they commence maternity leave. The MAT B1 Form is available from the employee's doctor or midwife after the 26th week of pregnancy but cannot be issued more than 20 weeks before the expected week of childbirth. MAT B1s issued by the doctor or midwife more than 20 weeks before the due date cannot be accepted.

The employee can change the date that they wish their maternity leave to start providing they notify their manager by whichever is the earlier of (wherever practical):

- 28 days before their maternity leave start date, or
- 28 days before their new maternity leave start date.

If an employee wishes to change the date on which they wish to return to work must give at least eight weeks' notice of the new date they intend to return (if returning earlier) or eight weeks of the original return to work date (if extending maternity leave). Shorter notice periods can only be accepted at the LET's discretion. All requests should be made directly to the LET HR Officer rather than the host training organisation.

Obligations of line managers

A manager may hear informally or through colleagues that one of his/her members of staff is pregnant. As soon a manager is aware that an employee is pregnant, they should inform the LET HR Department. They also have a responsibility to actively manage the situation and to consider any health and safety issues (see [Risk Assessment](#) section).

The line manager should discuss the proposed maternity leave period with the employee and sign the [Maternity Leave Application Form](#). The manager should also discuss any annual leave arrangements to ensure the employee takes all annual leave accrued before the maternity leave commences. All agreed annual leave should be recorded on the employee's annual leave card as per the LET's Annual Leave and Public Holiday Policy.

Risk assessment

Whilst many women inform their manager of their pregnancy in the early stages, they are not actually obliged to do so. However, wherever possible employees are encouraged to be open about their pregnancy to enable consideration is given to their health and safety during pregnancy.

Managers should ensure that regular workplace risk assessments continue to take place whilst the pregnant employee is at work. Where risks that may adversely affect the employee's health and safety or that of their baby are identified, managers should consider the following:

- Temporarily adjust the working conditions and/or hours of work;
- Arrange suitable and appropriate alternative work, where available, for which the employee should receive her normal rate of pay even though the work done might normally attract a lower rate of pay;
- Exclude the employee from work on full pay for as long as necessary to protect the safety or health of the employee and her baby.

If an expectant mother who works at night obtains a medical certificate stating that night work could affect her health and safety, she must either be offered suitable alternative daytime work if any is available or excluded from work as above.

All risk assessments should be completed on the host training organisation's standard pregnancy risk assessment forms, a copy of which should be sent to the LET HR Officer. Where advice is required from the Trainee Support Service, the LET HR Officer should be advised so a referral can be made.

It is recognised that some employees will experience extreme fatigue during their pregnancies. If a risk assessment has determined that further support should be sought, the LET HR Officer can make a referral to Occupational Health to determine what adjustments can be put in place to support the employee.

For guidance on risk assessments, managers are advised to refer to the host training organisation's Health and Safety Policy.

Premature Birth

Where an employee's baby is born alive prematurely, the employee is entitled to the same amount of maternity leave and pay as if her baby was born at full term. Where the employee's baby is born early and the employee has worked during the actual week of childbirth, maternity leave will start the day after the birth. As soon as is reasonably

practicable, the employee must notify their manager of the date of birth in order to preserve their rights to maternity leave and pay.

Still birth

Where an employee's baby is born dead after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive. Employees should still indicate their intended date of return to work as it may be different to the date which was originally notified. As soon as an employee returns to work maternity pay will cease.

Employees whose partner has suffered a still birth at the end of the 24th week of pregnancy are entitled to 2 weeks parental bereavement; it can be taken in two separate weeks but must be concluded within 56 weeks of the date of the still birth. The entitlement requires 26 weeks' continuous service and minimum earnings of £120 per week, it is paid at fixed rate (currently £151.20 per week or 90% of the average weekly earnings).

Miscarriage

Where an employee has a miscarriage before the 25th week of pregnancy there will be no entitlement to maternity leave/SMP and normal sick leave provisions will apply in accordance with their terms and conditions of service. In all cases of miscarriage or still birth, support is available via the Trainee Support Service.

Sickness absence during pregnancy

If an employee is away from work ill, or becomes ill, with a pregnancy-related illness, during the last four weeks before the EWC, their absence shall be treated as maternity leave, and the maternity leave period starts automatically on the beginning of the 4th week before EWC or the day after the first day of absence.

Absence prior to the last four weeks before EWC, supported by a fit note or self-certificate, shall be treated as sick leave in accordance with the normal sick leave provisions.

Odd days of pregnancy related illness during this period may be disregarded if the employee wishes to continue working until the maternity leave start date previously notified to the LET HR Department.

Any absences unrelated to the pregnancy shall be treated in accordance with the Management of Attendance Policy. Such absences will be treated as sick leave until the date previously notified as the commencement of maternity leave or, if not yet notified, until the date of birth.

If an employee submits a self-certificate, or a medical certificate from a registered medical practitioner, covering the period from the date they have notified the LET HR Department that they will return to work, they will be entitled to sick leave in accordance with the normal sick leave provisions.

Antenatal/postnatal care

All pregnant employees are entitled to reasonable paid time off to attend antenatal clinic appointments on the advice of a registered medical practitioner, registered midwife or registered health visitor. Antenatal Care can include medical examinations, relaxation classes and parent craft classes.

