

CONSULTATION ON MODERN WORKPLACES

i) Flexible parental leave

MAY 2011

3. Flexible parental leave

This chapter sets out proposals to enable parents to have greater choice and flexibility in their parental leave arrangements. We propose that an entirely new system of parental leave and pay, available to mothers and fathers on an equal basis, should replace maternity leave and pay beyond the first 18 weeks of a child's life. Existing rights to unpaid parental leave will be incorporated into the new system. We also seek views on how parents and employers might be given the ability to agree greater flexibility in taking leave, perhaps in one or two shorter periods of leave, between which they would return to work. Parents could also take leave concurrently, if they wish. We aim, as a priority, to introduce the new system in April 2015, although this timescale is subject to affordability.

Current situation

1. Shared parenting matters. The active involvement of both parents has benefits for families, for relationships, for children, for business and for wider society. Yet in Britain we retain a highly gendered, inflexible approach to parental leave rights, one that entrenches the assumption that the mother must be the primary carer in the early stages of a child's life and prevents fathers from getting involved. This must change - Britain needs a new system of parental rights fit for the 21st century that provides families with as much support and flexibility as possible so they can choose how best to balance their employment and caring responsibilities.
2. The current system of parental employment rights in the United Kingdom has a number of elements: maternity and paternity leave and pay available in the first year; unpaid parental leave available in subsequent years; and paid leave for pregnant women to attend antenatal appointments. In addition, many employers provide contractual entitlements that go beyond these statutory minimums.

Maternity and paternity entitlements

3. The existing system of leave and pay is illustrated in figure 1. Employed mothers are entitled to 52 weeks of statutory maternity leave. 39 weeks of this leave may be paid, and 13 weeks are unpaid.
4. Employed mothers who qualify for statutory maternity pay (SMP) receive 90 per cent of their average earnings for the first six weeks, and then the "flat rate" for the remaining 33 weeks of paid leave. Self-employed mothers and employed mothers who do not qualify for SMP may receive maternity allowance (MA) at the flat rate for the entire 39-week pay period.

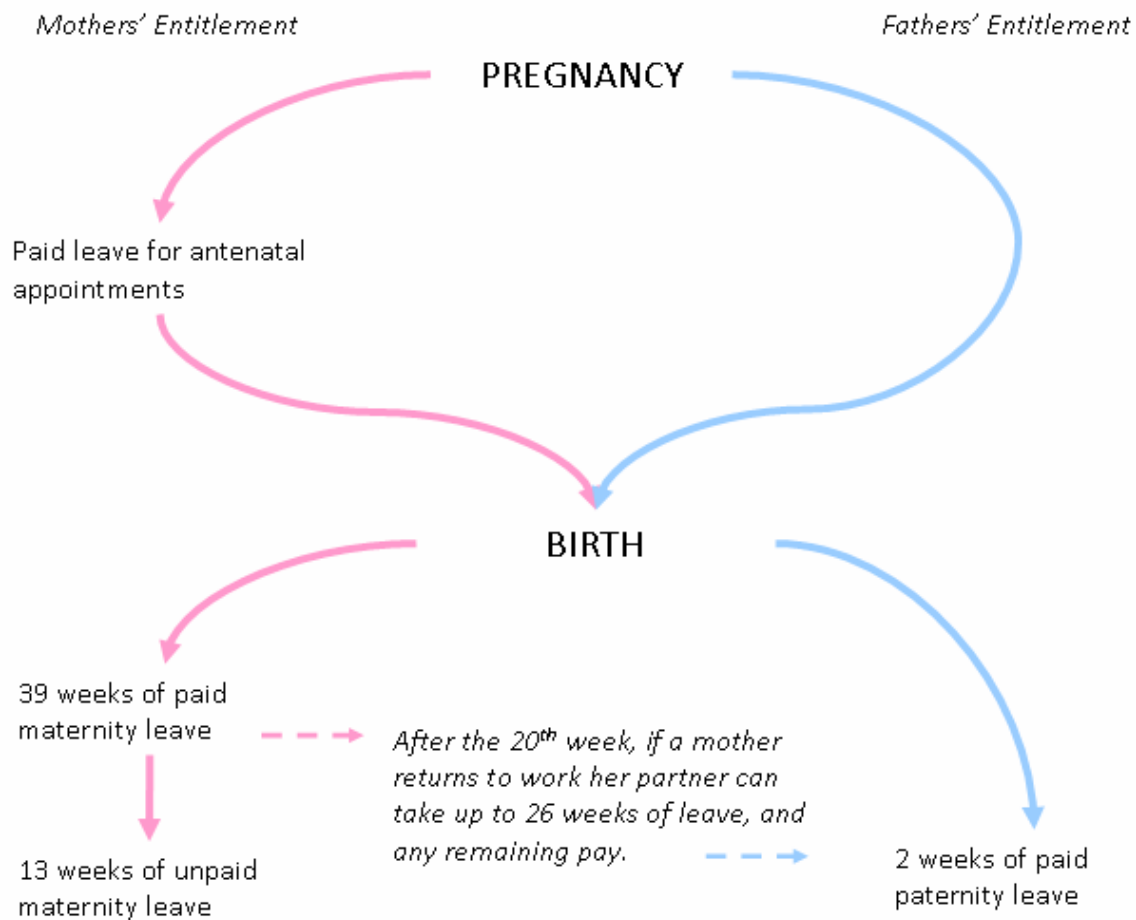


Figure 1: existing statutory maternity and paternity leave and pay provisions. In addition to these entitlements in the first year of the child's life, each parent is entitled to 13 further weeks of unpaid parental leave per child, to be taken before the child's fifth birthday, as described in paragraph 8.

The flat rate

The "flat rate" for statutory maternity pay (SMP), maternity allowance (MA), ordinary statutory paternity pay (OSPP), additional statutory paternity pay (ASPP), and statutory adoption pay (SAP) is currently 90 per cent of the employee's average earnings capped at £128.73 per week in 2011/12.

5. Employed fathers who qualify are entitled to up to two weeks statutory paternity leave. Fathers are paid ordinary statutory paternity pay (OSPP) at the flat rate for the two weeks of leave.
6. Subject to qualifying criteria, parents of babies due on or after 3 April 2011 are eligible for additional paternity leave (APL). Once their baby is 20 weeks old, and providing that the mother has returned to work, fathers may take up to 26 weeks of additional paternity leave. Fathers are entitled to additional statutory paternity pay (ASPP) at the flat rate if they are on leave during the mother's unclaimed paid weeks.

