

**Social Security Advisory Committee**  
**Minutes of the meeting held on 8 November 2023**

Chair: Dr Stephen Brien

Members: Bruce Calderwood  
Carl Emmerson  
Kayley Hignell  
Phil Jones  
Gráinne McKeever  
Charlotte Pickles

## **1. Private Session**

*[RESERVED ITEM]*

## **2. The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2024**

2.1 The Chair welcomed the following officials to the meeting: Victoria Hogan (Deputy Director, Employment Policy); Helen Froggatt (G6, Employment Policy); Ashley Larder (G7, Employment Policy); Andrew Fearnley (HEO, Employment Policy); Francesca Galli (HEO, Employment Policy); Melina Ngombo (Legal Group); Philip Thomas (G7, Labour Market Analysis); Lucy Allen (G7, Labour Market Analysis) and Jacob MacDonald; (G6, Labour Market Analysis).

2.2 Introducing the item, Victoria Hogan explained that the amendment will raise the Administrative Earnings Threshold (AET) to a monthly figure equivalent to 18 hours earnings per week at the National living Wage (NLW) for individual claimants and to the monthly figure equivalent to 29 hours earnings per week at NLW for couples from April 2024. The AET defines the conditionality regime a claimant is put into, the actions a claimant must undertake as a condition for receiving Universal Credit (UC) and the level of support the claimant receives. This change will increase the number of claimants in the intensive regime and is the third change in quick succession.

2.3 The Department is doing this to reframe the social contract between claimants and the Department to better balance the responsibilities that are asked of claimants in return for their benefits. Ministers decided to make the change without factoring in age because there is a relatively small number of claimants in that cohort and it would have introduced complexity. Also, there is evidence that work coach support for younger people is particularly beneficial.

2.4 The Committee raised the following main questions in discussion.

- (a) The policy intent is not to get more people into work but to change the relationship between claimants and the state by increasing expectations and the scope of people to continue to actively look for more work. Is that correct?**

It is a bit of both. The focus of this policy is to change the contract but the Department is doing a lot of work to try and support people into work and to progress in work. The clear steer is that ministers felt that 15 hours per week was not sufficient to stop intensive contact with the claimant.

- (b) The social contract policy seems to be more for younger people. Is there a sense that younger people should work more hours for the same amount of money that an older person could earn working less hours?**

No, that is not the view. There is a combination of administrative difficulties for the younger age group. The reassurance is that young people can benefit from more support, including through the DWP Youth Offer, to progress in work. The Department does not think that any age group should do more or less.<sup>1</sup>

- (c) Is it right that someone can work 15 hours per week or less if earnings per hour are high?**

Yes, that is correct.

- (d) Success could be judged by a mindset shift. It could be where people working 10 to 18 hours per week are actively seeking more work rather than working part time. Or it could be behavioural, for example, the Department can see that people are trying harder to find more work. Or success can be determined by this group increasing their earnings more swiftly. How do ministers see success?**

Ideally there will be a shift in all the above but ministers would see a change in behaviour and increased earnings as a success.

- (e) In the supporting papers presented to the Committee, it is said that there is evidence that claimants' earnings were boosted by £100 per month if they were placed into the Intensive Work Search (IWS) regime because their earnings were low. Did that evidence come from the Randomised Control Trial (RCT) published in 2018? If so, the evidence suggests that it seems more like £5 a week, where did the figure of £100 per month come from?**

It was the RCT which was conducted between 2015 and 2018 and published in 2018 which indicated a £5 a week increase. There is further evidence from unpublished data available to the Department. That evidence indicated that claimants with lower earnings, who were placed into the IWS regime and required to meet regularly with a work coach from the beginning of their claim for UC, had better subsequent labour market outcomes than those who entered UC with marginally higher earnings above the AET, who were placed in Light Touch regime, and did not receive work coach support. After 12

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<sup>1</sup> A further response has been received from the Department for Work and Pensions and can be found at Annex B.

months, those placed in IWS experienced approximately £100 per month higher earnings progression per month compared to those placed in Light Touch at the beginning of their claim for UC. The RCT tested a slightly different group and was across the entire light touch group and so a different category of people.

**(f) Is the evidence from the unpublished data therefore a more realistic analogue for this policy change?**

Yes, either side of the AET was looked at. The evidence from the RCT is included as part of the overall suite of evidence.

**(g) What is the baseline level of earnings?**

The Department will come back to the Committee outside of the meeting.

**(h) Are there measurements for people who have flowed off UC as well as those staying on UC and increasing their earnings? Will that be published?**

Yes, HMRC can provide data to evaluate for people who move off UC so that those higher earners can be captured. The paper has been externally peer reviewed and is nearly ready for publication.

