



# IoD response to BIS consultation on the *Administration of Shared Parental Leave and Pay*

The Institute of Directors (IoD) welcomes the opportunity to respond to the consultation document on the administration of shared parental leave and pay published by the Department for Business, Innovation & Skills in February 2013.

## **About the IoD**

The IoD was founded in 1903 and obtained a Royal Charter in 1906. It is an independent, non-party political organisation of approximately 35,000 individual members. Its aim is to serve, support, represent and set standards for directors to enable them to fulfil their leadership responsibilities in creating wealth for the benefit of business and society as a whole. The membership is drawn from right across the business spectrum. 80% of FTSE 100 companies and 60% of FTSE 350 companies have IoD members on their boards, but the majority of members, some 72%, comprise directors of small and medium-sized enterprises (SMEs), ranging from long-established businesses to start-up companies. IoD members' organisations are entrepreneurial and resolutely growth orientated. More than two-fifths export. They are at the forefront of flexible working practices and are fully committed to the skills agenda.

Our responses to the questions in the consultation document are set out below.

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

We cannot offer evidence from IoD members about any difficulties caused by the different notice periods, but we agree with the proposal.

### **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.**

Yes, we agree with the proposal to align notice periods. This seems a sensible reform which will simplify the law for both employers and employees. There does not seem to be any purpose served in having two different notice periods, and the common sense approach would be for employees to notify their employer in relation to leave and pay at the same time.

### **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?**

We accept that mothers should be able, for a limited period of time, to change their mind about ending maternity leave early if the original decision was taken before the birth. The consultation document recognises that the possibility of changing leave plans will create uncertainty for

employers, and the longer the period the longer that uncertainty will last. We therefore support limiting the period to 4 weeks after the birth. If we understand it correctly, this could give rise to a situation where the mother had planned to return to work quite soon after the birth (eg after 4 weeks), and then deciding not to do so with only very short notice, and potentially almost no notice, to her employer. The employer may therefore have to make arrangements for cover at very short notice. This is a further reason for limiting the period during which she can change her mind to 4 weeks after the birth.

**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.**

The draft form at Annex D only requires the employees to state what is the maximum shared parental leave each parent is entitled to. If we have understood it correctly, each parent will be entitled to the same maximum amount. The draft form does not require parents to state what leave they are actually requesting, including any pattern of leave they would like (subject to the employer's right to require the leave to be taken in one continuous block). We assume this is aimed at keeping the form as simple as possible, with the employee informing their employer what leave and pattern they would like during the subsequent discussion/negotiation between employer and employee. However, we think it would be better to include this additional information on the form, so that the employer has longer to consider it and decide how to respond.

**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)**

We do not support this proposal. One of the key elements of the proposals on shared parental leave is the fact that employers can refuse to accommodate requests to take leave in separate blocks. The default will be for the leave to be taken in a single continuous block. However, the proposal to allow requests for further leave as you go along, subject only to giving 8 weeks' notice, undermines that element of the proposals. It would allow an employee to make new requests for further blocks of leave which could not be refused by the employer, and this would make planning for cover during the intermittent periods of leave administratively burdensome and potentially costly. We are surprised the Government is proposing to allow this, given what is said previously about allowing employers to insist on one continuous block of leave.

We would also take this opportunity to press for a longer notice period – of 3 months - for a mother to notify her employer that she will not be returning from maternity leave.

**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?**

Yes we agree with a 2 week period, though we reiterate the point above that we think the parents should state their leave plans/requests in the ShPL1 form, not wait until meeting with the employer to discuss it.

**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?**

We support option (a) in the interests of simplicity and certainty for the employer. Option (a) will mean that the employer knows from the earliest date what is the latest time their employee will be due to return to work.

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

Why limit it to 10 days? As long as both employer and employee must agree on having a KIT day we think the number should not be subject to an upper limit. This will give maximum flexibility to adopt arrangements best suited to the individual employer and employee. The consultation document does not say why there should be an upper limit. If there are good reasons for it, we would like to know what they are. If an upper limit is necessary, we would support 20 days rather than 10.

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

We support option A – the right to return to the same job applying up to the end of the first 26 weeks of continuous leave. This will be considerably simpler to administer than option B which would involve working out how much leave had been taken before being able to decide whether the employer is obliged to keep the job open. Option B could also mean the employer having to keep the job open for considerably longer (up to a year if we have understood correctly). The requirement to keep a job open to a returning employee can prevent employers – especially small firms – restructuring their business. At the very least, it creates uncertainty as to whether it is permissible to restructure. All of this adds further cost, burdens and risks to employers of parents absent on parental leave. The period during which a job must be held open should therefore be limited as per option A.

Thank you once again for inviting the Institute of Directors to participate in this consultation. We hope you find the comments useful.

Yours sincerely



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