- Employers are responsible for making these statutory payments. Small employers¹ can claim back 103 per cent (in 2011/12) of payments made from HM Revenue & Customs. Other employers can claim back 92 per cent. Maternity Allowance is paid by Jobcentre Plus.

Adopters and same-sex partners

Under current arrangements employed adopters have similar entitlements and protections to birth parents. We would propose to maintain this parity within any new scheme proposed in this document. As with current arrangements, we propose that all entitlements for fathers will also be available to the spouses, civil partners or partners (including same-sex partners) of mothers.

Unpaid parental leave

- In addition to these special leave rights in the first year of a child's life, parents who have been with their employer for at least a year are currently entitled to 13 weeks of unpaid parental leave per parent per child. This can be taken from the time the child is born up until the child's fifth birthday. In the case of a child with a disability the period of leave is 18 weeks per parent, and it may be taken up until the child's 18th birthday.
- Under the statutory parental leave scheme, a parent can take no more than four weeks of leave in any one year. Leave must be taken in blocks of a week, and three weeks' notice must be given before leave is taken. Employers and parents are, however, able to agree more flexible arrangements.
- A revised European Parental Leave Directive² was agreed in March 2010, and will need to be implemented in the UK. This increased the minimum period of parental leave over the early years of a child's life from three to four months per parent. We will therefore bring the entitlement for all parents into line with the existing allowance of 18 weeks for parents of disabled children, and incorporate this within the proposed new scheme.

Other provisions

- Mothers are protected from detriment and dismissal wholly or mainly because of their pregnancy or because they took maternity leave, and are given special protections in the case of redundancy. Many of these protections are also extended to fathers on paternity leave and parents on parental leave.
- Pregnant women are entitled to reasonable paid leave from the workplace to attend medical appointments recommended by their doctor or midwife. For an uncomplicated first pregnancy a pregnant woman would usually require around ten midwife appointments and two ultrasound scans. Uncomplicated subsequent pregnancies normally require around seven appointments and two scans.

¹ For these purposes, small employers are defined as those paying not more than £45,000 per year in employers' National Insurance Contributions.

² Directive 2010/18/EU.

13. Fathers-to-be have no similar statutory entitlement. However, the Government encourages employers to give fathers time off,³ and the NHS encourages mothers to invite their partner to attend appointments if they would like support.
14. As part of proposals for a more flexible system of parental leave, the Government is keen to address any problems in the current system. We are therefore seeking suggestions on what works well and should be retained, and on where improvements could be made.

Consultation Question

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| 1. | Which aspects of the current system work well for parents and employers, and where could improvements be made? Please explain your response. |
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The case for change

15. The current system therefore gives employed mothers a long period of maternity leave and pay, but employed fathers much less. Moreover, entitlements are quite rigid, with leave having to be taken in large blocks, and only limited opportunity for the sharing of entitlements between parents.
16. We want to change this so that there is greater equity. We want to create a culture where both parents can better balance working and home life, so as to share this crucial early parenting period. There is strong evidence of the benefits of shared parenting and in particular that fathers who are engaged in caring for their children early on are more likely to stay involved.⁴ This involvement has been shown to have a range of positive effects, including better peer relationships, fewer behavioural problems, lower criminality, higher educational and occupational mobility, higher self-esteem⁵ and higher educational outcomes at age 20.⁶ A growing number of fathers say they want to spend more time with their children,⁷ but that they are discouraged by the existing system.
17. The Government of course believes it is right to ensure that women, who need to take time away from the workplace because of pregnancy and childbirth, are adequately protected and provided for before the birth and for a suitable period afterwards. However, we also believe

³ Fathers-to-be and antenatal appointments: a good practice guide, DTI (2004).

⁴ Bronte-Tinkew J. et al.: Resident fathers' pregnancy intentions, prenatal behaviours and links to involvement with infants, *Journal of Marriage and Family*, 69(4) pp. 977–990 (2007).

⁵ Flouri E. & Buchanan A.: What predicts fathers' involvement with their children? A prospective study of intact families, *British Journal of Developmental Psychology*, 21 pp. 81–97 (2003).

⁶ Flouri E. & Buchanan A.: Early father's and mother's involvement and child's later educational outcomes, *British Journal of Educational Psychology*, 74 pp.141–153 (2004).

⁷ 44% of fathers say they do not spend enough time with their children [Working better, EHRC (2009)].

that it is important that mothers are able to return to work, if they so wish, without families losing out on time together.

18. Moreover, employers are increasingly concerned by the existing extended period of maternity leave. The Government recognises – but does not condone – that in a limited number of cases this may result in discrimination by employers against women, particularly during the recruitment process. The pay gap between men’s and women’s median earnings is 10.2 per cent,⁸ and much of this is associated with women taking time out of the workplace to care for children. If childcare responsibility is shared more equally between mothers and fathers, maternal employment and earnings may therefore increase, enabling businesses to maximise the pool from which they recruit and to retain skilled employees.
19. Consistent with our commitment to better regulation, we have explored whether a non-regulatory approach to promoting flexible parental leave could deliver our policy objectives. However, the current law is a barrier to sharing leave: it sets out who can receive leave and pay and when. Unless it is amended, an employer that, say, introduced a contractual scheme allowing much greater flexibility would not be able to claim back many of the payments made. Delivering flexibility therefore requires amendment of the statutory provisions, and, moreover, a non-statutory scheme would not meet European requirements.
20. However, although the focus of this chapter is therefore on the necessary legislative changes to create a system of flexible parental leave, we recognise that this alone will not achieve shared parenting. We need to look more widely at how to create a culture which supports and encourages shared parenting, setting strong foundations from the earliest stages of pregnancy but also continuing throughout childhood.
21. Evidence shows that early engagement of fathers in caring for their children leads to positive outcomes including enhanced educational attainment, improved behaviour and better child relationships. Fathers today want to be more actively involved in bringing up their children. Research shows, however, that public health and family services need to go further in recognising the important role fathers play.
22. Our Social Mobility Strategy⁹ sets out some of the ways Government can support stronger parenting. This includes focusing parenting advice and support for new mothers and fathers and those expecting children. Beginning to shape expectations about shared parenting early will help to provide a more supportive environment. Government is reviewing personal, social, health and economic (PSHE) education in schools and will consider how schools can most effectively support positive parenting to enable a child to reach his or her potential.
23. Most communication about parenting is still aimed at mothers. The Foundation Years Policy Statement, to be published this summer, will consider how we make information more accessible to both parents, so that, from pregnancy onwards, advice, support and encouragement reaches fathers as well as mothers. This could include encouraging fathers to attend parenting as well as ante-natal classes, and making these more welcoming and relevant for fathers.