**(i) Was there a normal ratio of staff for those at the boundary of the AET when the further evidence was gathered for the unpublished evidence or was the ratio slightly different?**

The data was national, there was no particular way of allocating to work coaches in a different way.

**(j) Did that evidence also provide the basis for the statement that the AET change is better for younger claimants?**

That evidence came from the RCT which was much bigger involving 30,000 people and there were 7,000 for the soon to be published study. They came to the finding regarding younger people from the RCT.

**(k) Is the Department planning to test further to see if there is more progression for the younger group?**

Yes, if that is possible; that would be an interesting finding. IWS does have slightly different levels of support for young people to help address their challenges in the labour market.

**(l) The evidence from the unpublished data is based on an AET of around nine hours per week and so there was more scope for someone to increase their hours but less for someone affected by the latest change to the AET. It will also mean that different characteristics will be affected.**

Yes, that is right, there are different characteristics as you move up the earnings threshold.

**(m) What has been done since the increase in the AET from nine hours to 15 hours? There is administrative data and so what is preventing the Department from gathering more recent evidence?**

It was a relatively unique opportunity to gather evidence when the AET was nine hours as there was a good range of people and so samples were big enough. Due to the timing of the further increases, the same analysis could not be repeated. There is a feasibility study planned to see what can be done with the increase to 15 hours but there is no guarantee that the Department will find anything as the impact is not known until the work is done.<sup>2</sup>

There is other work about the delivery of the scheme which is more qualitative. There are two streams to the qualitative side; one is a commissioned evaluation which is tracking the impact of in work progression (IWP) support for people who are in work, and this includes some people in the IWS regime. This includes a longitudinal claimant survey which will show what has been happening to those claimants and how they have found moving from one group to another. The first wave of fieldwork has just finished and the Department is hoping to have an unpublished draft from this wave ready in January 2024.

There has also been in-house research with staff delivering the IWP offer due to the offer being relatively new. Before the first increase in the AET, there were already around 180,000 people in IWS with earnings, so work coaches have some familiarity with speaking to in-work claimants. [Redacted].<sup>3</sup>

**(n) It is good to hear that there is work going on, however the Committee is interested in the two recent AET increases where there were learning opportunities. What did the Department learn about claimant behaviours or claimant attitudes and whether they informed these moves?**

There is a team who used to work in the Department's operational areas who have looked at about 100 claimant records to see how claimants originally brought into IWS after the September 2022 increase had responded, covering areas such as referrals to support, use of the Flexible Support Fund, actions related to health conditions and changes in conditionality regimes. [Redacted].<sup>4</sup>

**(o) It is interesting how some health conditions were only discovered at a later stage. Is the Department then checking for any barriers to work for people with health conditions which would not necessarily put them on the WCA journey? Are there any referrals back to the Conditionality Earnings Threshold (CET) conversation?**

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<sup>2</sup> A further response has been received from the Department for Work and Pensions and can be found at Annex B.

<sup>3</sup> Section redacted at the request of the Department for Work and Pensions as it refers to findings from unpublished data that was shared with the Committee in confidence.

<sup>4</sup> Section redacted at the request of DWP as it refers to findings from unpublished data that was shared with the Committee in confidence.

If someone has a fit note, then they may be put on the WCA journey. In the small group that are not referred for a WCA, work coaches will pick up those conversations and discuss any relevant support.

**(p) Is there any data available in an aggregate form around health conditions, where the WCA is not appropriate, and barriers to work versus no barriers?**

There is data from the unpublished data and what is collected on the build in the UC system. The Department will confirm that and come back to the Committee.<sup>5</sup>

**(q) It is concerning that the inactivity policy would target that group. How is that handled where those people are picked up late? There are many functions to consider and fluctuating conditions. They may have an employer who understands their condition and so the job is suitable. Therefore, they are at risk of being taken backwards rather than remaining stationary.**

They will be asked about their health conditions and impacts on them and whether they know about the different available journeys. It would also be picked up via the UC system if the claimant notifies DWP via their journal. Their requirements will be tailored in accordance with their circumstances and kept under review.

**(r) Are there any plans for text analysis of notes?**

The Department is building up capability in that area. The UC build is where administrative data is collected, and that includes free text. There is work on aggregate data and on individual data sets. The Department has recruited a data scientist to help search out some more of these issues the Committee is touching on.

