

Consultation on agency worker recommendations – response from Working Families

1 Introduction

1.1 Working Families is the UK's work life balance charity. We support working parents and carers to tackle discrimination, achieve flexibility in the workplace, and navigate the in-work benefits system through our free Legal Advice Service. We also work directly with employers on enabling them to create family friendly workplaces that work for people and the economy.

1.2 We welcome the opportunity to respond to this consultation, and the wider commitments that the Government has made in response to the Taylor Review of Modern Working Practices. For some parents and carers, working for an agency or working casually does help them balance their responsibilities at work and at home. But for many of the parents and carers we speak to on these type of contracts, flexibility is a façade - and working hours are being imposed on them by their employer. A refusal to work shorter, longer or simply different hours can easily lead to there being no work at all. We are therefore pleased to see inclusion of the risks of 'one sided flexibility' in the consultation, and the commitment to securing the right balance between flexibility and rights and protections.

1.3 We have responded to those questions of most relevance to the thousands of working parents we support every year through our Legal Advice Service. If you have any queries or would like any further information about the points in this response please contact Julia Waltham, Head of Policy and Campaigns, on 0207 017 0070 or email julia.waltham@workingfamilies.org.uk

2 To what extent would you agree that a key facts page would support work seekers in making decisions about work?

2.1 Employment rights are meaningless if they are not understood, upheld and enforced. Many of the parents who contact our helpline are unsure about their status and rights until the point at which they might have to use them – for example, on learning that they are to become a parent. But for other parents that we have helped, it is too late for them to make use of their rights by the time that they have contacted us. Therefore we are pleased to see the Government accept the recommendation to improve transparency of information for work seekers.

3 What information would be important to include in a key facts page?

3.1 The consultation document states that the key facts page will have details of additional benefits payable to work seekers, but it needs to include information on all relevant rights to be properly meaningful. In particular, we would like to see information on pregnancy and maternity rights included.

3.2 All workers should not be treated unfavourably because they are pregnant or taking time off due to maternity. From the outset of pregnancy workers are entitled to take time off to attend antenatal appointments and to have a health and safety risk assessment. After 12 weeks in the same role workers are entitled to paid time off for antenatal appointments and reasonable adjustments if needed on health and safety grounds. Partners who have been in the same assignment for 12 weeks are entitled to unpaid time off to attend two antenatal appointments. Agency workers who are employees are also entitled to maternity, paternity and shared parental leave.

3.3 We know from the parents who contact us every week that these entitlements are not being met in reality. One of our callers, Sadia, was 28 weeks pregnant when she got in touch. She had worked for the same employer on a zero hours contract since before she became pregnant. But her employer stopped giving her more work and told her that she was on maternity leave. We advised Sadia that, unless she has a pregnancy related illness in the last four weeks of her pregnancy, it is up to her when she starts maternity leave and that this cannot happen before the 29th week of pregnancy.

3.4 Equipping work seekers with this information would enable them to ensure that these rights are upheld, and help to tackle the shockingly high levels of pregnancy and maternity discrimination in the UK. A key facts page could also include information on free and independent sources of employment rights advice such as Working Families to ensure that work seekers know where to turn for support if there is anything they have not been able to clarify with the employment business.

4 How effective do you think pay between assignments contracts are in supporting workers and work seekers when they are not working?

4.1 If the Swedish Derogation is repealed on the basis of evidence supplied through the consultation, it will be important to look at the impact of this on maternity leave and pay for women on these contracts. Women who are on pay between assignment contracts are counted as employees of the agency, and thus have entitlement to maternity leave and may be eligible for statutory maternity pay. We support measures to ensure that these contracts are used correctly and in line with their intended purpose, rather than as a way of avoiding employment responsibilities, whether that this is through repeal or stronger enforcement. But any changes should ensure that pregnant women are not left worse off as a consequence.

Working Families
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