⁸ 2010 Annual Survey of Hours and Earnings, ONS (2010).

⁹ Opening Doors, Breaking Barriers: A Strategy for Social Mobility, HM Government (2011).

24. The interim report of the Family Justice Review¹⁰ has also highlighted the importance of a child continuing to have a relationship with both parents in the event of the parents' relationship breaking down (while taking account of the need to protect a child from harm). Evidence suggests that where a father is more involved in the early stages of a child's life he is more likely to continue to be involved even where the family breaks up.
25. The culture within the workplace will continue to be one of the strongest influences on how parents use parental leave. Our aim is the development of a culture which is supportive of parents taking leave, but in which there is genuine discussion between employers and employees to ensure that arrangements work well for all concerned. This will involve the Government making sure that the nuts and bolts of the system are right (including ensuring that it encourages take-up by fathers, for example by reserving four weeks' leave for them), but we also recognise that there needs to be an ongoing discussion with employers. This can be about sharing best practice, for example through awards such as Working Families' "Top employers for working families", but we recognise it also needs to look at the bottom line: how more flexible arrangements will benefit businesses. We would welcome views on how we can encourage that discussion.
26. Contractual leave schemes also have the potential to encourage greater take up by families of parental leave provisions. Employers are most likely to respond to their competitors, either as a result of direct competition in recruitment or through demonstration of the productivity gains or recruitment savings. We are keen to hear from companies that have gone beyond the statutory minimum to find out the reasons and outcomes for business of more generous contractual arrangements.
27. We have also considered whether it might be appropriate to exempt micro-businesses or start-ups from any new leave system. However, an exemption may not be compatible with European law, and, in any case, running two systems of parental leave in parallel would lead to confusion and complexity and would be unworkable in practice. It would be hard to know which system would be applicable, for example, if the mother was working for a micro-business and the father for a larger employer.

Consultation Questions	
2.	How can the Government best encourage a culture of shared parenting? Please explain your response.
3.	Are you aware of companies that have gone beyond the existing statutory requirements in encouraging shared parenting? Why have they done this and what have the outcomes been? How can the Government help to ensure that lessons are disseminated to other businesses?

¹⁰ Family Justice Review: Interim Report, MoJ (2011).

Our proposals

28. In designing a new scheme we have sought to embed the following values:
- **Protection:** to continue the long held principle of protection for pregnant women and mothers in the period immediately before and after childbirth;
 - **Flexibility:** to increase flexibility for both employers and employees while protecting fairness in order to give choice in how employment and caring is balanced;
 - **Simplicity:** to keep any system as straightforward as possible for both parents and employers to access and manage; and
 - **Responsibility and fairness:** to create a system that is more fairly balanced between men and women and that provides a basis for responsible negotiation of parental leave between employers and working parents.

A new system of leave

Retaining a period of maternity leave

29. We recognise the particular needs of women who are pregnant or who have recently given birth. We will continue to protect this important time, and the health needs of new babies and their mothers, by retaining a period of maternity leave reserved exclusively for mothers which must be taken in a continuous block around the time of the baby's birth. We propose to retain the current statutory maternity pay and maternity allowance arrangements during this period.
30. In setting the duration of this leave, we must comply with the European Pregnant Workers Directive which requires at least 14 weeks of maternity leave to be provided.¹¹ The European Commission has proposed extending this period to 18 weeks in a revised Directive, bringing it into line with the recommendations of the International Labour Organisation.¹² Discussions about the proposal are ongoing, and the final design of the new system will obviously need to take account of this and any other EU developments.
31. However, we believe that beyond this reserved period of maternity leave, parents should be free to make the caring and working arrangements that best suit their family. EU law places rigid requirements on any system of *maternity* leave, but *parental* leave can be made available in a way that works better for employers and employees. For example, we could allow greater flexibility in when leave can be taken, or provide exemptions from some of the detailed provisions for small employers (although this would not remove parents' basic right to take leave).

¹¹ Directive 92/85/EEC.

¹² Maternity protection recommendation, International Labour Organisation (2000).

32. We therefore propose that the period classified as maternity leave and pay becomes 18 weeks, and that the remaining weeks currently available to mothers be reclassified as parental leave shared between both parents. However, if parents so choose, mothers will be able to retain access to exactly the same amount of statutory leave as they have now by combining maternity and parental leave.

Consultation Question

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| 4. | Should 18 weeks of maternity leave, accompanied by either statutory maternity pay or maternity allowance, be reserved exclusively for mothers? If not, what proportion should be reserved? Please explain your response. |
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Retaining paternity leave

33. We believe that fathers benefit from the continuous block of leave that existing (ordinary) paternity leave provides around the time of their baby's birth. Currently 50 per cent of fathers take two weeks of formal leave at this time.¹³ We therefore propose that this period is also protected and retained.

Introducing flexible parental leave and pay

34. The introduction of additional paternity leave (APL) gives both parents access to an extended period of leave in the first year, which may be paid. We believe that APL, although it does not offer flexibility and is not available to many fathers, is a step in the right direction and will begin to remove the barriers preventing shared parenting.
35. But we believe that, even with APL, the system places too many restrictions on when and how leave can be taken, and prevents families from making their own choices about when and how to share leave. For example, it does not allow parents to take leave concurrently, preventing fathers from extending their paternity leave to help when their children are very small; and it prohibits parents from having a handover period when the mother returns to work.
36. We will therefore replace APL with a system of truly flexible parental leave, available to mothers and fathers on an equal basis. This will extend provisions to all working fathers, including those who are self-employed or change jobs during the pregnancy. This will allow parents greater flexibility to decide the best way for their family to balance work and caring responsibilities.
37. With the reduction in maternity leave to 18 weeks, there will be 34 weeks of leave currently available to mothers that will be unallocated. We propose that this becomes available to parents as flexible parental leave.
38. There will similarly be 21 weeks of maternity pay which we propose to reallocate as parental pay. We intend that the existing system of SMP and MA would be replicated with statutory shared parental pay and parental allowance, paid at 90 per cent of average

¹³ Maternity rights and mothers; employment decisions, DWP (2008).

earnings up to the existing flat rate (capped at £128.73 in 2011/12), and with similar eligibility criteria.¹⁴

Consultation Question	
5.	Should parental leave and pay be available to mothers and fathers on an equal basis? What benefits do you foresee? What difficulties are likely to arise?