**(s) Can the Department provide a picture of what the earnings increase will be from this change? Are there risks of cohorts being worse off?**

The existing evidence from the unpublished data showed that claimants earning close to the pre-September level of the AET benefited from the support of the IWS regime. twelve months after joining UC, their earnings were, on average, £100 per month higher than those with similar earnings, who had joined UC in Light Touch. The evidence from the unpublished data gives an impression of what might be possible in the short term. It could be argued that people who increase their hours in the short term will have better experience or qualifications and so can increase their earnings, career and skills in the long term. The Department is focusing on progression and so looking over many years. The Department has already started work on

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monitoring outcomes of the recent changes to the AET. When there are sufficient numbers to provide statistically robust findings, they will be shared with the Committee.

- (t) The Department is expecting to see an increase but there is no figure for that yet. There is a risk that some people may go backwards. Is there an indication of what that may look like?**

There will be conversations with work coaches so that the detail of health or caring responsibilities can be identified. People will not necessarily go backwards as the ambition is to bring them into stable rather than volatile work. A 'to do' is raised on the UC system for an appointment with the work coach but only about half of these took place because in any given assessment period, people will have started other work or flowed off UC naturally.

- (u) After 12 months where people were earning an extra £100 per month, what was the percentage increase in earnings?**

The Department will come back to the Committee outside of the meeting.

- (v) Will there be a mandatory light touch interview?**

Replanning for the mandatory light touch interview will take place in 2024.

- (w) The Department decided not to align the AET and the CET but the effect is that for 18-year-olds, the AET becomes slightly higher than the CET; for those between 18 and 20 years old, it is close to the CET. Therefore, there is no light touch group for people below the age of 20. Is that the intention?**

Yes, the Department does intend to extend intensive support for young people.

- (x) It means that when a young person's earnings go beyond the AET, they will earn less than an older person but there is no intention to assist them to progress further. However, if an older person had that income, the Department would assist them?**

Yes, that would be the result. Someone could be earning less than others but still move into the working enough regime. One of the challenges around this, is that a lot more hangs on the CET than just conditionality, such as the minimum income floor. There will still be support on a voluntary basis for claimants earning above the CET and considered working enough.

- (y) The policy justification for this difference is not clear. Someone under the age of 20 could, theoretically, be required to look for work every day and provide evidence of doing so when they may be close to working full time at the NMW.**

If someone were working at that level, they would be placed in the working enough group.

- (z) Would someone who is working seven hours a day for five days a week still be required to come in and have a chat with the work coach?**

A large proportion of younger claimants will be in receipt of the basic rate of UC and so would no longer qualify for the benefit. It has been agreed with ministers that appointments would not have to be face to face and could be done via the telephone or video calls which would reduce the burden. Ideally, the medium to long term plan is for a segmented system but the build capacity is not available at the moment.

- (aa) The CET feels like an important risk mitigation. How much is known about how it is functioning? Has there been any evaluation or is there data for the CET variables, and characteristics?**

The AET potentially introduces some noise about the way the CET is applied to certain groups. It is not clear whether the CET is being set at the level it should be because if claimants earn above the AET they do not currently have routine contact with a work coach who may assess whether their CET needs to be adjusted.

- (bb) Can a referral be made to change the CET?**

The CET is always kept under review.

- (cc) Does the Department identify through AET conversations that someone needs to have a different conversation about the CET? Are the conversations carried out by different work coaches?**

The conversations for both the AET and CET is with the same work coach but it is not clear if the CET is being levelled. The CET may be changed for different reasons.

- (dd) Is there a pattern of changes in the CET?**

That has not been looked into, but there can be a difference in the CET for people who are working enough as the level of the CET is determined by the amount of time they are able to work and/or look for work or more or better-paid work.

- (ee) This is from the top down a social contract change where a stack of evidence was looked at. To what degree did practitioners find that this was a good change and can this be backed up? Is the impact on workflow sustainable?**

There is an anecdotal point of view where feedback was positive as work coaches have a longer period of time to help people get back into work or get more or better-paid work.

- (ff) The social contract is that people will step up on obligations, what are the resources for that? Linked to that, looking at the impact assessment, there is not a lot of detail about why certain people may respond**

**differently to labour market conditions. What is the capacity to get data on barriers for these people?**

Money has been secured for this change from the Treasury. When these changes were put in place, the Department ensured that no other big changes were being made at that point. There was an upfront resource cost, for example, the claimant commitment requires more time. The intention is to go ahead and start the change in April and then stagger the conditions as well. Once it is into business as usual, it is easier to do. There is also a comprehensive recruitment plan. Case studies will provide evidence regarding barriers and surveys will help the Department to drill down into the different groups. For the cohort of people in work, sanctions are not given to someone if they fail to attend an appointment with good reason; a good reason is that someone is working at the time of the appointment.