This entitlement is regardless of length of service or hours of work.

Employees must be able to produce for their manager and the LET HR Department, on request, after the first appointment:

- A certificate from a registered medical practitioner (GP), registered midwife or registered health visitor confirming that they are pregnant;
- An appointment card or some other document showing an appointment has been made; and
- Be able to show that the appointment has been made on the advice of a duly qualified doctor, midwife or health visitor.

Employees should apply to their manager for time off in the usual way on each occasion and should always request such time off in advance.

No payment shall be made in respect of time spent on antenatal care outside normal working hours.

Fathers, or the partner of a pregnant woman (or intended parents in a surrogacy arrangement), are encouraged to attend ante natal appointments. Please see the [Maternity Support \(Paternity\) Leave](#) section for further information. Women who have recently given birth and have returned to work after the 2-week compulsory maternity leave period should have paid time off during the 6-week post-natal period for attendance at health clinics.

Breastfeeding at work

You must be provided somewhere for you to 'rest', and, where necessary, lie down if you are breastfeeding. The rest facilities must be conveniently situated in relation to sanitary facilities.

Where new mothers wish continues to breastfeed or express milk, even after they have returned to work, and we support our staff to do this. Employees to whom this applies should talk to their manager about personal requirements, such as facilities needed and breaks, so that they can come to some agreement.

SECTION 2: MATERNITY SUPPORT (PATERNITY) LEAVE

Eligibility

Maternity support (paternity) leave allows eligible employees to take leave to care for their baby or to support the mother following birth. An employee is eligible if they are the baby's biological father or adopter of the child, or the mother's or adopter's husband, partner or civil partner or they have or expect to have responsibility for the child's upbringing. An employee must also comply with the notice requirements outlined below.

When a couple adopts a child, they may choose who will take maternity support (paternity) leave and who will take adoption leave.

Leave entitlement

Employees will be entitled to either one week or two consecutive weeks' maternity support (paternity) leave. There are no provisions to take leave as odd days or two separate weeks. If only one week is taken, there will be no entitlement to take the other week at a later date. If bank holidays fall within the maternity support (paternity) period, there is no provision to take these bank holidays at a later date.

Employees may only take one period of leave, even for a multiple birth.

Maternity support (paternity) leave can be taken at the time of birth/placement or at a later date, however the leave must finish within 56 days of the date of birth (or due date if the baby is early) or date of placement. Where maternity support (paternity) leave arises due to adoption or surrogacy, then the leave should start as follows:

- **UK adoption:** maternity support (paternity) leave can commence no earlier than the date of placement date.
- **Overseas adoption:** maternity support (paternity) leave can commence no earlier than the date the child arrives in the UK or an agreed number of days after this.
- **UK and overseas surrogacy arrangements:** maternity support (paternity) leave can commence no earlier than the day after the child is born.

Pay

The qualifying week for maternity support (paternity) leave is the end of the 15th week before the EWC of the end of the week in which the employee received notification of adoption placement. An employee is entitled to pay as follows:

SERVICE AT QUALIFYING WEEK	PAY ENTITLEMENT
Less than 26 weeks continuous LET employment <u>and</u> less than 12 months continuous NHS employment	One week or two consecutive week's unpaid leave or annual leave
More than 12 months continuous NHS employment	One week or two consecutive weeks at full pay

Statutory Paternity Pay (SPP) is a legal entitlement which employers are required to pay on behalf of the Government. The weekly amounts are reviewed annually, and the current rates are available at <https://www.gov.uk/paternity-pay-leave/pay>. Employees who have average weekly earnings below the lower earnings limit will not qualify for SPP but will be paid 90% of their average weekly earnings.

Entitlement to SPP continues even if the baby is stillborn or where the child ceases to live with the adopter during the SPP period.

Application and notice requirements

To access paternity leave and pay, an employee must give notice of your intention to take paternity leave by the 15th week before EWC. The employee must tell their LET HR Officer and their line manager:

- The expected week of childbirth (EWC) or date of adoption placement;
- When they wish to start paternity leave and whether it is for one or two weeks.

The employee and their manager must complete the [Paternity Leave Application Form](#) and forward this to their HR Officer at the LET along with one of the following forms that are available from www.gov.uk:

- SC3 Form – Becoming a birth parent
- SC4 Form – Becoming an adoptive or parental order parent
- SC5 Form – Adopting a child from abroad.

The LET will respond to the request in writing within 28 days, outlining the date on which they expect the employee to return to work if the full maternity leave entitlement is taken or an earlier date if indicated on the application form.

Employees are able to change the start date for maternity support (paternity) leave and should provide 28 days' notice where practicable. Where it is not possible to give 28 days' notice, the employee must discuss this with their line manager and the LET HR Officer to ensure service levels are maintained.

Antenatal and adoption appointments

Fathers, partners and civil partners of a pregnant woman are entitled to unpaid time off during working hours to accompany the mother to two antenatal appointments. This right also extends to the intended parents where they're having a baby through a surrogacy arrangement.

