

**DRAFT
CWU RESPONSE TO THE DTI “
WORK AND FAMILIES – CHOICE AND FLEXIBILITY –
ADDITIONAL PATERNITY LEAVE AND PAY”**

INTRODUCTION

The Communication Workers Union (CWU) is the UK’s largest communications union representing approximately 250,000 members. It was formed in January 1995 when the Union of Communication Workers (UCW) merged with the National Communications Union (NCU).

CWU members work in post, telecoms and financial services, with the majority of members employed in Royal Mail Group, BT and the Alliance and Leicester. Our members' expertise includes engineering, computing, clerical, mechanical, driving, retail, financial and manual skills.

The gender break down of CWU members is, approximately 20% are female members, who are predominantly to be found in the communications sector and, 80% are males who are predominantly to be found in the postal sector.

The CWU is pleased to take part in the consultation exercise, because as a Union, we are committed to good family friendly policies both for our members and employees and hence the improvements set out in the consultation is broadly welcomed by us. We welcome the Government’s aim of making it easier for fathers to take time off to be with and care for their children.

Having said the above, the CWU is concerned that whilst on the one hand the Government is aiming to give fathers more time with their children, the Bill fails to

adequately address these issues.

First, the CWU is not fully convinced that the Bill's new right to Additional Paternity Leave (APL) meet the needs and aspirations of working parents. The CWU's view is that the benefits to fathers are limited and this view is reinforced through research conducted by the Citizens Advice Bureau. The research shows that at least four out of ten new fathers would not benefit at all, "as the mother is not in the work at the time of birth (and so has no Statutory Maternity Leave that could be claimed by the father as APL).¹

Second, the Government propose that the earliest Additional Paternity Leave (APL) can be taken is approximately 20 weeks after the baby's birth. In our view this criterion is insufficiently inflexible as many fathers see this as a crucial time to bond with their family, and in particular the new born.

Third, we are of the opinion that working parents should be allowed to take time off together and that the time off together should not be limited to just the two weeks of (Statutory Paternity Leave). Therefore to fulfil the government's intended plan of giving parents real choice, we believe that there should be more flexibility as to when APL is available.

Fourth, parents who give birth to a disabled child are given even less choice. Not only do they have the added responsibility of caring for the onset and consequences of the disability, but there will need to be acknowledgement that the couple will need adequate support to get through what will be a very difficult time for them.

Fifth unless both parents work for the same employer or workplace, the proposal for taking additional APL could prove complex and burdensome and place unnecessary compliance challenges to employers.

The CWU is not convinced that many fathers would take up the new rights as currently proposed, and even the Government has already predicted that there will

¹ Work and Families Bill – House of Lords Second Reading Citizens Advice website 28th March 2006

be a negligible take-up rate of just one per cent.

Research carried out by the Institute for Public Policy Research (ippr) shows that only 1 in six fathers takes all two weeks leave at the statutory rate².

However, if the government is serious about giving fathers the opportunity to take an active role in bringing up their children, then any leave entitlement should be made sufficiently flexible and financially viable.

Other organisations including the Equal Opportunities Commission (EOC) acknowledge that fathers want to play a significant role in caring for their children, but policies such as the one in the proposed bill, do not fully capture that need. As a result many trade unions have little confidence in the proposals as outlined.

In comparison to other issues, research carried out by the EOC show that a larger proportion of men (around 62%) were concerned about spending enough time with their families in contrast to other issues such as the quality of their local health services (58%) or the safety of their local area (52%).

The EOC research also showed that nearly 7 out of 10 (69%) women and men agreed or agreed strongly that women's and men's lives are becoming more alike in terms of their needs to balance work and family life. The survey also found that over half of men aged between 35-44 though it was harder today for men than 30 years ago.³

Giving mothers and fathers the choice to share paid leave is popular with a majority of both women and men. Almost 4 out of 10 women (39%) and just over a third of men (34%) strongly agreed that parents should have the choice.

WHO IS ELIGIBLE FOR ADDITIONAL PATERNITY LEAVE AND PAY?

² Thompson et al 2005

³ *ibid*

- 2.1 The CWU is pleased to read that “....employed earners than employees, such as **agency workers**⁴ and office holders, may be eligible for Additional Statutory Paternity Pay.....”
- 2.2 The CWU is also pleased to read of the Government’s intention to simplify the terminology and eligibility criteria so that these are in line with other legislation on family friendly policies.