**(gg) Is there Treasury support for Northern Ireland?**

It should be automatically proxied. The Department would need to check with Northern Ireland colleagues.

**(hh) There is a volatility of earnings in the group affected by the AET. How does that volatility change if earnings increase?**

The Department would expect conditionality groups to be more stable if earnings are less volatile. This is a highly fluid group; there are about 140,000 people in this cohort, defined by having earnings between the old and new levels of the AET. Over 60% will move out of the cohort in the space of one month due to changes in earnings and other factors.<sup>6</sup> Some become unemployed, whilst others raise their earnings enough to move back into Light Touch, or into Working Enough, or else off UC entirely. Others move into other UC regimes, such as No Work-Related Requirements.

**(ii) How volatile was the nine-hour group for the unpublished data?**

Similar, the volatility is high and remains around 60%.<sup>6</sup>

**(jj) Does the highly dynamic group flowing on, and off UC invalidate the whole reason to change. Why change 100% when change is only needed for 40% of the cohort?**

UC is designed to be fluid. Some people will flow through the system rather than cycling in and out of low paid work.

**(kk) That is understood but if there is a mental model that suggests that people are not doing enough to find work but the data shows that the majority of people are looking for and finding work, is this proposal well targeted?**

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<sup>6</sup> The Department for Work and Pensions subsequently clarified that the exact figure varies depending on the group within the various AET cohorts, and the month in question. However, it is at least 50 per cent across all scenarios.



That is correct but the longevity of work coach support does help with those cycling in and out of low paid work or where earnings go up and down. It would be good to segment these groups to see what works best for each group, but people will benefit from this change.

2.5 The Chair thanked officials for attending and answering the Committee's questions. He noted that a decision on whether to take these regulations under formal reference would be made once the Committee had further considered the evidence from the session.<sup>7</sup>

### **3. The Statutory Paternity Pay (Amendment) Regulations 2024**

3.1 The Chair welcomed the following officials from the Department of Business and Trade to the meeting: Jayne McCann (SCS); Rosie Edmonds; Erin Fair and Melanie Thomas (Lawyer).

3.2 Introducing the item, Jayne McCann explained that the Paternity Leave and Pay entitlements were introduced in 2003, both of which have separate entitlement criteria and so have separate provisions. The intention is that a father or partner can take time off work to care for their child or to support their partner. Currently, the regulations allow eligible employed fathers and partners to take either one or two consecutive weeks of paid leave within the first eight weeks following the birth of their child or adoption placement. If they opt to only take one week as leave, then the second week is lost. There are various eligibility conditions and one is that the father or partner must have been continuously employed by their employer for at least 26 weeks up to the end of the 'qualifying week', which is the 15th week before the week in which the baby is due. In cases of adoption, the secondary adopter must have been continuously employed for at least 26 weeks by the 'matching week' when the primary adopter receives notification of being matched with a child.

3.3 In terms of payment, the Paternity Pay will be paid at a statutory rate of £172.48 per week or 90% of their average weekly earnings if lower. The father or partner must notify their employer who pays the employee, and the employer can then claim 92% reimbursement from His Majesty's Revenue and Customs (HMRC). Smaller employers can claim 103% to cover the extra administrative costs.

3.4 For context, the Conservative Manifesto 2019 considered ways that would make it easier for fathers and partners to take leave and receive Paternity Pay. There were various suggestions which included increasing the rate of pay or

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<sup>7</sup> Subsequent to the meeting the Committee decided the Committee has decided that, under the powers conferred by Section 172(1) of the Social Security Administration Act 1992, it would take these regulations on formal reference. The Committee was not quorate at the point this decision was made, therefore action was taken in accordance with its formal Rules of Procedure which states: (4) Where - (a) the Secretary of State gives notice of a proposal to make regulations under any of the relevant enactments; and (b) it appears to the Chair that the proposal - (i) requires urgent consideration of the Committee, and (ii) need not be formally referred to the Committee, the Chair or, in his absence, the Vice Chair, may agree on behalf of the Committee, after consultation with at least three other members of the Committee, that the proposal need not be formally referred to the Committee.

increasing the period of leave but 64% wanted more flexibility and up to a year to take the leave and pay. It was decided to take forward these limited changes to fulfil the manifesto without too much of an increase of burden on employers. The three changes:

- Allow fathers and partners to take their leave in non-consecutive blocks. Currently, only one block of leave can be taken which can be either one or two weeks.
- Allow fathers and partners to take their leave and pay at any point in the first year after the birth or adoption of their child (rather than only within the first eight weeks after birth or adoption). This gives fathers and partners more flexibility to take their Paternity Leave at a time that works for their family.
- Shorten, in most cases, the notice period required for each period of leave (For example, from 14 weeks before the week of birth, to four weeks before each requested week of leave). The new measure will require an employee to give only four weeks' notice prior to each period of leave. This means that they can decide when to take their leave at shorter notice to accommodate the changing needs of their families.