Increasing flexibility

Creating flexibility in taking leave and pay

39. In order to reduce the constraints on when leave can be taken and to make leave more responsive to the needs of working parents and their workplaces, we propose to explore how the system could be made more flexible.
40. Moving to a system of parental leave provides the opportunity to remove the rigid, outmoded approach which dictates to employers and employees how leave and pay can be taken. Instead parents can agree between them how much leave they can each take, and – if their employer agrees – this could be taken in smaller chunks or on a part-time basis.
41. This could provide parents with helpful flexibility in their time off to care for their children and also reduce the impact of leave on businesses by allowing their employees to return to work for busy periods without forfeiting leave entitlement. This could be particularly helpful where employers have not secured cover or to ease the parent back into work towards the end of their leave. Employees would not have an absolute right to take leave flexibly, but nor would employers have a right to refuse an employee the opportunity to take their statutory leave entitlement. We expect that, in the great majority of cases, parents and their employers will agree that leave is taken in only one or two long blocks.
42. We believe that greater flexibility will be a significant step in promoting genuinely shared parenting. It will also help to strengthen new parents' attachment to the labour market, as giving them more choices over how they organise their time will widen the employment opportunities available to them.
43. **Concurrency:** we believe that there should be no restriction on parents choosing to take leave concurrently. Allowing only one parent to be out of the workplace at any one time would place unnecessary restraints on how leave may be taken, and interfere with the ability of parent and employer to agree how leave is taken.
44. We recognise that increased flexibility will require a new workplace approach to parental leave and will mean new administrative arrangements. However, we are keen that this is done in a way which works for employers. We are keen that administration is as light touch as possible, and that the process of agreeing when leave is taken is left up to the parties

¹⁴ We will also consider other payment routes, ensuring that all current recipients of SMP and MA are covered.

involved. Where they can not agree, the default position would be for parents to take leave in one continuous block.

45. We feel it is important to explore the scope for greater flexibility including:

- **Discontinuity:** leave might be taken in blocks of time between which the parent returns to work. For example, a father could take a period of leave when his baby was born, and a further period later on.
- **Shorter periods of leave:** leave might be taken in blocks of days (rather than weeks as at present). For example, a mother may wish to return to work after 18 weeks of maternity leave, but use two days per week of parental leave to facilitate part-time working for the first year.

Parental leave in action: examples from other countries

In Sweden, parental leave is provided in days, allowing parents to take their leave in smaller chunks as desired.

In Germany, parents are able to claim parental pay even if they are working for up to 30 hours per week. Income from any part-time work is taken into consideration when calculating parental benefits.

In the Netherlands, parental leave and pay are calculated on an hourly basis. With agreement of the employer, leave can be taken for more hours a week during a shorter period or for fewer hours a week over a longer period, and can also be taken in two or three blocks of time.

46. Future consultation will explore in more detail the process of agreeing how and when leave is taken. We propose to bear in mind the following principles:

- Flexible parental leave and pay, like existing maternity leave and pay, will be provided to the family on a per-pregnancy basis. Both parents will be eligible so long as they are working and meet individual qualifying conditions. As now, an additional period of unpaid parental leave would be available for multiple births.
- Parents should have the right to choose between them how much of the shared portion of leave and pay they will each take. We are keen to ensure that the needs of lone parents are taken into account. Where parents are not living together, the default position could be that the parent with main responsibility for the child should be able to take all the unreserved period of leave and pay. We will consult on the detail of the scheme in due course but would be interested in views about the default position.
- Where parents wish to take leave in several chunks or on a part-time basis, they should discuss their plans with their employers prior to giving notice. This will provide both parties with an informal opportunity to explore how leave can be taken, and to resolve any difficulties before a formal notice is given.
- Employers will not have the right to reject parents' choices on how much leave they each take overall. However, employers' agreement will be required for parents to take

their paid leave in a flexible manner. Where agreement cannot be reached, each parent's paid leave will have to be taken in one continuous block.

- Parents will provide 'self-certified' notice of their leave plans to their employer in-line with specified notification requirements. We propose that this will build on the existing arrangements for APL, which require that parents give two months' notice. This notice is signed by both parents so that employers can have confidence that the request is genuine.
- As with APL this will be all the evidence that employers legally require and we do not anticipate that the parents' employers will need to talk to one another to check the validity of a claim. However, we will continue to facilitate employers' ability to request the necessary information to enable them to talk to the other parent's employer if they are concerned. As with all statutory payments, HMRC will have powers to investigate claims where there is concern. We will be evaluating how well the APL administration process works for employers, and this will feed into future consultations on the administration of parental leave.

47. In the context of the announcement at the 2011 Budget, we have also considered whether it would be both desirable and possible under EU law to exempt micro-employers and start-ups from these flexibility provisions. However, we believe that it would be perverse to deny these employers the flexibility to negotiate with their employees on when leave is taken. For instance, it may be particularly helpful for smaller businesses if a mother returns to work sooner, even if only on a part-time basis. As discussed above, all employers would in any case be able to reject an employee's request to take their leave flexibly.

Consultation Questions	
6.	Do you agree with our proposals to facilitate greater flexibility in the taking of parental leave? Please explain your response.
7.	If parents are not living together, should the default position be for the parent with main responsibility for the child to be able to take all the unreserved period of leave and pay? Please explain your response.
8.	On what principles should the notification process for parental leave be based? Do you have any comments on our proposal that the process be based on that for additional paternity leave?
9.	Should parents be expected to provide an indication of their full plans for taking the paid elements of parental leave prior to the child's expected date of birth (with the ability to changes these plans subject to notice); or should separate notification be allowed for each period of parental leave?
10.	Do you agree that it would be inappropriate to exempt small and medium-sized employers from the flexibility provisions? Are there any other special arrangements that would be helpful for such businesses?