Where the intended parents are adopting a child, the main adopter (i.e. the parent who will take adoption leave) can take paid time off for up to five adoption appointments. The secondary adopter is entitled to take unpaid time off for up to two adoption appointments.

SECTION 3: ADOPTION/SURROGACY LEAVE

Eligibility

Adoption leave is available to employees wishing to adopt a child (aged 18 or under) where they will have primary care responsibilities for that child.

An employee is eligible if they wish to adopt a child through an approved adoption agency and where they have primary care responsibilities for that child or to someone having a baby via surrogacy. An employee must also comply with the notice requirements outlined below and provide proof of the adoption or surrogacy.

Foster carers who go on to become adopters for a child they have fostered (after being matched with the child by a UK adoption agency) will qualify for statutory adoption leave and pay if they satisfy relevant eligibility criteria.

Also, those who are fostering to adopt a newborn baby via an approved adoption agency, whereby the process can take up to 12 months for the official adoption and the employee holds primary care responsibilities for the baby during this period. However, the employee is only entitled to this leave once for the child, therefore if they choose to take this leave whilst fostering to adopt, they then cannot receive any additional leave once the adoption is finalised.

An employee is not eligible for adoption leave or pay if they arrange a private adoption, become a special guardian or adopt a stepchild.

When a couple adopts a child, they may choose who will take maternity support (paternity) leave and who will take adoption leave.

Leave entitlement

All eligible employees are entitled to take 52 weeks' adoption leave. Adoption leave should start as follows:

- **UK adoption:** adoption leave shall commence when the child starts living with the employee or up to 14 days before the placement date.
- **Overseas adoption:** adoption leave shall commence when the child arrives in the UK or within 28 days of this date.
- **UK and overseas surrogacy arrangements:** adoption leave shall commence the day after the child is born.

Adoption leave can start on any day of the week.

If the child's placement ends during the adoption leave period, the employee will be able to continue adoption leave for up to eight weeks after the end of the placement.

Pay

The qualifying week for maternity support/paternity leave is the end of the week in which the employee received notification of adoption placement or the end of the 15th week before the EWC if a surrogate is used. An employee is entitled to pay as follows:

SERVICE AT QUALIFYING WEEK	PAY ENTITLEMENT
Less than 26 weeks continuous LET employment <u>and</u> less than 12 months continuous NHS employment	52 weeks unpaid leave
More than 26 weeks continuous LET employment <u>but</u> less than 12 months continuous NHS employment	39 weeks SAP 13 weeks unpaid leave
More than 12 months continuous NHS employment	8 weeks at full pay, 18 weeks at half pay plus SAP (if eligible) 13 weeks SAP, plus 13 weeks unpaid leave

An employee will qualify for Statutory Adoption Pay if they satisfy the following criteria:

- They have 26 weeks continuous NHS service at the week in which notification is received of a match with a child for adoption;
- They provide proof of the adoption or surrogacy;

- If adopting from overseas with their partner, they sign the HM Revenue and Customs' SC6 'Statutory Adoption Pay and Leave: adopting a child from abroad' Form;
- They are still employed by the LET/NHS at the qualifying week;
- They earn more than the Lower Earnings Limit for National Insurance contributions;
- They have stopped working;
- They have complied with the eligibility criteria.

Statutory Adoption Pay is a legal entitlement which employers are required to pay on behalf of the Government. The weekly amounts are reviewed annually and the current rates are available at <https://www.gov.uk/adoption-pay-leave/pay>.

If you do not qualify for SAP, the employee will be given an SAP1 Form to enable them to apply to the local Benefits Agency. Any benefits received will be deducted from their Occupational Adoption Pay during full and half pay, but only to the extent that the Agency benefit plus half pay does not exceed normal pay.

The calculation for adoption pay is based on the average weekly earnings over the period of at least eight weeks up to and including the last normal pay day to fall before the first day of the week after the week in which the adopter is notified of having been matched with a child for adoption.

If an employee would like to return to work but is unsure about accepting their full entitlement because they may be unable to return, they may wish to consider the Minimum Payment Option. Under this option, the LET will only pay the minimum amount to which they would be entitled by law i.e. SMP, where eligible. The balance they would have received under the NHS scheme would be withheld until the maternity leave had finished and they had returned to work for the minimum three-month period.

An employee may opt to have their entitlements paid as a fixed amount spread equally over the leave period - this provision will apply to Occupational Adoption Pay only and not the Statutory Adoption Pay element. The pay arrangements cannot be changed after 28 days before the adoption pay starts. Please note that choosing to receive payments this way may have implications for your pension contributions, and you should contact your LET Payroll Officer for further information.

Application and notice requirements

The notice requirements depend upon the specific circumstances for the adoption or surrogacy:

UK Adoptions

An employee must give notice of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption. They will need to tell their manager:

- When the child is expected to be placed with them; and
- When they wish the adoption leave to start
- That they want to claim adoption pay (need to give 28 days' notice)

UK Foster to Adopt

An employee must give notice of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a newborn to foster to adopt. They will need to tell their manager:

- When the baby is expected to be placed with them; and
- When they wish the adoption leave to start
- That they want to claim adoption pay (need to give 28 days' notice)

Overseas Adoptions

An employee must give notice of their intention to take adoption leave within 28 days of being notified by their adoption agency that they have been matched with a child for adoption. They will need to tell their manager and the LET:

- The date they received official notification from the adoption agency;
- The anticipated date the child will arrive in the UK;
- The start date and duration of the adoption leave.