3.5 There are also a number of secondary amendments, for example, for when a father or partner works for a new, different employer during the first week for which they claimed Paternity Pay, or in the case of the death of the child or a disrupted adoption.

3.6 As well as a consultation exercise, data from the Parental Rights Survey<sup>8</sup> found that 22% of fathers or partners did not take their full Paternity Pay or Leave and 12% were too busy or because the rate of Paternity Pay is too low. This proposed change is intended to provide more flexibility so that the take up will increase.

3.7 The Committee raised the following main questions in discussion.

**(a) For clarification, is there effectively a mirror image set of regulations for Paternity Leave?**

There is a set of regulations which make similar amendments for Paternity Leave. They mostly mirror Paternity Pay but there are cases where someone may be entitled to Paternity Pay but not leave and vice versa.

**(b) What was considered in terms of different options to increase flexibility? Did the Department consider days rather than weeks? What were the downsides?**

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<sup>8</sup> <https://www.employment-studies.co.uk/resource/parental-rights-survey-2019>

The two main reasons are that it is standard practice for Paternity Leave and Pay to be taken in blocks of a week and so there is clarity. There is also the business burden to consider, for example, ten separate days leave and pay would increase the administration burden on an employer. Those are the two main reasons.

- (c) More people may take Paternity Pay and most employers will be given less notice for leave and pay. When the Department consulted with employers, were there any concerns raised, particularly from smaller businesses?**

The Department engaged with employer representative organisations, including the Federation of Small Businesses and no concerns were raised. Employers will still have 28 days' notice. Employer engagement will continue during the run up and implementation of the change. As part of the Impact Assessment, it was found that will take an additional 30 minutes to administer.

- (d) In the Equality Analysis it is said that Asian fathers might be less likely to take Paternity Leave. Why is that the case?**

The Department does not have the data available that explains exactly why this is, but the Department hopes that more flexibility may encourage an increase in take up amongst all fathers and partners.

- (e) Why are younger parents less likely to take Paternity Leave?**

The Department will consult with analysts and come back to the Committee outside of the meeting.<sup>9</sup>

- (f) Is there any data on same sex couples?**

There is no data to hand, the Department will come back to the Committee outside of the meeting.<sup>7</sup>

- (g) Thank you for noting that Northern Ireland colleagues were consulted who have indicated that they plan to replicate the changes. If someone moves from Northern Ireland to Great Britain and changes employer, can they qualify for Statutory Paternity Pay and Leave?**

That is a complex issue and difficult to answer on a generic level, but regulations require continuous employment in Great Britain to access the entitlement. The Department will provide a more detailed response following the meeting.<sup>10</sup>

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<sup>9</sup> A response has been received from the Department for Business and Trade and can be found at Annex C.

<sup>10</sup> A further response has been received from the Department for Business and Trade and can be found at Annex C.

**(h) Although the regulations are complex, it is reassuring that they come together. Earlier it was said that someone can have Paternity Pay without Paternity Leave, how does that work?**

The vast majority of employed fathers or partners will exercise their entitlement to Paternity Leave and Pay together and if they qualify for one, they will qualify for the other. There are of course always people who find themselves in different circumstances, but this will only be a small group of people. Key points are that, to qualify for Leave or Pay, the employment condition which must be satisfied is that someone has to have been continuously employed by their employer for at least 26 weeks up to the end of the qualifying week. In addition, to qualify for Paternity Pay, they must remain employed with the same employer until the child is born or placed. They must also earn an average of at least the lower earnings threshold, over an eight-week reference period.

Someone who meets these tests but is subsequently dismissed after the child is born or placed for adoption, but before their planned Paternity Leave and Pay block has begun, would be entitled to pay but not leave.

**(i) Where someone moves employer between one block of leave and the next, what are the responsibilities of the employer?**

The requirement to have completed 26 weeks up to the end of the qualifying week (which is the 15th week before the week in which the baby is due, or the week in which the adoptive parents are notified of being matched), and to then remain employed until the baby is born or placed, does not change. If someone has two jobs, then they can claim Paternity Pay and Leave from either one or both employers if eligibility requirements are met. However, it is not possible to claim pay at the same time as working for a new, different employer during a pay period, which should be spent looking after the child or supporting the partner.