Reserved leave for mothers and fathers

48. International evidence suggests that fathers' usage of parental leave is higher under schemes that offer them targeted or reserved leave as opposed to just making shared leave available to the father.¹⁵ In the latter case the mother typically takes the full amount available to both parents. This may be because the father often earns more than the mother, and therefore it is more beneficial to the family to retain his wage; or simply because, as the mother has already had a period of maternity leave, she therefore takes the rest of the leave available by default. But there is also still a widespread cultural expectation that it should always be the mother who takes time out from work to care for children. We want this to change.
49. Encouraging shared parenting necessitates a system that supports both mothers and fathers in balancing their work responsibilities with active participation in their children's upbringing. It also requires encouraging those parents who are currently perceived as secondary carers – typically fathers – to play a more active role.
50. We therefore propose that part of the paid period of flexible parental leave be reserved for the exclusive use of each parent. The Government considers that a period of four weeks per parent should be reserved to recognise the important role that each parent can play and to encourage a change in culture towards shared parenting.
51. We do not, however, intend that reserving a period of leave for fathers should reduce mothers' overall leave rights: if a family still wishes the mother to take the full 52 weeks of leave currently available, she should be able to do so. An additional four weeks of paid leave will therefore be provided so that the period of paid leave available to the mother is not reduced.
52. Together with the fact that allowing flexibility will increase the overall number of families eligible for statutory payments, this means that the proposed policy will have expenditure implications. We aim, as a priority, to introduce the new system in April 2015, although this timescale is subject to affordability.

Consultation Question

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| 11. | Should a portion of flexible parental pay be reserved for each parent? If so, is four weeks is the right period to be reserved for each parent? Please explain your response. |
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Summary of the new system

53. In summary, we propose to replace the existing system of maternity, paternity and parental leave that was illustrated in figure 1 with the one illustrated in figure 2. We have illustrated some possible scenarios for how parents may choose to use their new leave and pay entitlements in figures 3, 4 and 5. In these figures, maternity leave is shown in blue and

¹⁵ O'Brien M.: Fathers, Parental Leave Policies, and Infant Quality of Life: International Perspectives and Policy Impact, *Annals of the American Academy of Political and Social Science*, 624 pp. 190–213 (2009).

parental leave in yellow; dark colours represent paid leave and light colours unpaid leave. For clarity, maternity leave and pay are shown as beginning with the birth of the child; in reality, it is usual for them to begin earlier and the new proposed system will not affect this.

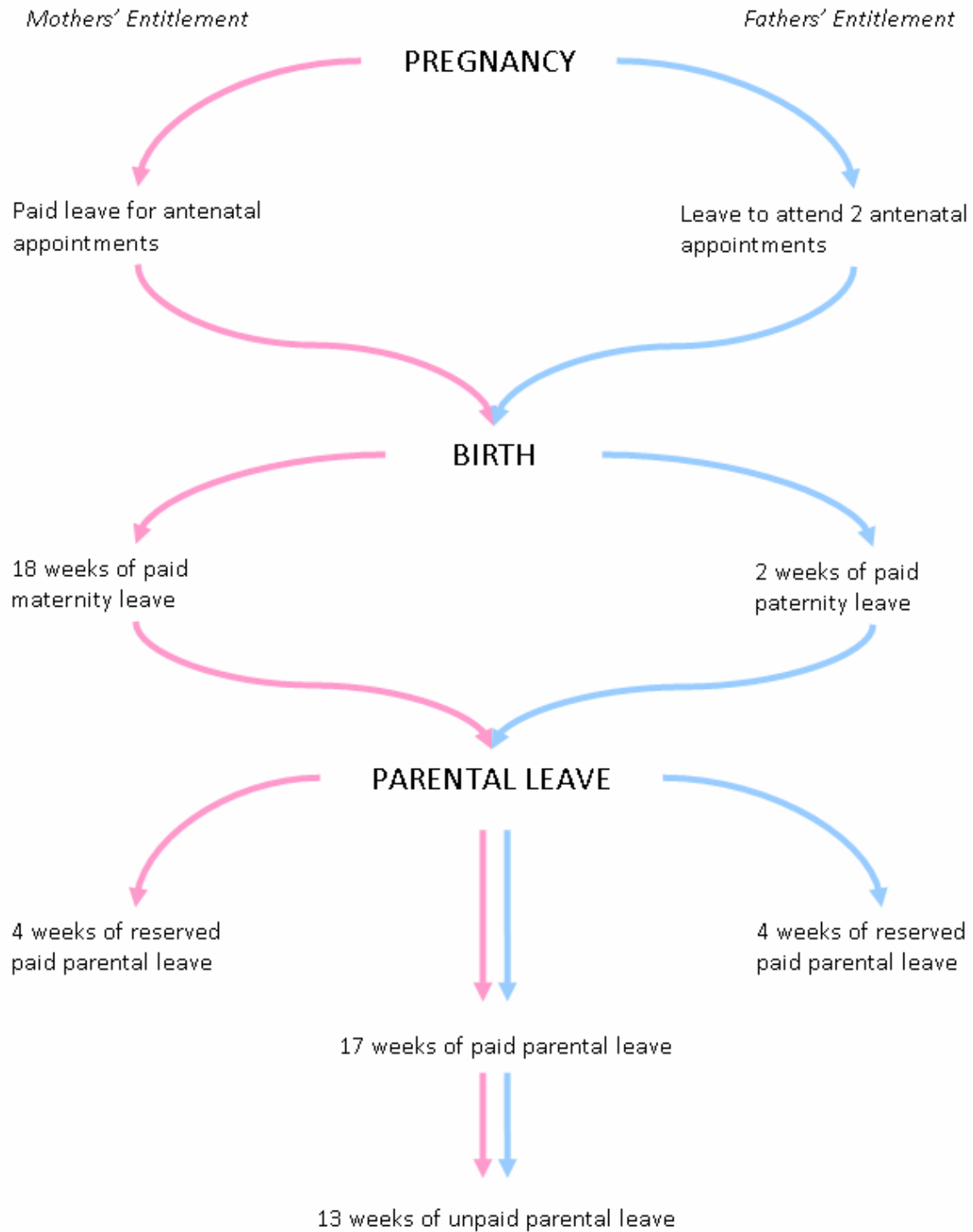


Figure 2: proposed new statutory provisions for maternity, paternity and parental leave and pay. In addition to these entitlements in the first year of the child’s life, each parent will be entitled to 18 further weeks of unpaid parental leave per child, as described in paragraph 10.