Surrogacy arrangements

An employee must give notice of their intention to take adoption leave no later than 15 weeks before the child's expected date of birth. They will need to tell their manager and the LET:

- The date they received official notification of the expected date of birth;
- Evidence that the employee will assume all legal and parental responsibilities for the child upon its birth;
- A written declaration from the employee that they will apply for a Parental Order or and Adoption Order before the child is six months old;
- The start date and duration of the adoption leave.

The employee must complete the Adoption Leave Application Form and forward this to their HR Officer at the LET in line with the appropriate notice requirements above.

The LET will respond to the request in writing within 28 days, outlining the date on which they expect the employee to return to work if the full maternity leave entitlement is taken or an earlier date if indicated on the application form.

The employee will also need to send their Matching Certificate or equivalent evidence to their LET HR Officer no later than 28 days before they commence adoption leave.

The employee is able to change the date that they wish their maternity leave to start providing they notify their manager by whichever is the earlier of (wherever practical):

- 28 days before their maternity leave start date, or
- 28 days before their new maternity leave start date.

If an employee wishes to return to work before the end of the planned adoption leave period, they must give at least eight weeks' notice of the new date they intend to return.

SECTION 4: SHARED PARENTAL LEAVE

Shared Parental Leave enables eligible parents whose baby is due or child is adopted on or after 5 April 2015 to choose how to share the care of the child during the first year of birth or adoption. This replaces additional paternity leave.

Eligibility

Each parent qualifies separately for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP). To qualify for Shared Parental Leave (SPL) an employee must share care of the child with either:

- A husband, wife, civil partner or joint adopter;
- The other child's parent;
- A partner (if they live with the employee and the child).

A mother must:

- Have a partner who lives with the mother/primary adopter and with the child.
- Be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance.
- Have curtailed, or given notice to reduce, their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).

A parent intending to take Shared Parental Leave must:

- Be an employee
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
- Have properly notified the LET of their entitlement.

In addition to meeting the eligibility requirements above, for an employee to be eligible for Shared Parental Leave, they must satisfy the "continuity of employment test" and their partner must meet the "employment and earnings" test:

- **Continuity of Employment Test:** An employee wishing to take Shared Parental Leave must have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date or by the date an employee is matched with their adopted child and is still working for the Trust at the start of each leave period.
- **Employment and Earnings Test:** The other parent in the family must, in the 66 weeks leading up to the child's expected due date/matching date, have worked for at least 26 weeks and earned at least £30 (correct as of 2015) a week on average in 13 of the 66 weeks. This can be employed, self-employed or as an agency worker.

Leave Entitlement

An eligible may be entitled to up to a maximum of 50 weeks Shared Parental Leave during the child's first year. This can be taken as continuous leave (i.e. a single unbroken period of leave) or two or more periods of discontinuous leave, (i.e. a set number of weeks of leave over a period of time, with breaks between the leave).

The number of weeks available is calculated using the mother's or adopter's entitlement to maternity or adoption leave, which allows an employee to take up to 52 weeks' leave. If an employee reduces their maternity or adoption leave entitlement, then they and/or their partner may take any remaining weeks as Shared Parental Leave.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 week paid period (this would only apply in cases where the partner of the LET employee were not entitled to the leave, i.e. agency workers or self-employed). If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL after taking at least two weeks of adoption leave

- The father/partner/spouse can take SPL immediately following the birth/placement of the child but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see section 6 below) but must be taken in blocks of one week.

If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

Pay

In addition to meeting the eligibility requirements for Shared Parental Leave, an employee seeking to claim (ShPP) must further satisfy each of the following criteria:

- The mother/adopter must be entitled to Statutory Maternity/Adoption Pay or Maternity Allowance and must have reduced their Maternity/Adoption Pay period or Maternity Allowance period;
- The employee must intend to care for the child during the week(s) in which Shared Parental Pay is payable;
- The employee must have average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date of not less than the lower earnings limit in force for national insurance contributions;
- The employee must remain in continuous employment until the first week of Shared Parental Pay has begun;
- The employee must give proper notification in accordance with the rules set out below.

An eligible employee may be entitled to take up to 37 weeks (ShPP). The amount of weeks ShPP available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

ShPP is a legal entitlement which employers are required to pay on behalf of the Government. The weekly amounts are reviewed annually, and the current rates are available from the LET or at <https://www.gov.uk/shared-parental-leave-and-pay/what-youll-get>.

ShPP may be payable during some or all of SPL period. The duration is dependent upon the length and timing of the leave.

Any Shared Parental Pay due will be paid at a rate set by the Government for the relevant tax year.

Application and notice requirements

Employees must give at least eight weeks' notice for both curtailing their maternity/adoption leave (mother or primary adopter) and giving notice of entitlement to shared parental leave and pay (parent intending to take shared parental leave).