It is possible to claim Paternity Leave and Pay from more than one job if the eligibility requirements for each job are met. For example, an employee could have a job during the day in an office, and a second job in the evening in a bar and claim Paternity Leave and Pay from one or both jobs. This means, in this example, a parent could take Paternity Leave and Pay from his day job to care for his baby but continue to work his evening job completely legitimately.

What would not be permitted is claiming Paternity Leave and Pay from one job (his office job) while doing a new job that he was not already doing e.g. a new day job in a shop. This is because he is claiming money for leave he is not taking, as he is working, and he is claiming statutory pay whilst also getting pay from his new job.

Prior to these changes, a father or partner who worked in a new job while claiming Statutory Pay would lose access to both the week he worked for a new employer and any other week of pay he had not already had. These

changes mean he will lose pay for any week he has been working for a new employer but remains entitled to a second week of pay.

**(j) If someone takes Paternity Pay and Leave with one employer and then leaves and starts a new job, can they take the second week with the new employer?**

In respect of leave, this has to be taken with the same employer that they met the qualifying requirements with. If someone starts a new job, then they would not satisfy the 26-week continuity of service requirement with their new employer because that period needs to be completed before the birth or adoption. However, if someone were to start a new job, and their employer allowed them to be absent from work for that second week, the person could still claim Statutory Paternity Pay from the old employer.

**(k) Even if someone had a 26-week period within the year with a new employer?**

Yes, that is correct.

**(l) In cases where the child dies or the adoption is disrupted, the parent will have up to a year, rather than eight weeks, following the birth or placement to take their leave. What is the justification for that? Why not keep the eight-week period in those circumstances?**

That is a high-level point and the intention is for a uniform approach. The proposal distinguishes between leave and pay that has and has not been notified. In cases where a baby dies or an adoption is disrupted, where a father or partner has given notice of leave and pay dates before the child's death, he can continue to take this leave. This applies to any period of leave and pay within the 52 weeks. Where a father or partner has not given notice of leave and pay dates before the child's death or the disruption of the adoption, he must book and take the leave within eight weeks of the death.

This aligns with the approach to Adoption Leave and Pay, where leave and pay continues for eight weeks following a disrupted adoption.

**(m) The Department consulted with the Federation of Small Businesses regarding the impact on Small and medium-sized enterprises, what was their response? Are they going to come back to the Department following assessment?**

Many representatives from different businesses responded to the consultation, and more recently attended a workshop so that the Department could ensure that the changes were fully understood. There are no plans for them to come back following assessment.

**(n) Will the Department be publishing a full Equality Impact Assessment? What other information will be included which has not been shared with the Committee?**

The Department has produced an Impact Assessment to be published with the regulations which includes a full Equality Analysis.

**(o) The Committee would normally see the full assessment to see if all protected characteristics have been considered.**

The headline is that if someone qualifies for statutory Paternity Pay and Leave now, they should qualify after these proposed changes. There are patterns of uptake which is set out in more detail in the Impact Assessment, for example, people tend to have children when they are older. The Department can share the detail with the Committee.<sup>11</sup>

3.8 The Chair thanked officials for attending and answering the Committee's questions. He asked that the information which had been promised during discussion be provided to the Committee at the earliest opportunity. Following a period of private discussion, the Committee decided that it would not take the regulations on formal reference and that they may proceed.<sup>12</sup>

#### **4 & 5 Private Sessions**

*[RESERVED ITEMS]*

#### ***Date of next meeting***

The next meeting is scheduled to take place on 6 December 2023.

## **Annex A**

### **Attendees**

#### ***Guests and Officials***

*Item 2:* Victoria Hogan (Deputy Director, Employment Policy)  
Helen Froggatt (G6, Employment Policy)  
Ashley Larder (G7, Employment Policy)  
Andrew Fearnley (HEO, Employment Policy)  
Francesca Galli (HEO, Employment Policy)  
Melina Ngombo, (Legal Group)  
Philip Thomas (G7, Labour Market Analysis)  
Lucy Allen, (G7 Labour Market Analysis)

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<sup>11</sup> A response has been received from the Department for Business and Trade and can be found at Annex C.

