



## Communications

**Date: February 8th 2013**

### **Government publishes Children and Families Bill on shared parental leave and flexible working**

The Government has published the Children and Families Bill which will, amongst other matters, reform the way parents can share maternity leave by introducing a new system of shared parental leave and pay. The Bill also includes the extension of the right to request flexible working to all employees.

#### **Shared parental leave and pay**

Part 6 of the Bill will amend the Employment Rights Act 1996 to create new rights to shared parental leave and statutory shared parental pay. The detail of how the shared parental leave and pay scheme will work, including eligibility criteria, will be contained in regulations. The new system will mean that an employed mother will continue to be eligible for 52 weeks of maternity leave as a day one right and 39 weeks of statutory maternity pay or maternity allowance, but she will be able to choose to end her leave and pay early (after the initial two week compulsory maternity leave period) and share the remaining leave and pay with her spouse or partner. When calculating the amount of leave taken, a part of a week is to be treated as a full week. Statutory parental pay will have the same qualifying requirements that apply to statutory maternity and paternity pay.

The current statutory provisions relating to additional paternity leave and additional statutory paternity pay will be repealed. Ordinary paternity leave and pay will be retained.

Eligible adopters will also be able to use the new system of shared parental leave and pay in the same way as birth parents. Adoption leave and pay will be extended to prospective parents in the fostering-to-adopt system, and parents in a surrogacy arrangement who are eligible and intend to apply for a parental order. The precise details will again be set out in regulations.

The new regime is expected to come into force in 2015.

#### **Time off to attend ante-natal appointments**

Part 7 of the Bill amends the Employment Rights Act 1996 to create a new statutory right for employees and agency workers in qualifying relationships to take unpaid time off work to attend up to two ante-natal appointments with a pregnant woman, for a maximum period of

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six and a half hours for each appointment. Those in a qualifying relationship are the pregnant woman's husband, civil partner or partner (the latter living in an enduring family relationship), the father or parent of the pregnant woman's child, and intended parents in a surrogacy situation who meet specified conditions. In order to be entitled to the time off, an employer may require the employee or agency worker to make a declaration stating they have a qualifying relationship with a pregnant woman or her expected child, they are taking the time off to attend the ante-natal appointment, the appointment is made on the advice of a registered medical practitioner, midwife or nurse, and the date and time of the appointment.

Employees and qualifying agency workers may complain to an employment tribunal that they have been unreasonably refused time off to attend ante-natal appointments. If the complaint is well founded, the tribunal must order the employer to pay a sum equal to twice the worker's hourly rate for each hour they would have been absent for the appointment had they been permitted to attend.

Provision is also made for paid and unpaid time off work for adopters to attend adoption appointments in advance of a child being placed with them for adoption.

### **Flexible working**

Part 8 of the Bill amends the Employment Rights Act 1996 to extend the right to request flexible working from employees who are parents or carers to all employees. The Bill also removes the current statutory procedure for considering flexible working requests and allows employers to consider requests using their existing management processes. However, employers will be under a duty to deal with requests for flexible working 'in a reasonable manner' and to notify the employee of their decision within three months of the employee's application, unless a longer period is agreed by the parties.

ACAS will publish and consult on a statutory Code of Practice to explain what the minimum requirements are in order to consider a request in a reasonable manner.

The changes to flexible working are expected to come into force in 2014.

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