Notification of curtailing maternity or adoption leave

Shared Parental Leave can only be used after the mother/primary adopter has:

- Returned to work following Maternity/Adoption Leave; or
- Given notice to their employer that reduces their maternity/adoption leave, confirming when their maternity/adoption leave will come to an end. This notice is binding and so cannot be withdrawn (except in exceptional circumstances).

Any employee intending to give notice of curtailment must do so in writing to their LET HR Officer at least eight weeks before they or their partner were intending to commence Shared Parental Leave.

Notification of entitlement to Shared Parental Leave/Pay

An employee must give at least eight weeks' notice of their entitlement to SPL/ShPP and intention to take Shared Parental Leave by completing the [Shared Parental Leave Notification Form](#) and returning it to their LET HR Officer.

An employee has the right to submit up to three separate periods/notifications (this includes variation or cancellation notifications). Any variation or cancellation notification made by the employee (which must be signed by both parents/adopters where it alters the total amount of leave/pay each party will take), including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one.

A change as a result of a child being born early, or as a result of the LET or host training organisation requesting it be changed and the employee agreeing to the change, will not count as further notification. Any variation will be confirmed in writing by the LET.

SPL can start on any day of the week and can only be taken in complete weeks (i.e. if a week of SPL began on a Tuesday it would end on a Monday). Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

SPL can be taken at different times to an individual's partner or share the leave between the two persons. If a person chooses to take their leave at the same time during the eligible weeks as their partner, they would both be in receipt of ShPP.

Continuous leave

An employee can request a period of continuous leave, i.e. an unbroken period of leave, in a single notification, providing the request:

- Does not exceed the total number of weeks of SPL available to the employee; and
- The LET has been given at least eight weeks' notice.

An employee may submit up to three separate periods/notifications for continuous periods of leave.

Discontinuous leave

An employee can request two or more periods of discontinuous leave, (i.e. a set number of weeks of leave over a period of time, with breaks between the leave where an employee returns to work) in a single notification.

The LET and host training organisation will consider requests for discontinuous leave but retains the right to refuse such a request. Where a request for discontinuous leave is made by an employee, a meeting may be arranged between the trainee, LET and host training organisation to discuss the details of the request and coming to an agreement on the arrangements that meets the needs of the employee and the service. The discussions may focus on how the leave proposal can be agreed, whether a modified arrangement can be agreed or what the outcome may be if no agreement is reached.

If a discontinuous leave pattern is refused, the employee may:

- Withdraw the request without detriment on or before the 15th day after the notification was given; or
- Take the total number of weeks requested in a single continuous block.

If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to confirm when they would wish the leave period to commence. Leave cannot commence prior to eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

Each request for discontinuous leave will be considered on a case-by-case basis taking into account the needs of the service. Agreement of a request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL. A request may be granted in full or part; i.e. the LET or host training organisation may propose a modified version of the request for consideration.

Employees will be notified of the outcome of their request by the LET at the earliest opportunity and no later than 14 calendar days following receipt of their notification.

SECTION 5: UNPAID PARENTAL LEAVE

Eligibility

Unpaid parental leave allows parents or legal guardians to take time off work to look after a child or make arrangements for the child's welfare.

Employees are eligible if they are either the natural or adoptive parents, or who have parental responsibility under the Children Act, and have at least one year's continuous service within the NHS. Unpaid parental leave can only be taken to look after or to make arrangements for the good of the child or children.

Foster parents are not eligible to apply for parental leave.

Leave entitlement

For each child or adopted child, an employee is entitled to up to 18 weeks parental leave up to the child's 18th birthday, limited to four weeks per annum per child. Leave should be taken in blocks of at least one week, subject to the agreement of the Host Training Organisation and Lead Employer Trust.

Arrangements will be made as flexible as possible for parents of disabled children. In these circumstances, single days or shorter blocks of leave may be taken instead, subject to the agreement of the Host Training Organisation and Lead Employer Trust

In the case of multiple births (e.g. twins) each parent is entitled to 18 weeks' leave for each child.

Employees who work on a less than full-time (LTFT) basis will be entitled to unpaid leave proportional to the number of hours worked.

Where an employee works an irregular shift pattern, any blocks of leave should be taken as a typical pattern within the rota.

It is good practice for the LET to maintain contact with employees whilst on parental leave and report any updates to the Host Training Organisation.

Pay

Parental leave is unpaid.

Application and notice requirements

Employees must give 21 calendar days' notice for unpaid parental leave by completing the [Parental Leave Application Form](#). This will then be accepted or rejected by the employee's manager and a copy of the application form with the decision should be forwarded to the LET HR Officer.

The amount of leave will be agreed by the employee, LET and Host Training Organisation.

The LET reserves the right to request a birth certificate or evidence confirming the child's adoption and date of placement.

Postponement of leave

The Host Training Organisation can postpone leave for up to 6 months where they consider the employee's absence would unduly disrupt the service. The LET will discuss the matter with the employee and will confirm the postponement arrangements and reason for the postponement in writing no later than 7 days after receiving the employee's notice to take leave.