<sup>12</sup> The Committee was not quorate at the point this decision was made, therefore action was taken in accordance with its formal Rules of Procedure which states: (4) Where - (a) the Secretary of State gives notice of a proposal to make regulations under any of the relevant enactments; and (b) it appears to the Chair that the proposal - (i) requires urgent consideration of the Committee, and (ii) need not be formally referred to the Committee, the Chair or, in his absence, the Vice Chair, may agree on behalf of the Committee, after consultation with at least three other members of the Committee, that the proposal need not be formally referred to the Committee.

Jacob MacDonald (G6, Labour Market Analysis)

Item 3: Jayne McCann (SCS, Department of Business and Trade)  
Rosie Edmonds (Department of Business and Trade)  
Erin Fair (Department of Business and Trade)  
Melanie Thomas (Lawyer)

Secretariat: Denise Whitehead (Committee Secretary)  
Dale Cullum (Assistant Secretary)  
Gabriel Ferros (Analyst)  
Anna Woods (Assistant Secretary)

**The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2024**

***Further information provided to the Social Security Advisory Committee by the Department after the meeting***

- (a) **The social contract policy seems to be more for younger people. Is there a sense that younger people should work more hours for the same amount of money that an older person could earn working less hours?**

The Department recognises that where a claimant is not entitled to the NLW because of their age, they will have to work longer hours to attain the AET than someone entitled to NLW if that younger worker is paid at the relevant NMW for their age group. This is only the case where a younger worker is paid at NMW; some younger workers may be paid at a higher rate. UC is based on the amount a claimant earns rather than the number of hours worked.

- (b) **What has been done since the increase in the AET from nine hours to 15 hours? There is administrative data and so what is preventing the Department from gathering more recent evidence?**

The Department had two years when the AET was not changed, between the ending of the IWP RCT and the first Covid lockdown. With 4 months between the first two changes in the AET (September 2022 and January 2023) the numbers flowing onto UC either side of the higher AET (equivalent of 12 hours/week) are insufficient to study the impact of the first change. The Department has 10 months to observe the second change in the AET (January 2023). Whilst this is insufficient time to build up a sufficiently large sample to replicate the original further evidence approach, the Department will continue to explore opportunities to make an early assessment of the labour market impacts.

- (c) **Is there any data available in an aggregate form around health conditions, where the WCA is not appropriate, and barriers to work versus no barriers?**

There is not any data available in an aggregate form where the WCA is not appropriate. The Department is exploring ways to fill this gap through data science methods and specialised staff have been recruited for this purpose.



## The Statutory Paternity Pay (Amendment) Regulations 2024

### *Further information provided to the Social Security Advisory Committee by the Department of Business and Trade after the meeting*

#### (a) Why are younger parents less likely to take Paternity Leave?

The policy is targeted at fathers who are currently in work. Data on the characteristics of eligible fathers reveals that they are more likely to fall into the 25-45 age categories. Thus, the policy will more likely help employed fathers in these age groups. Table 14 below shows how the likelihood of being eligible for the policy increases with age.

The very young and the elderly are less likely to be fathers or partners of newborn or newly adopted children and are therefore less likely to take Paternity Leave. The Paternity Rights Survey shows that overall, 74% of eligible employee fathers and partners took Paternity Leave. Take-up varies slightly by age with 76% of those aged under 30 taking Paternity Leave, 70% of those aged 30-34, 83% of those 35-39 and 81% of those aged 40 or over. Most fathers who took Paternity Leave were older fathers between 35-39 (83%) so this group is more likely to benefit. Of fathers that took Paternity Leave, 22% did not take their full entitlement, internal analysis shows there was little variation by age with take-up at 22% of those aged 25-34 and at 18% of those aged 35 or more.

**Table 14: Age Distribution** - This data is based on the Office for National Statistics Live births, 2021, by parents' characteristics data for England and Wales<sup>13</sup>

Age of fathers	Number of fathers	Percentage of fathers
Under 20	5,600	0.9%
20-24	44,000	6.9%
25-29	124,900	19.7%
30-34	208,800	32.9%
35-39	154,500	24.3%
40-44	66,000	10.4%
45-49	21,100	3.3%
50-54	7,000	1.1%
55-59	2,200	0.4%
60-64	700	0.1%

<sup>13</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/datasets/birthsbyparentscharacteristics> and Scotland Live Births, <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/births/births-time-series-data>.

65 and over	200	0.0%
<b>Total</b>	<b>635,100</b>	
<i>Unknown age (birth had sole registration)</i>	<i>30,900</i>	-

**(b) Is there any data on same sex couples?**

The Parental Rights Survey 2019 captures information on partners' gender identity but there are too few cases of same-sex couples to report this information. All eligible fathers and partners will benefit from the legislation.