LENGTH OF SERVICE WITH EMPLOYER (QUALIFICATION FOR ADDITIONAL PATERNITY LEAVE AND ADDITIONAL STATUTORY PATERNITY PAY).

- 2.3 The CWU have stated its views already on the previous consultation that it is not in favour of Additional Paternity Leave in the form it is being suggested currently as we believe it is an attack on existing maternity rights that women have already. Additional Paternity Leave should mean that the father can take additional paternity leave but not at the expense of the mother’s maternity leave. In view of this we do not believe it is appropriate to put a view a down as to qualifying periods as this is inconsistent with the CWU policy in this area.

WHAT ADDITIONAL PATERNITY LEAVE AND ADDITIONAL STATUTORY PATERNITY PAY CAN BE TAKEN

Question: Do you think that setting the earliest point at which Additional Paternity Leave and Pay can be taken at 20 weeks from the date of birth of the child or in the case of adoption, 20 weeks from the date on which the child was placed for adoption is the most appropriate way of reserving the period after the child’s birth for the mother?

- 3.1 Current Ordinary Paternity Leave and Ordinary Statutory Paternity Pay must be taken consecutively within eight weeks of the date of birth of the child, however the proposal to extend Additional Paternity Leave and Pay will be

⁴ emphasis ours

- 3.2 The CWU would once again like to reiterate some of its concerns with the outlined proposals. In order for many fathers or partners to receive Additional Statutory Paternity Pay, the mother or adopter must be entitled to Maternity Allowance, Statutory Maternity Pay or Statutory Adoption Pay and must have returned to work. There is however, sufficient evidence to suggest that many fathers would not benefit from the proposals, because the very mothers who should have those entitlements as outlined above are not in work to accrue those benefits.
- 3.3 Second, APL could not be taken in the first 5-6 months after the child's birth, but it is particular at this time that many new fathers want or need to spend more time at home with their family.⁵
- 3.4 Third, a large number of working parents would like to take time off together over a longer period than the statutory two weeks, but the proposals as outlined do not allow for that.
- 3.5 Fourth, if compliance with the new rules are not handled carefully, the process could become complex and burdensome and thus another reason for some employers to vociferously fight against the proposed bill.
- 3.6 Research has consistently shown⁶ that many mothers, particularly those on low income return to work before using up their full entitlement to maternity leave and the proposed bill does nothing to enhance the mothers' position.

⁵ Taken from Work and Families Bill – House of Lords Second Reading, Citizens Advice website on 23rd March 2006

⁶ TUC and EOC

- 3.7 The CWU believes that the bill contributes very little in enhancing gender equality as most men earn higher wages than do women for doing work of equal value and as a result it may not be in the financial interests of these fathers to take up APL.
- 3.8 The CWU believes it is important that the drive to bridge the inequality in the pay gap between the sexes is continued, as equal pay for work of equal value acts as a stronger incentive in allowing both parents to have an equal share in their children's lives than those the proposed bill.
- 3.9 Further, most mothers continue to bear the bulk of caring for a child. The burden is further exacerbated with the high cost of childcare.
- 3.10 The CWU therefore believes that in order to benefit families, the statutory part of the payment should be greatly increased.

GAP BETWEEN MOTHER ENDING HER ENTITLEMENT AND FATHER COMMENCING ADDITIONAL PATERNITY LEAVE AND PAY

Questions:

(a) Do you agree the rules should allow for the possibility of a gap between the end of maternity or adoption leave and the beginning of Additional Paternity Leave and Pay?

Our answers to this will be similar to that of 2.3 as it is inappropriate for is comment given our stated position on additional paternity leave.

(b) Are there any circumstances where you think a gap in (i) leave or (ii)pay should not be allowed)?

3.11 – see answer to 2.3

SITUATIONS WHERE A MOTHER DIES BEFORE THE CHILD'S FIRST BIRTHDAY

Question: Should all the situations outlined above in relation to the situation where a mother dies be included in the regulations?

3.12 This can be a particularly difficult time for all concerned and it is important there is sufficient support and sympathy is shown to families of the bereaved. The CWU would like to make clear that families should be given as much support as possible to cope with the trauma of the situation. In addition, unions and employers should be allowed to work together to come up with the best solution to this sensitive and traumatic episode.