Reasonable justification for postponing parental leave include, but is not limited to, seasonal peaks in workload, where a significant proportion of employees apply for leave at the same time, or where the employee's role is such that their absence at a particular time would unduly harm the service.

Parental leave cannot be postponed where the employee applies to take parental leave immediately after the birth or adoption of a child, unless at the request of the employee.

Appealing a decision

An employee can appeal against a decision to postpone parental leave in writing to the Deputy Head of Human Resources at the LET up to 14 calendar days of the date of the original decision letter.

An appeal will be dealt with by a more senior manager of the LET than the manager who made the decision to postpone the parental leave and will be conducted in accordance with the appeals procedure in Appendix A.

A representative from the LET HR Department will be present at the appeal hearing to provide procedural advice. However, the decision will be taken by the Manager hearing the Appeal. The decision of the appeal hearing will be confirmed in writing to the employee within 14 calendar days of the oral decision.

The appeal hearing is the final stage of the procedure, and any decision will be final.

Employees can be accompanied at the appeal meeting, as they can at any formal meeting, by a trade union representative, an official employed by a trade union or a colleague employed by the LET. Employees cannot, however, be accompanied by someone acting in a legal capacity. Employees may only have one companion and the companion should not be someone who would prejudice the investigation/hearing process.

A LET employee who has agreed to accompany a colleague (also employed by the LET) is entitled to take reasonable paid time off to fulfil that responsibility, where possible.

The companion should be allowed to address the hearing and to put and sum up the employee's case but does not have the right to answer questions on the employee's behalf.

It is the employee's responsibility to arrange their own representation.

Appeal hearing

The format of the appeal hearing will be as follows:

- The Chair will make the necessary introductions
- Explain that if they require a break at any point during the meeting that they are entitled to do so.
- Explain the format of the meeting (below).

Format of Appeal Hearing

- The employee or their representative shall state the case and call any witnesses. All witnesses must be identified to the Chairperson 48 hours prior to the hearing (if applicable).
- The management representatives shall be entitled to question the witnesses called.
- The Appeal Panel shall be entitled to question any witnesses called.
- The employee or their representative may re-examine their witnesses on any matters referred to in their examination by a member of the Appeals Panel or management representative.
- The management representative shall state the management case and call any witnesses. All witnesses must be identified to the Chairperson 48 hours prior to the hearing (If applicable).
- The employee or their representative shall be entitled to question any witnesses called.
- The Appeals Panel shall be entitled to question any witnesses called
- The management representatives may re-examine their witnesses on any matters referred to in their examination by members of the panel and/or the employee or their representative.

Witnesses will withdraw following questions

- The management representative shall summarise their case.
- The employee or their representative shall summarise their case.
- At this point, if further evidence to support the appeal is required, the members of the Appeals Panel may, at their discretion, adjourn in order that either party may produce further evidence.
- The management representatives, the employee and his/her representative shall withdraw.

Adjournment

- The Appeal Panel and the HR representative will deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return, notwithstanding that only one is concerned with the point given rise to doubt.
- After private deliberation it is hoped a decision will be reached on the day of the hearing. In such instances the chairperson will recall both parties and outline the decision, giving appropriate reasons
- The Chairperson will confirm to the employee and their representative in writing the decision of the appeal panel within 14 calendar days of the hearing
- However, where a case is likely to require further consideration following the hearing, written advice should be provided to the employee within 10 calendar days, indicating the date by which a full response can be expected.

SECTION 6: PARENTAL BEREAVEMENT LEAVE

Parental bereavement leave entitles parents to two weeks' leave if they suffer the death of a child under 18, or a stillbirth after the end of the 24th week of pregnancy (please see still birth, page 8). Those eligible can take two weeks Parental bereavement leave together, or two separate weeks. Parental bereavement leave must finish within 56 weeks of the date of the death. Parental bereavement leave is a day one right, however statutory pay for Parental bereavement leave requires 26 weeks' continuous service and minimum earnings of £120 per week and it is paid at a fixed rate (currently £151.20 per week or 90% of average weekly earnings).

SECTION 7: GENERAL POINTS

Accrual of annual leave

Annual leave and public holidays will continue to accrue during the leave period and, where possible, must be taken during the relevant leave year - please refer to the Annual Leave and Public Holiday Policy

Keeping in touch

Before and during **maternity, adoption or shared parental leave**, the manager and employee, on consultation with the LET, should discuss and agree any voluntary arrangements for keeping in touch during the leave including letting the employee know of any developments at work, promotion opportunities, restructuring plans and, nearer the time, to help facilitate her return to work.

Employees may, with agreement from their manager, undertake up to:

- 10 days' paid work, known as 'Keeping in Touch Days' (KIT) for maternity and adoption leave.
- 20 days' paid work, known as 'Shared Parental Leave Keeping in Touch Days' (SPLIT) for shared parental leave.

The KIT/SPLIT days are not pro-rata for employees who worked part time prior to the leave, or those planning to return to work less than full time. The type of work that the employee undertakes could include attendance at a conference, to undertake training or updates, attend team meetings, or their normal duties.

Employees must hold a valid DBS to allow them to work unsupervised in a clinical environment.

