

21 December, 2013

Government outlines how parents can use new shared parental leave system

The Government has issued its response to the consultation held earlier this year on the administration of shared parental leave and pay and has set out how the new system, to be introduced from April 2015, will work for parents and their employers. The proposals for shared parental leave and pay are included in the Children and Families Bill, which is currently going through Parliament. The details will be set out in regulations which the Government intends to publish in draft form before the Bill receives Royal Assent.

The new leave system will allow eligible working families to have more choice about how they balance their work and caring commitments. Parents will be able to choose to be at home together or to work at different times and share the care of their child. Shared parental leave will allow eligible mothers and their partners to be absent from work to care for a child for a maximum of 52 weeks. Eligible couples could also take up to 39 weeks of shared parental pay. A couple will be able to take the leave together so that the mother will not necessarily return to work after compulsory maternity leave. Alternatively, the mother could return to work and allow her partner to take the balance of leave, or the couple could take the leave in turns.

The Government has announced that it will:

Protect mothers who give binding notice to opt in to shared parental leave prior to giving birth by introducing a right to revoke the notice up to six weeks following birth – this is to make sure that every mother is able to remain on maternity leave, if she chooses to, once she has given birth.

Require employees to give a non-binding indication of when they expect to take their allocated leave when they initially notify their employers of their intention to take shared parental leave. Employees will also be expected to give at least eight weeks' notice of any leave they will actually be taking (including a two-week discussion period with their employer) – this is to support businesses in being able to plan their workforce.

Introduce a limit on the number of times a parent can notify the employer to take a period of shared parental leave. The number of notifications will be capped at three (the initial notification and two further notifications or changes). Provision will be made for changes that are mutually agreed between the employer and employee to not count towards this cap. The cap will enable parents to use the leave flexibly but reduce the uncertainty an employer may experience from an unlimited number of notifications or changes.

Set the cut-off point for taking shared parental leave at 52 weeks following birth (or adoption).

Create a new provision for each parent to have up to 20 'keeping in touch' days under shared parental leave to support them in returning to work. Parents will be able to use these days to return to work from shared parental leave on a part-time basis for a limited time. As these will be in addition to the 10 keeping in touch days for maternity leave, they will be given a new name to differentiate them.

Require employees to provide the same mandatory information when opting into the shared parental leave system as is currently required when fathers take additional paternity leave.

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Maintain the right to return to the same job for employees returning from any period of leave that includes maternity, paternity, adoption and shared parental leave that totals 26 weeks or less in aggregate; even if the leave is taken in discontinuous blocks. Any subsequent leave will attract the right to return to the same job, or if that is not reasonably practicable, a similar job.

Align the notice periods for leave and pay with paternity leave to make the system simpler.

Publish guidance to encourage employees who qualify under the new fostering-for-adoption placement process to give employers as much warning as possible.

In addition, under the Government's proposals, the right to request flexible working will be extended to all employees who have worked for their employer for 26 weeks or more and employers will be obliged to consider all requests in a reasonable manner. The current statutory flexible working procedure will be repealed to lift the burden on business and the Government has asked ACAS to produce a new Code of Practice to help businesses manage this new extended right. ACAS will also produce a non-statutory good practice guide with practical examples of managing flexible working in the workplace. This will be published alongside the Code of Practice early next year.