

**DEPARTMENT FOR BUSINESS  
ENTERPRISE & REGULATORY REFORM**

**WORK AND FAMILIES**

Additional Paternity Leave and  
Pay Administration  
Consultation – Summary  
of Responses

October 2007

## **WORK & FAMILIES**

### **Additional Paternity Leave and Pay Administration Consultation Summary of Responses**

**September 2007**

1. Additional Paternity Leave and Pay (APL&P) will entitle employed fathers to a new right of up to 26 weeks' Additional Paternity Leave, some of which could be paid, if the mother returns to work. The Work and Families Act 2006 took powers to enable this new provision. On 14 May 2007 the Government published its consultation seeking views on the detail of the administration of Additional Paternity Leave and Pay. This consultation closed on 3 August 2007.
2. The consultation received 81 responses in total (see Annex A for a list of respondents) from across a wide range of organisations and individuals including businesses (27.2%), employer/trade organisations and associations (20.9%), unions (9.8%) and individuals (12.3%).
3. Respondent's main concerns centred round ensuring that the administration of APL&P took a balanced approach whereby employers would feel confident in administering the scheme and employees would readily understand their entitlements, and their responsibilities.

*"We endorse the commitment to keeping the administration as simple and straightforward as possible. In our view the process put forward in this consultation is a significant improvement on the original and we are pleased that some of our concerns have been addressed. Self-certification is simple, least burdensome to employers and minimises the risk of the father's rights being jeopardised by a failure of one employer to pass information to the other by the due date."*

#### **Equal Opportunities Commission**

*"We believe this is the most straightforward approach, but we would also wish to see clear guidance to parents on their entitlements and responsibilities."*

#### **Prospect**

*"Looking at all three options the self certification option seems the most practical."*

#### **PricewaterhouseCoopers**

*"We see no practical problems with this process."*

#### **Comet Group Plc**

*“The process is still complicated, particularly in relation to eligibility criteria and notice periods. Mothers, fathers and employers will require clear and timely advice and guidance to ensure that procedures are correctly followed.”*

**PCS**

*“The process is still complicated and mothers, fathers and employers will need clear guidance if they are to understand the different eligibility criteria, various notice periods, and the importance of co-ordinating notification and start and end dates between both parents.”*

**TUC**

*“The FSB is concerned that it will be impossible for an employer to be completely certain on the accuracy of any information provided by the employee which relates to his entitlement to APL.”*

**Federation of Small Businesses**

*“We acknowledge the benefits of a simple approach that does not unduly burden employers. We also acknowledge the possibility of fraud in the self-certification process.”*

**Travers Smith**

## **Notice Periods**

1. The consultation asked whether there should be a notice period for an employer to confirm an employee's entitlement to Additional Paternity Leave, and if so, would 28 days be a reasonable period for both the employer and the employee?

This did not prove to be a contentious issue amongst respondents. 85% agreed that there should be a notice period and none disagreed. 28 days, which is already the timeframe in which employers have to confirm an entitlement to maternity leave, was considered to be a reasonable period by 77.5% of respondents, whilst 6.25% thought that it should be between 10 days and 6 weeks.

*"We feel that 28 days is a reasonable period and that this should be the absolute maximum time allowed for employers to respond."*

### **Comet Group PLC**

*"Yes. This mirrors the notice period for confirmation of a woman's entitlement to maternity leave and pay, so there is a clear advantage in having the same arrangements for APL&P."*

### **TUC**

*"Yes, the NUT agrees that there should be a notice period for an employer to advise an employee of his or her entitlement to Additional Paternity Leave and Pay. The NUT considers 28 days to be the maximum period for an employer to confirm or refute an employee's entitlement"*

### **NUT**

*"The FSB agree that it is reasonable for the employer to have a time frame to confirm the employee's entitlement to Additional Paternity Leave and Pay. The FSB agree that 28 days would be an appropriate period of notice."*

### **Federation of Small Businesses**

*"Yes - there should be a notice period in which employer's should be required to confirm an employee's entitlement to APL and ASPP. A 28 day period of confirmation appears reasonable, and has the support of some of our employer members."*

### **Working Families**

*"6 weeks would be more appropriate time to allow for administration in a large organisation."*

### **Pricewaterhouse Coopers**

## Forms

2. The consultation asked whether a new form for employees applying for APL&P should be developed or whether amending HMRC's existing SC3 would be sufficient. It also asked whether it should be a mandatory requirement for employees to use this form.

62.5% of respondents believed that amending the existing SC3 form would suffice against 18.75% who thought that there should be a new form. 68.75% said that the completion of a form should be mandatory and 11.25% thought that it should not.

*“The existing form should be amended as administrators are already familiar with the form and its purpose. Including APL and ASPP on the one form will help raise awareness of additional entitlements.”*

### **Leeds City Council**

*“Provided all the correct information is supplied by the father, a different format should be acceptable e.g. application could be in the form of a letter. We fear that a mandatory requirement may lead to some fathers losing their entitlement where they have failed to use the correct form. Failure to fill in the correct form should not, on its own, constitute grounds for refusing APL and pay when other eligible criteria are met.”*

### **Equal Opportunities Commission**

*“We would not want to see any employer refusing leave or pay on the grounds that a form had not been correctly completed. However, the complexity of APL and the need for all the information to be in place does mean that every encouragement should be given to providing the information on the specified form.”*

### **Working Families**

*“UNISON would be happy to extend the remit of the existing SC3 form relating to Paternity Leave rather than complicate the administration with a choice of forms for the different aspects of leave. However, if the mother and father have submitted all the required information in time in different form then no penalty should apply as long as the form is completed as soon as practically possible.”*

### **UNISON**

## **Employer checklist**

At the suggestion of employer representative groups, HMRC have developed a draft employer checklist to help the father's employer make the correct decisions on his eligibility, timing and the amounts of Additional Statutory Paternity Pay that should be paid to him. This checklist would also enable employers to show that they have carried out the required checks before agreeing to a request for APL&P.