Any employee who is breastfeeding during KIT/SPLIT days must be risk assessed and facilities provided. The LET HR Department should be provided with copies of all such risk assessments and details of any facilities provided.

Any work completed on a KIT/SPLIT day will count as one full day from your KIT entitlement, however payment for KIT/SPLIT days will be made in hours. The line manager should notify the LET as soon as possible after the KIT/SPLIT day has been undertaken to confirm the number of days taken and hours worked to ensure payment can be made as appropriate.

It should be noted that Statutory Maternity/Adoption/Shared Parental Pay will be offset against any payment made for the KIT/SPLIT day i.e. the employee cannot receive more than a normal days pay.

Employers cannot require an employee to do these days, nor does an employee have the right to be offered such work.

Claims for Keeping in Touch Days (KIT days) should be made within 3 months of the day the work was carried out.

Pension

If an employee normally pays pension contributions, they will continue to do so for the duration of the leave at the following rate:

- Full contributions during full pay;
- Half contributions during half pay
- Nil contributions during unpaid leave.

Pension due during unpaid leave will be recovered over a reasonable period after the employee's return to work. This is normally equivalent in length to the period in which they were not making contributions. For example, three months unpaid leave will amount to deductions to salary over the first three months following return to payroll. The deductions will be in addition to the contributions payable by the employee on their return to payroll.

An employee who wishes to cease their pension contributions during their leave period should contact the LET Payroll Department for further information on the implications.

Employees who are not returning to work should note that their last day of pensionable service will be taken as the last day that maternity pay is paid.

Childcare Vouchers

Employees are entitled to continue to receive childcare vouchers during the maternity leave period. As maternity pay is calculated on earnings after childcare vouchers are deducted, the financial impact of continuing to receive these must be considered. For those employees in salary sacrifice schemes, the SMP will not be reduced by a salary sacrifice.

However any OMP above the level of SMP will be subject to salary sacrifice. Employees are advised to contact the LET Payroll Department for further advice. Please note it is the responsibility of the individual employee to opt-out of the childcare salary sacrifice scheme a minimum of 3 months prior to commencing maternity leave.

Returning to work

Employees receiving contractual paternity/adoption/shared parental pay must give an undertaking to return to work for a minimum of three months following maternity leave.

If an employee has received NHS Occupational Paternity/Adoption/Shared Parental pay, and it was their intention to work for a minimum of three months with the LET or to return to a different NHS employer within 15 months of the beginning of her maternity leave, but subsequently changes their mind, then they must refund the whole amount of the contractual paternity/adoption/shared parental pay received, less any SMP, they were paid.

In cases where the LET considers that to enforce this provision would cause undue hardship, the payment recovery may be waived. Employees can appeal against the payment recovery by writing to the Head of Human Resources at the LET.

Employees on a fixed term contract which is due to expire whilst on maternity leave and the contract is not to be renewed for a legal or substantial reason, the employee does not need to return to work for a period of 3 months at the end of their leave or pay back any payments they receive.

Employees will be entitled to return to the same job following leave. However, where that is not reasonably practicable, they will return to a suitable and appropriate post on the same terms and conditions.

Employees may request to return to work on different hours and the LET has a duty to consider this request and facilitate wherever possible under the Less Than Full Time Working Policy.

The LET will contact an employee 3 months prior to the agreed return to work date in order to complete the relevant clearances for returning to work. If the employee intends to leave the United Kingdom for a period of three months' or more during your leave, as part of the return to work employment checks they will be required to undertake a full occupational health assessment with the Trainee Support Service before returning to work. An employee will also be required to obtain an overseas DBS from the relevant country, should they be overseas for 6 months or more during the period of leave.

As part of the Supported Return to Training (SuppoRTT) programme we encourage you to undertake a pre-return meeting with your ES/CS to discuss the extra support you might need on your return to work. This could include training, a supernumerary period or enhanced supervision. You can access the pre-return form here: <https://madeinheene.hee.nhs.uk/education2/supporttdocuments>

Supported Return to Training (SuppoRTT)

SuppoRTT is a centrally funded Health Education England (HEE) initiative which aims to support **ALL** trainees to safely and confidently return to training after a sustained period of absence. The programme applies to **ALL** trainees who are absent for a period of three months or more, regardless of the reason. Those who are absent for a shorter period may also access support. As returning trainees are a diverse group, SuppoRTT aims to provide a bespoke, individualised package for each returning trainee. If you are returning to the workplace after a period of absence it is strongly recommended that you follow our guidance, further information can be found here: <https://madeinheene.hee.nhs.uk/education2/Supported-Return-to-Training>

Continuous service

The period of leave will count towards continuous employment for the purposes of statutory employment rights. Incremental dates will not be affected by any periods of paid or unpaid maternity leave.

Employment breaks

An employee is not entitled to maternity/adoption/shared parental pay if the qualifying weeks are during an employment break. Where an employment break immediately follows paid maternity leave, the requirement to return to work within the NHS for a minimum period of three months will be subsumed into the employment break requirement to return for a minimum of one year. If an employee does not return for a minimum of 3 months following the employment break immediately following paid maternity/adoption leave, they must repay any paid elements of maternity/adoption leave.