ADDITIONAL DETAILS OF THE ADDITIONAL PATERNITY LEAVE AND PAY SCHEME.

KEEPING IN TOUCH DAYS

Question: Do you agree with the principle that the number of Keeping in Touch days for a father on Additional Paternity Leave should be the same as those for a woman taking maternity leave and pay?

4.1 The CWU welcome any move to improve communication between employers and employees, but in saying so, it is important that any communication between the parties should be clear, unambiguous, effective and easily accessible.

4.2 In keeping with equality of opportunity, the CWU⁷ would welcome similar arrangements as that offered to mothers. But, the CWU would emphasise that in so doing there is sufficient flexibility given to parents in order for them to respond to the needs of the child.

⁷ CWU has already responded separately to the consultation on maternity, adoption and flexible working

- 4.3 A balanced approach to keeping in touch, rather than a prescriptive one, is preferred by the CWU and for us, it means that unions and employers should be allowed to formulate work place policies and practices that benefits both the employer and employee.
- 4.4 The balanced approach should include a “protection system” so that where child care problems arise and this results in a delay in return to work, a parent in this position is not made even more vulnerable because of the pressure of confirmation requirement.

TERMS AND CONDITIONS WHILST ON LEAVE AND RIGHTS OF RETURN TO EMPLOYMENT FOLLOWING LEAVE

Question: Should a father taking Additional Paternity Leave and Pay be entitled to the benefit of his terms and conditions to the same extent as a mother who is on Ordinary Maternity leave, or as a mother who is on Additional Maternity Leave.

- 4.5 Yes - however we reaffirm yet again our position that whilst we agree with the principle of the question we are very opposed to the concept of a father taking a proportion of the mother’s maternity leave and it being converted to paternity leave. Not only is this an attack on the women’s maternity rights but the rate at which a father will be paid for taking up additional paternity leave is hardly an incentive to take up this ‘benefit’ as for most fathers they will effectively be taking a significant pay cut at a time when they hardly do with a drop in salaries.

RIGHT TO RETURN

Question: Should a father taking Additional Paternity Leave and Pay be entitled to the same right of return as a mother returning after Ordinary Maternity Leave, or a mother returning after Additional Maternity Leave.

4.6 Yes

ADMINISTRATION – NOTICE PERIODS

Question: Should all the information required for administration purposes be provided before the 8 week notification point:

5.1 No.

Question: Should the same sanctions apply to a father wishing to take Additional Paternity Leave and Pay as current paternity arrangements? - i.e. if the supporting evidence does not arrive on time the father's employer could refuse to pay Additional Statutory Paternity Pay and refuse to grant Additional Paternity Leave?

5.2 The whole issue needs re-examining.

Question: If a mother's employer is required to check and certify a statement completed by the mother or to provide information, should any sanctions be in place if they do not comply. If yes, what should these sanctions be?

5.3 The issue is not a straightforward one and should be taken on a case by case basis. However, it should be left to the employer and trade union to formulate guiding principles.

Question: In what format should the father's notification and the information about the mother's pay entitlement etc be presented to the father's employer?

5.4 Of the two options, the CWU prefers Option 2.

Question: How should the information be routed from the mother's employer to the father's employer in a way that recognises employers' burdens and potential for abuse?

5.5 The CWU believes this is more an issue for the Employer though we feel it would be beneficial if Employers were reminded that where recognition exists with a trade union a process should be agreed through negotiation with the

union. We would add however that the process should be as simplistic as possible as not to deter Employers from fulfilling their duty in this respect.

Question: Is there a case for it to be mandatory for a father or partner to provide evidence to his employer of the baby or child, prior to Additional Paternity Leave and Pay being taken?

5.6 This should be in keeping with the broad principle of equality legislation found elsewhere.

RESPONDING TO CHANGES

Question: What conditions should apply for fathers wanting to change their Additional Paternity Leave and Pay Dates, either in moving them backwards or forwards?

5.7 Taking into consideration our stated view on additional paternity leave, if conditions were to be applied a reasonable notice period is advised and in addition to this consideration must be duly given to circumstances which genuinely do not allow a father to give reasonable notice – all cases to be judged on their merits.

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