



Department
for Business
Innovation & Skills

MODERN WORKPLACES:

**Bite Size - Shared Parental
Leave and Pay Administration
Consultation**

FEBRUARY 2013

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Bite size - Shared Parental Leave Administration Consultation

1. The Government is publishing a consultation on the administration of shared parental leave and pay following commitments made in the Government's response on the flexible parental leave element of the Modern Workplaces consultation, which we published on 13 November 2012.
2. This document is the short form version of the consultation and is only intended as an introduction to the proposals. If you are planning to respond to the consultation we strongly recommend that you refer to the full consultation document, for the detail on the proposals. The full consultation document can be found <https://www.gov.uk/government/consultations/>
3. Shared parental leave and pay will give parents more choice and flexibility in how they share the care of their child in the early stages of its life. This will enable both parents to retain a strong link with the labour market; encourage more fathers to play a greater caring role (both pre-natal and in the early stages); and give employers and employees greater flexibility in the way in how best to balance work and domestic needs without state interference.
4. This consultation seeks practical comments and suggestions on the administrative process to ensure that it is as streamlined as possible.

Details of the Modern Workplaces consultation can be found at:

<http://www.bis.gov.uk/Consultations/modern-workplaces>

Issued: **25 February 2013**

Respond by: **17 May 2013**

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5. This consultation is relevant to employers and employees, family groups, unions and representative organisations, but welcome suggestions from others who may wish to be involved in this consultation process.

1. Foreword

6 Enabling mums and dads to choose how to share time off after their baby is born will help families juggling their new responsibilities at what is a joyous, but challenging, time. While the Government response to the Modern Workplaces Consultation set out the broad policy for shared parental leave, as business leaders regularly remind me, the devil is in the detail. I am keen to ensure that administering shared parental leave is simple and straightforward for parents and employers alike. This consultation is about getting this detail right and making shared parental leave workable.



7. Drawing on all the talents in the workplace is essential if we are to build a stronger economy and a fairer society. Family-friendly workplace policies simultaneously support working families and economic growth. Shared parental leave is about a real cultural shift in the way we view the responsibility for raising children and how this fits in with the working lives of dads, mums and employers.
8. Shared parental leave also gives dads the opportunity to play a greater role in raising their child; supports mums in returning to work at a time that is right for them without losing entitlement to their remaining leave; and enables both parents to keep contributing to the labour market.
9. Employers too can benefit from this new system enabling them to have frank and open discussions with their employees about their leave plans. It means that they can attract and retain talented women who may otherwise struggle to combine their work and family responsibilities. It also reduces the loss of knowledge and human capital from the workplace, and increases employee commitment.
10. This consultation seeks views on the detailed administration of the scheme and the implications of these changes. I look forward to hearing your views on the proposals and would like to thank you for taking the time to respond.

Jo Swinson MP, Minister for Employment Relations and Consumer Affairs

2. Short form version - consultation on Shared Parental Leave and Pay administration.

11. This consultation seeks views on the detailed administration of shared parental leave and pay.
12. It sets out our proposals for changes to maternity, paternity, adoption and shared parental leave. This is to give clarity on how the system will work and fit together. Views are sought on a range of issues to inform the secondary legislation that will be made once the Bill has become an Act.

Name change from flexible parental leave to shared parental leave

13. To avoid confusing the new statutory leave and pay system with the EU-derived unpaid parental leave entitlement, we have decided to call the new system 'shared parental leave and pay'. This is to distinguish it from the individual entitlement to unpaid parental leave, which may also be taken flexibly. It also underlines the shared nature of the leave, which can be taken by two people. From this point forward the consultation will refer to the new system as shared parental leave.

Informing employers of the intention to take paternity leave and pay

14. The baby's father, mother's partner or a "secondary adopter" (the individual in a couple who has not been designated as the "primary adopter") will continue to be entitled to up to 2 continuous weeks' paid paternity leave as they are currently. At present, to be eligible for leave, individuals must provide notice by the 15th week before the week the baby is due (or within 7 days of being matched with a child for adopters); to be eligible for pay the individual must provide 28 days notice of their intention to take pay. We are seeking views on whether the differing notice periods for leave and pay can create confusion amongst employers and employees.

Q.1. Do you have any evidence on any administrative difficulties that the different notice periods for paternity leave and pay currently cause employers?