Employees on fixed-term contract

If an employee is on a fixed-term contract which expires after the 11th week before the EWC and they satisfy the eligibility criteria for OMP, their contract will be extended to enable them to receive the 52 weeks leave, including the OMP/OAP, SMP/SAP/ShPP and the remaining 13 weeks unpaid leave.

If an employee is on a fixed-term contract which expires after the 11th week before the EWC but they do not satisfy the eligibility criteria for OMP, they may still be entitled to SMP.

If there is no right to return because the contract would have ended if pregnancy had not occurred, then the condition requiring them to repay maternity payments will not apply.

Redundancy

While on maternity, paternity, adoption, parental or shared parental leave, you are entitled to special rights. As a statutory requirement you will be offered redeployment to any suitable job within the LET, even if there are other employees that may be suitable for the job. You will also be entitled to a four-week trial period.

Fraudulent claims

Where there is a suspicion that fraudulent information may have been provided, or if the LET has been informed by HMRC that a fraudulent claim was made, the LET can investigate the matter further in accordance with the Disciplinary Procedure.

Equality and diversity

The LET is committed to providing equality of opportunity, not only in its employment practices but also in all the services for which it is responsible. As such, an Equality Impact Assessment has been carried out on this policy to identify any potential discriminatory impact. The LET also values and respects the diversity of its employees and the wider community it serves. In applying this policy, representatives of the LET will have due regard for the need to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Provide for good relations between people of diverse groups

For further information, please refer to the LET's Equality Diversity & Human Rights Policy.

Monitoring and review

The Head of Human Resources at the LET is responsible for monitoring the application of this policy and to ensure that the procedure is reviewed no later than three years from the date of issue. The policy may be amended at any time by joint agreement

References

This policy sets out the provisions covered by the following:

- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2002
- Maternity and Parental Leave Regulations 1999 (as amended)
- Shared Parental Leave Regulations 2014
- Additional Paternity Leave Regulations 2010
- Paternity and Adoption Leave Regulations 2002
- Work and Families Act 2006
- Children & Families Act 2014
- Equality Act 2010
- Terms and Conditions of Service: NHS Medical and Dental Staff (England) 2002
- NHS Terms and Conditions of Service Handbook and the Terms and Conditions of Service for NHS Doctors and Dentists in Training 2016.
- Agenda for Change Terms and Conditions of Service Handbook

EQUALITY IMPACT ASSESSMENT

The preliminary impact assessment is a quick and easy screening process.
It should:

- Identify those policies, procedures, services, functions and strategies which require a full EIA by looking at:
 - negative, positive or no impact on any of the equality groups
 - opportunity to promote equality for the equality groups
 - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

Division/Department

Human Resources

Title of policy, procedure, function or service

Parental Leave Policy

Type of policy, procedure, function or service

Existing

New/proposed

X

Changed

Q1 - What is the aim of your policy, procedure, project or service?

To state the LET commitment to support trainees requiring parental leave.

Q2 - Who is the policy, procedure, project or service going to benefit?

LET Employees

Q3 - Thinking about each group below, does, or could the policy, procedure, project or service have a negative impact on members of the equality groups below?

Group	Yes	No	Unclear
Age		N	
Disability		N	
Race		N	
Gender		N	
Transgender		N	
Sexual Orientation		N	
Religion or belief		N	
Marriage & Civil Partnership		N	
Pregnancy & Maternity		N	

Relationships between groups		N	
Other socially excluded groups		N	

If the answer is “Yes” or “Unclear” complete a full EIA

Q4 – Does, or could, the policy, procedure, project or service help to promote equality for members of the equality groups?

Group	Yes	No	Unclear
Age	Y		
Disability	Y		
Race	Y		
Gender	Y		
Transgender	Y		
Sexual Orientation	Y		
Religion or belief	Y		
Marriage & Civil Partnership	Y		
Pregnancy & Maternity	Y		
Relationships between groups	Y		
Other socially excluded groups	Y		

Q5 – Do you have any feedback data from equality groups that indicate how this policy, procedure, project or service may impact upon these groups?

Group	Yes No Impact	Yes Impact	No	Unclear
Age			N	
Disability			N	
Race			N	
Gender			N	
Transgender			N	
Sexual Orientation			N	
Religion or belief			N	
Marriage & Civil Partnership			N	
Pregnancy & Maternity			N	
Relationships between groups			N	
Other socially excluded groups			N	

If the answer is “Yes Impact”, “No”, “Unclear” or opinion is divided complete a full EIA

Q6 – Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, procedure, project or service?

Yes		No	X
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If you have answered “Yes” now follow the EIA toolkit and complete a full EIA form

Q7 – How have you come to this decision?

No indication that equality groups have been adversely affected by this policy

Q8 – What is your priority for doing the full EIA

High	Medium	Low
		X

Q9 – Who was involved in the EIA?

HR Department Lead Employer Trust

This EIA has been approved by: Head of Human Resources, Lead Employer Trust

Date: 14.12.2023 **Contact number:** 0191 275 4782

Please ensure that a copy of this assessment is attached to the policy document to which it relates.