Figure 3: scenario with mother taking primary caring responsibility for the first year.

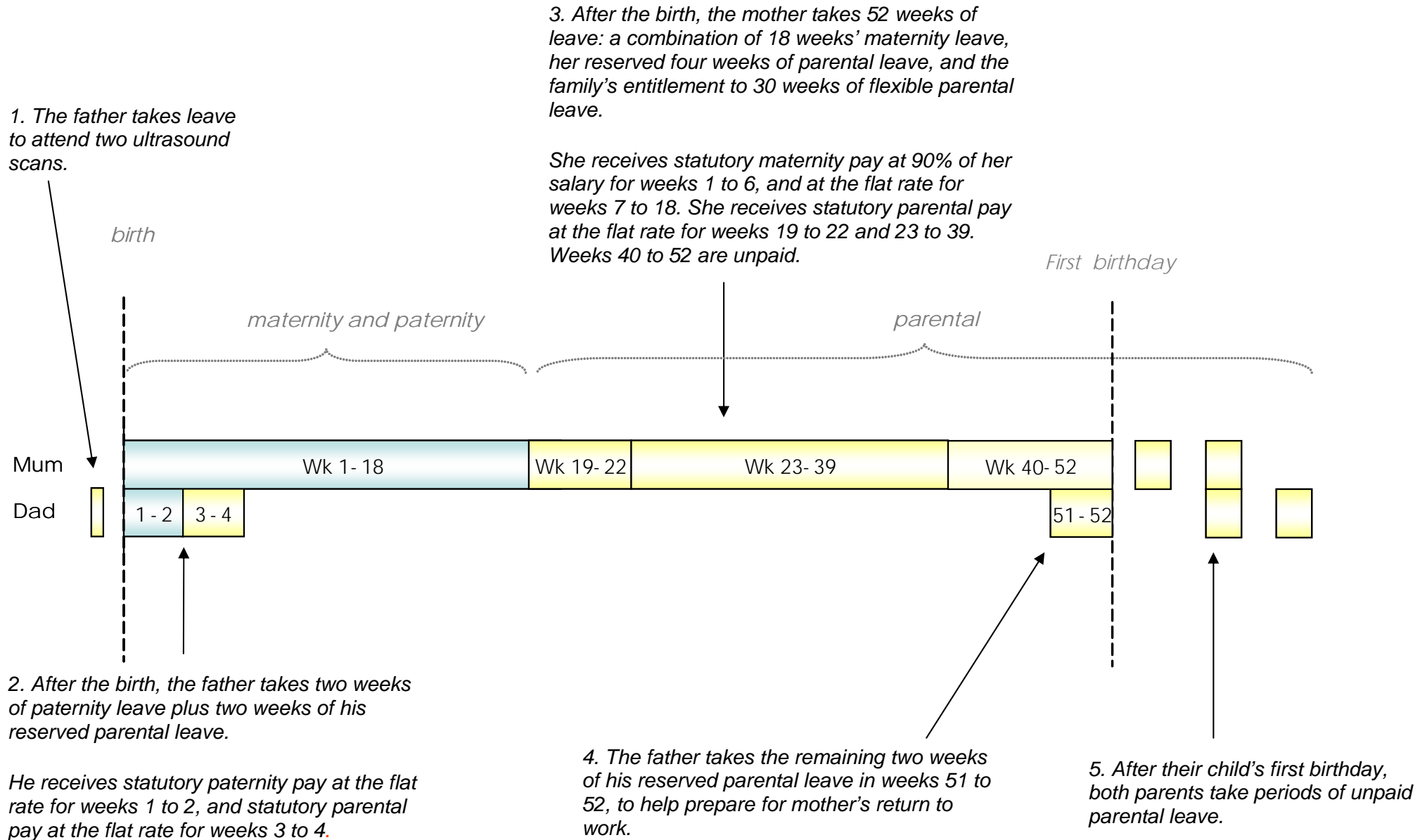


Figure 4: scenario with father taking primary caring responsibility for the first year.