**(c) Thank you for noting that Northern Ireland colleagues were consulted who have indicated that they plan to replicate the changes. If someone moves from Northern Ireland to Great Britain and changes employer, can they qualify for Statutory Paternity Pay and Leave?**

It was mentioned during the meeting that the position on this is not straightforward. The response given at the meeting may not have been full enough to be entirely clear and so to clarify, the provisions which relate to prior employment in an EEA state are not relevant to employment in Northern Ireland. The Department thought it would be helpful to set out the position in full.

The position can be summarised as follows:

1. Employment law is devolved to Northern Ireland but reserved in relation to Scotland and Wales. Therefore, these regulations apply only to 'GB law' (i.e. the legal systems of England and Wales, and Scotland).
2. To claim Paternity Leave in GB (Great Britain) law, a person (P) must be employed in Great Britain at the point at which P wants to exercise the right to leave. There is a significant body of case law on the question of when someone is to be regarded as employed in Great Britain; to qualify, the individual's employment must have a sufficient degree of connection with Great Britain; whether or not it does will depend on the specific circumstances in each individual case.
3. To claim Statutory Paternity Pay, P must have been employed in Great Britain for 26 weeks leading up to the 'relevant week' when eligibility is tested (in birth cases, this is the end of the 15<sup>th</sup> week before the expected week of childbirth; in adoption cases it is the week when the adopter is told they have been matched with a child for adoption). P must also remain employed by that employer until the date of the child's birth or placement for adoption.
4. As with Paternity Leave, whether or not someone is employed 'in GB' over that 26-week period will, in the first instance, also require the application of the principles in the case law to the facts of each individual case.

5. However, the enabling legislation also gives the Secretary of State powers to make specific provision for groups of people in this regard. Those powers have in the past been exercised to implement EU/EEA obligations in relation to cross border social security provision but those are not relevant to this scenario. They have also been exercised to bring into scope those employees who work abroad, for an employer who is responsible for paying Class 1 National Insurance Contributions (NICs) for them.
6. Therefore, in the scenario put forward, an employee who had completed 26 weeks of continuous service in Northern Ireland and then moved to Great Britain, and continued to work for the same employer up to the point at which the child is born/placed, would qualify for Statutory Paternity Pay under GB law if they were employed during that period, or for part of that period, in Northern Ireland by an employer who was paying Class 1 NICs in respect of them.
7. The Department is not able to advise on the position in Northern Ireland law, but in general terms, Northern Ireland law tends to mirror GB law in the area of family statutory pay entitlements, and it is likely that the position would be the same. Guidance published by the Northern Ireland government suggests that this is the case – see [here](#). HMRC guidance on the position in GB law can be found [here](#).

**(d) The Committee would normally see the full assessment to see if all protected characteristics have been considered.**

During the meeting, the Department offered to provide the Committee with the equality impact assessment sharing detail on uptake of current and proposed measures by fathers and partners with different protected characteristics. Unfortunately, it will not be possible to share this information with the Committee at this time because it has not yet been published. However, this information is based on data such as the Parental Rights Survey 2019 and national births data, set out above, which has been published and the Committee can refer to. The Department will share the Impact Assessment with the Committee when it has been published.

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The position can be summarised as follows:

8. Employment law is devolved to Northern Ireland but reserved in relation to Scotland and Wales. Therefore, these regulations apply only to 'GB law' (i.e. the legal systems of England and Wales, and Scotland).
9. To claim Paternity Leave in GB (Great Britain) law, a person (P) must be employed in Great Britain at the point at which P wants to exercise the right to leave. There is a significant body of case law on the question of when someone is to be regarded as employed in Great Britain; to qualify, the individual's employment must have a sufficient degree of connection with Great Britain; whether or not it does will depend on the specific circumstances in each individual case.
10. To claim Statutory Paternity Pay, P must have been employed in Great Britain for 26 weeks leading up to the 'relevant week' when eligibility is tested (in birth cases, this is the end of the 15<sup>th</sup> week before the expected week of childbirth; in adoption cases it is the week when the adopter is told they have been matched with a child for adoption). P must also remain employed by that employer until the date of the child's birth or placement for adoption.
11. As with Paternity Leave, whether or not someone is employed 'in GB' over that 26-week period will, in the first instance, also require the application of the principles in the case law to the facts of each individual case.
12. However, the enabling legislation also gives the Secretary of State powers to make specific provision for groups of people in this regard. Those powers have in the past been exercised to implement EU/EEA obligations in relation to cross border social security provision but those are not relevant to this scenario. They have also been exercised to bring into scope those employees who work abroad, for an employer who is

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