Q.2. Do you agree with the proposal to align the notice period for paternity leave and pay at the end of the 15th week before the expected week of child birth (or within 7 days of being matched with a child for adopters)? If not, please explain why.

Eligibility criteria for shared parental leave

15. To qualify for shared parental leave and pay both parents (birth or adoptive or intended parents in surrogacy agreements) will be required to follow a two-stage process. We will introduce an economic activity test that sets a low earnings and labour market attachment threshold for parents. Parents will then need to consider their own employment record to assess whether they qualify individually for shared parental leave and statutory shared parental pay.

Notice to bring to an end maternity leave and maternity pay, or allowance, if accompanied by a notification of intention to access the shared parental system

16. Mothers who currently qualify for 52 weeks of maternity leave and 39 weeks of maternity pay or allowance will continue to do so in the same way that they do at present.
17. When a notice to end maternity leave is accompanied by a notice to take shared parental leave and pay, the notice to end maternity leave and statutory maternity pay or maternity allowance will be binding. A woman will need to give at least 8 weeks' notice of her intention to end maternity leave and she and her partner will have to give 8 weeks notice of their intention to take shared parental leave or pay. We anticipate the notices being submitted together. The notice takes effect 8 week after it is submitted and mother's maternity leave and the mother's maternity pay or allowance period will cease on the day specified on the notice.
18. We do not want to prohibit notice being given before birth, in order for a woman to end her maternity leave very early after birth and make the maximum amount of shared parental leave available. However, we recognise that birth is a very unique experience and the arrival of a child can have a significant impact.
19. It seems to us to be unreasonable and impractical to hold a mother to a pre-birth commitment. Therefore mothers will, for a limited period, be able to revoke the notice to end maternity leave for a specified period after birth. We are consulting on the length of time after the birth that it would be reasonable for the mother to be able to revoke her notice.

Q.3. Do you think that a woman should have 4 or 6 weeks from birth to revoke her notice to end maternity leave and opt into the shared parental system where the notice has been given prior to birth?

Information contained in the notification to access the shared parental leave system

20. Each parent entitled to leave or pay will need to complete the form and both parents/carers will then need to sign these notifications. Each will then submit their notification to their employer. This will enable the parent or parents who qualify for leave and or pay to take the balance of untaken statutory maternity pay or leave or maternity allowance entitlement as shared parental leave and pay in line with their individual entitlement.
21. Parents will self-declare their eligibility to access the system, and employers will be able to request the birth certificate as evidence. As now, there will be no statutory process for requesting this information, but employees should be given sufficient time to produce the information requested before their leave is due to be taken.
22. A draft of the information we expect the form to include in the new form (ShPL1) is included in Annex A.

Q.4. Do you agree that this level of information is sufficient from an employee? If not, please explain why and what information you would like to be required.

Requesting shared parental leave

23. We propose to allow an employee to notify their employer of individual periods of leave up to their maximum entitlement. This would enable parents to only request leave that they planned to use and keep leave in reserve to enable them to adapt to changing circumstances.
24. We propose that employees will be required to give their employer a minimum of 8 weeks' notice before taking a period of leave when requesting new blocks of leave or varying leave that has already been requested.

Q.5. We are proposing to allow parents to notify their employer of their leave intentions as they require them. Do you agree? (please explain)

Agreement of patterns of leave

25. We propose that there should be a **restricted period of time** for employers and employees to discuss patterns of leave, followed by a 'sign-off' period by the employees to agree. We propose that the discussion period should be **2 weeks**, followed by employee sign-off of the agreement. (See below)

Week	Action
1	Notice given and discussion period started
2	End of discussion period and employee sign off.
3	}
4	}
5	} Notice period runs to end of 8 week period
6	}
7	}
8	} ↓
9	Leave starts

26. At the employee sign-off point an employee will have 2 options:
- agree to the pattern of leave that they have negotiated with their employer;
 - withdraw their request for leave.
27. This will ensure that both employers have over 6 weeks' notice of the exact pattern of leave that employees are taking. If an employee cannot agree to the pattern of leave that they had originally requested, because their partner's employer has refused their pattern of leave. The employee would need to withdraw their request and put in a new request for a single period of leave or request a new pattern of leave that accommodates their partner's agreed leave request. The employee would need to give 8 weeks notice of their new request.