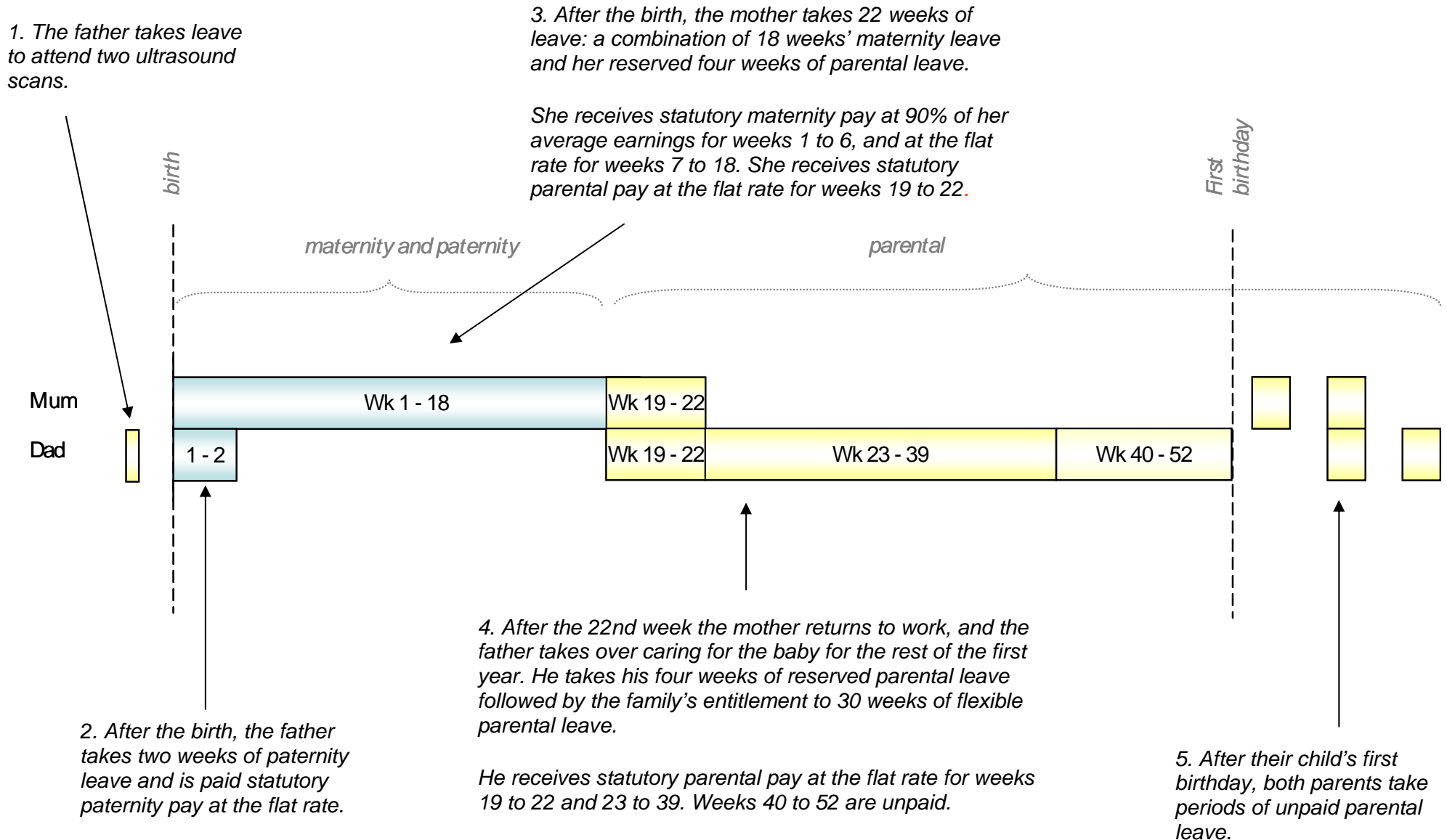
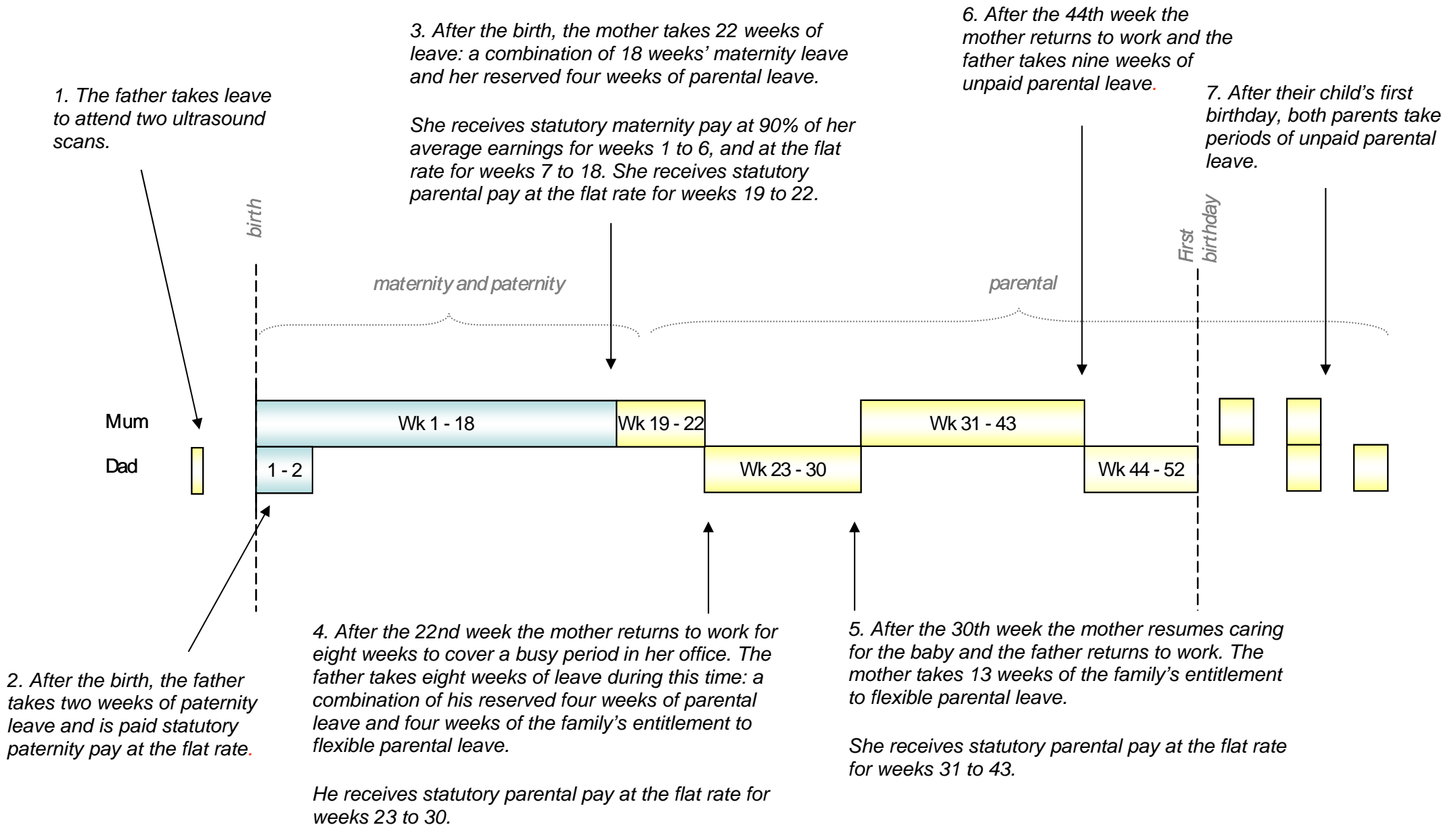


Figure 5: scenario with shared parenting.



Minimising administration

54. We recognise that additional flexibility will require more administration by both employers and the state. Statutory payments are currently administered by employers who are (subject to certain conditions) able to recover some or all of the money from HM Revenue & Customs (HMRC).
55. In designing a system of flexible parental leave it is important to:
- make the administration of leave and pay as simple as possible; and
 - minimise the risk of fraudulent or negligent over-payments by making it easy to cross-refer payments made to each parent.
56. In this context, we will explore the extent to which HMRC's current proposals to reform the operation of the PAYE system through provision of real time payroll information can support any new system. We will also evaluate the administration of additional paternity leave and pay after it has been introduced, to learn from this experience.
57. As part of our work to further develop the proposed new system, we will seek further opportunities to simplify the administration of statutory payments. We will work with larger and smaller employers to help us to understand in detail the practical difficulties faced by business and to develop appropriate solutions. The Government response to this consultation will provide more details of our plans in this area.