3. The consultation asked whether there was any additional information that should be included in the checklist and whether its completion should be made mandatory.

There were few suggestions about what else could be included on the checklist and a mixed response over whether the completion of the checklist should be mandatory. Whilst all stakeholders agreed that it was a useful tool for administering APL&P effectively, employers in particular were reluctant to be compelled to use a specific form, particularly when many larger organisations would have their own versions.

*“We do not think that completion of the employer checklist should be mandatory – it would provide useful information and evidence but it should be the choice of the individual employer whether or not to use the form.”*

### **Comet Group PLC**

*“Checklist should not be mandatory – employers should be allowed to use other means to demonstrate payments made in good faith.”*

### **Association of Licensed Multiple Retailers**

*“All the information required should be included in the SC3 or an alternative. A mandatory requirement to complete a checklist will result in further administration for employers which is unnecessary.”*

### **John Lewis PLC**

*“A mandatory requirement to complete the checklist will ensure proper checks are carried out by the employer and will minimise the risk of mistakes being made.”*

### **PCS**

*“The FSB would recommend such a check list which could protect the employer against any future repercussions in the event of fraud or a late change of plan from either parent. However, as with question 5, the FSB would recommend that this list is strongly advised as good practice and is not mandatory.”*

### **Federation of Small Businesses**

## Change of plans

4. The consultation asked for views on how much notice should the regulations require the father to give his employer of any change of plans before beginning their Additional Paternity Leave / Additional Statutory Paternity Pay?

A number of responses from employers indicated that they would like as long a notice period as possible in order to plan for absences. In asking this question, Government had considered that 8 weeks – effectively mirroring the notice period that a mother is required to give her employer if she wants to return to work early – would allow the father too little time to inform his employer of any change in plans, because in many cases this will have been caused by the mother changing her return dates.

5. Finally, the consultation asked whether people agreed with the proposal to allow employers, where a late change of circumstances cannot reasonably be accommodated, to oblige a father to take his Additional Paternity Leave and Pay (or unpaid leave if he is no longer entitled to Additional Paternity Leave and Pay) at the previously agreed times, if the employee provides insufficient notice of a change of plan?

The majority of responses that were received were in favour of employers being allowed to insist on employees taking their APL&P where a late change of circumstances could not reasonably be accommodated. However, all respondents agreed that if included in the regulations, that this power should be used judiciously and only in exceptional circumstances, and that guidance should be clear on the need for employers being flexible.

*“The NASUWT believes that the guidance should make it clear that employers should be as flexible as possible when dealing with late changes of circumstances and take into account the individual circumstances and the reason for the late notice.”*

**NASUWT**

*“Yes - employer should have power to turn down request if change cannot reasonably be accommodated (i.e. hired a replacement to cover absence).”*

**British Chamber of Commerce**

*“Yes - Employer should have power to enforce, but only where it can be shown that it is unreasonable for the employer to withstand the consequence of the change.”*

**Local Government Employers**

*“GMB does not agree with the proposal to penalise a father by forcing him to take either unpaid leave or access his Additional Paternity Leave early, particularly if the change is beyond his control.”*

**GMB**

## Annex A

### Alphabetical list of respondents who did not request confidentiality

Arthur Diamond Design
Association of Convenience Stores
Association of Licensed Multiple Retailers
Association of Women Solicitors
B&Q
Barnsley Metropolitan Borough Council
Baume, Julian
BP International UK
British Chamber of Commerce
British Retail Consortium
British Security Industry Association
CBI
Centrica Plc
Chartered Institute of Personnel and Development
Claydon, Sara-Jane
Comet Group Plc
Dacorum Borough Council
East Cheshire NHS Trust
EEF
Employment Lawyers' Association
Equal Opportunities Commission
Eversheds LLP
Federation of Small Businesses
Forum of Private Business
GlaxoSmithKline Services Unlimited
GMB
Greater Manchester Chamber of Commerce
Greater Manchester Pay and Employment Rights Advice Service
Hertfordshire County Council
Holliday, Vanessa
Institute of Directors
Institute of Payroll Professionals
Jaguar Cars Ltd (confidential)
Jenkins, Sarah
John Lewis PLC
John Stamford and Associates
Land Rover (confidential)
Laurel Pub Company (confidential)
Leeds City Council

Liverpool John Moores University
Local Government Employers
London Borough of Camden
Maclay Murray & Spens LLP
Managing Maternity Ltd
Marsh, Fiona
Methodist Church
NASUWT
National Specialist Contractors Council
National Union of Teachers
NHS Employers
North West Local Authorities' Employers' Organisation
Nottinghamshire County Council
Open University
PCS
PricewaterhouseCoopers
Prime, Candy
Prospect
Relfe-Arnold, Jackie
Renfrewshire Council
Rochdale Council
Royal & Sun Alliance Insurance PLC
Royal Bank of Scotland Mentor Services
Royal Mail Group
South Staffordshire & Shropshire Healthcare NHS Foundation Trust
Stain, Ian
Stockport Council
Surrey County Council
Tesco Stores Limited
The Law Society
The Newspaper Society
Travers Smith
TUC
UNISON
Unite Amicus
Universities & Colleges Employers Association
USDAW
Virgin Atlantic Airways Ltd (confidential)
Whitbread Group PLC
Wilder, Paul
Wilson, John
Working Families