Q.6. To allow employers to know their employees' definite leave plans at least 6 weeks before any leave starts, we propose setting the negotiation period at 2 weeks. Do you agree that a 2 week negotiation period is appropriate?

Time limit in which to use the shared parental system

28. Under the shared parental system, there are two options for the cut-off point after which parents will no longer be able to use any outstanding shared parental leave or pay entitlement. This point could either be:
- a. 52 weeks from the start of the woman's maternity leave; or
 - b. up until the child's first birthday. (This would potentially extend the maximum period to take leave by around 13 weeks)

Q.7. Do you think that the cut-off point for parents taking shared parental leave should be:

- (a) 52 weeks from the start of maternity leave, or**
- (b) 52 weeks from birth?**

KIT days

29. We propose introducing Keep in Touch days for parents on shared parental leave. These will operate along the same principles as the current system which will continue to be available to women on maternity leave. With the mutual agreement of the employer and the employee, parents may choose to use these days to test out a new pattern of working before making a formal request for flexible working, or to phase their return to work. We are consulting on the appropriate number of KIT days for shared parental leave.

Q.8. Is 10 KIT days per parent for shared parental leave the right number?

Right to return to the same job

30. We want the new shared parental leave system to provide suitable protection for parents whilst maintaining flexibility for employers. We are consulting on the most suitable approaches to employee protections when returning from shared parental leave.
31. We are consulting on two approaches to maintaining a balance between incentives and protection when returning from shared parental leave.
- a. **Option a):** The **right to return to the same job** would be maintained for employees returning from the first continuous block of leave of 26 weeks or less. This period of leave could be made up of:
 - **For mother/primary adopter** : a combination of maternity or adoption leave and shared parental leave
 - **For mother's/primary adopter's partner:** just shared parental leave.

Employees returning from subsequent periods of shared parental leave would have the **right to return to the same or similar job**.

- b. **Option b):** The **right to return to the same job** would be maintained for employees returning from leave that totals 26 weeks or less in aggregate; even if the leave is taken in discontinuous blocks. This would include periods of maternity, adoption, paternity and shared parental leave. This would operate in the same way for adoptive parents.

Q.9. Which “right to return to the same job” option would you prefer be applied to shared parental leave; a) or b)? Please explain.

Adoption

32. Adoption leave will become a “day-one” right for employed adopters and statutory adoption pay will be enhanced to 90% of salary for the first 6 weeks for the “primary adopter”, in line with statutory maternity pay. We will also introduce an entitlement to time off to attend adoption meetings. The “primary adopter” will be entitled to time off to attend up to 5 paid pre-adoption appointments and the “secondary adopter” will be entitled to time off to attend up to 2 unpaid pre-adoption appointments. The total amount of time off per appointment will be capped at 6.5 hours.
33. In order to speed up the adoption process, the Government is making changes to the adoption system. Local authorities will now have a duty to consider using ‘fostering-to-adopt’ placements for looked after children, as these placements are very likely to lead to adoption. In a bid to support this, we are proposing to make statutory adoption leave and pay entitlements available to approved adopters, where a child is placed with them in a fostering-to-adopt capacity. We are consulting on how we can provide realistic notification for employers of the need to take adoption leave and pay in these circumstances.

Q.10. In cases of fostering to adopt where the child is matched and placed with the prospective adoptive parents on the same day, how can we provide realistic notification for employers of the need to take adoption leave and pay?

34. We will publish an amended Impact Assessment that sets out the estimated costs and benefits of the proposed administration process of the new scheme alongside the Government response to this consultation.

Annex A: (Draft) Shared Parental Leave form (ShPL1)

Below is an indication of the information that we would expect to be included on the shared parental leave form (ShPL1)

Date started maternity leave	
Date started maternity pay	

Date ended maternity leave	
Date ended maternity pay	

Balance of leave remaining (total)	
Balance of pay remaining (total)	

Partner 1	Maximum shared parental leave entitlement (individual)	
	Maximum shared parental pay entitlement (individual)	

Partner 2	Maximum shared parental leave entitlement (individual)	
	Maximum shared parental pay entitlement (individual)	

Declaration

I declare I have met the qualifying conditions for shared parental leave / shared parental pay [delete as appropriate] and I agree to this division of leave and pay.

Signed partner 1

Signed partner 2

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