Consultation Question

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| 12. | What do you see as the core challenges to administration? Do you support the initiatives described above as a means of addressing them? What other opportunities for improvement to administration can you identify? |
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Increasing age limits on leave entitlements

58. We recognise that caring responsibilities do not end when children reach their first birthdays or even with the start of school. In addition to the first entitlements, parents have an existing entitlement under EU law to unpaid parental leave. This will shortly increase to 18 weeks' unpaid leave per parent per child over the early years of the child's life.
59. This entitlement will still remain available to parents beyond the first year, in addition to the flexible parental leave entitlement in the first year. Were we to retain two sets of 'parental leave' with different qualifying criteria it would risk confusion by both employers and parents as to who was entitled to take each type of leave and when. Therefore, in order to keep the system as simple as possible, we propose instead to have just one entitlement to parental leave incorporating both the EU allowance and the proposed new entitlements.
60. The single system of parental leave means that employees would have the same eligibility criteria for taking parental leave whether it is taken during or after the first year of a child's life. We therefore propose to remove the existing requirement that an employee must have been with their employer for at least a year to take unpaid parental leave. This will bring the rules in line with those currently in force for maternity leave.

61. Although parental leave will be available during and after the first year of the child's life, we propose that, to ease administration, pay will not be available beyond the child's first birthday.
62. However, there is currently a gap in provision to help parents of older children cope with non-emergency caring responsibilities, such as sickness or planned medical appointments. One method of meeting this need is to increase the upper age limit for parental leave.
63. Under existing arrangements, unpaid parental leave can be taken until the child is five years old. Although under our plans paid parental leave will be limited to the first year of a child's life, we are considering extending the point until which a parent can take unpaid leave to one of:
- **the child's eighth birthday:** the point at which childcare costs may reduce due to regulations on child: adult ratios being relaxed above this age;
 - **the child's twelfth birthday:** covering the transition from primary to secondary school, a period which some children and parents find difficult to manage;
 - **the child's sixteenth birthday:** covering the early teenage years, and preparation for GCSE or equivalent exams. It could also help with caring for children during school holidays since it can be harder to find appropriate care for older children; or
 - **the child's eighteenth birthday:** extending the right to all parents of children. This would be in-line with arrangements for parents of disabled children, thereby simplifying the system for parents and employers.

Consultation Questions	
13.	Should the year's qualifying period for existing parental leave under the European Parental Leave Directive be retained, or should the two types of leave be consolidated to avoid confusion? Please explain your response.
14.	Is the child's first birthday the right cut-off point for parents to receive parental pay? Please explain your response.
15.	Up to what age of the child should unpaid parental leave be available? Five (as it is currently), eight, 12, 16 or 18? Please explain your response.

Further provisions of the new system

Maintaining employment protections

64. In moving to a system of flexible parental leave we aim to promote greater gender equality in the workplace, and reduce the jobs penalty and the discrimination that women experience as a result of taking time out to care for children.
65. We are keen that steps already taken to combat pregnancy discrimination are not lost as a result of reducing maternity leave. We therefore propose that the protections given to women

whilst on maternity leave should apply equally to all parents who are out of the workplace on maternity, paternity or parental leave in the first year of their child's life.

Consultation Question

- | | |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16. | Do you agree with the proposed approach on employment protections? How can the protections given to employees on parental leave be made more effective? |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|

Linking with occupational schemes

66. We know that a significant number of employers offer occupational maternity and paternity schemes which are more generous than the statutory entitlements discussed in this document. It is our intention that employers who choose to do so should be able to continue to offer a longer period of paid leave, either as contractual maternity leave, or as a period of parental leave available to either parent.
67. The Government hopes that employers will increasingly look to introduce appropriate 'shared' elements in their occupational schemes to further encourage shared parenting.

Consultation Question

- | | |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17. | Can you provide case studies on occupational paternity and maternity schemes and the benefits these bring to business and employees? We would also welcome thoughts on how the new system will affect those schemes. |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Increasing fathers' involvement in antenatal care

68. We believe that many fathers would like to be more involved in their partner's antenatal care, and that such involvement would have many benefits for children and for parents.
69. There is strong evidence that a father's attendance at ultrasound scans helps early bonding and increases his commitment to the pregnancy.¹⁶ Research also suggests that encouraging fathers to actively be involved during the pregnancy may be beneficial to child well-being. In particular, a father's attendance at ultrasound scans and antenatal classes is strongly linked with positive engagement throughout childhood, including an increased likelihood to read to the child and to provide nurturing care.¹⁷
70. We are also mindful of the need to ensure that antenatal appointments remain a safe environment for women. Women need on occasions to be able to discuss privately with their midwife issues such as domestic violence or past sexual history.

¹⁶ Draper J.: 'It was a real good show': the ultrasound scan, fathers and the power of visual knowledge, *Sociology of Health and Illness*, 24(6) pp. 771–795 (2002).

¹⁷ Bronte-Tinkew J. et al.: Resident fathers' pregnancy intentions, prenatal behaviours and links to involvement with infants, *Journal of Marriage and Family*, 69(4) pp. 977–990 (2007).

71. We propose to make statutory provision for fathers to take time off to attend a limited number of significant antenatal appointments. There are two ways in which this right for fathers could be achieved. In either case the ultimate decision on whether a father is welcome at appointments would remain with the mother:
- a new statutory entitlement might be designed specifically to give fathers leave from the workplace to attend a specific number of antenatal appointments; or
 - the restrictions on parental leave (as described in paragraphs 8 and 9) might be relaxed, allowing fathers to use part of their allowance to attend antenatal appointments.
72. We expect that most parents would choose to prioritise the two major scans, and therefore we are proposing that in uncomplicated pregnancies fathers be entitled to time off to attend two appointments. We believe that this strikes the right balance: minimising the cost and disruption to employers, whilst supporting and encouraging fathers' involvement in antenatal care.

Consultation Questions	
18.	Should fathers be entitled to time off to attend some antenatal appointments? If so, is two the right number?
19.	Do you have a preference between (a) giving fathers a new right to attend antenatal appointments, and (b) allowing fathers to use parental leave? Please explain your response.
20.	Are there any special circumstances in which parents will need additional support?
21.	Do you have any further comments or suggestions relating to our proposals or impact assessment on flexible parental leave?

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