

17 June 2014

Mr Robin Swann  
Chairperson  
Committee for Employment and Learning  
Room 373,  
Parliament Buildings,  
Stormont,  
Belfast BT4 3XX

Dear Mr Swann

***Call for evidence on the proposed Work and Families Bill.***

On behalf of the Irish Congress of Trade Unions, (ICTU) I am pleased to respond to the Committee's request for evidence on the Work and Families Bill.

The Irish Congress of Trade Unions is the umbrella federation for trade unions in Ireland representing 250,000 members in Northern Ireland across public and private sectors.

ICTU responded to the Departmental Consultation in August 2013 on Sharing Parental Rights, Extending Flexibility at Work and this response is included for your information. In providing this submission, we have used the Departmental Response to Public Consultation document which is available on the DEL website using the following link

<http://www.delni.gov.uk/departamental-response-to-public-consultation-on-sharing-parental-rights-extending-flexibility-at-work-pdf-version.pdf>

1. In summary, we broadly supported proposals which would provide for shared parental leave and pay; better rights for parents who have children via surrogacy and adoption; time off for fathers and partners who have children via surrogacy or adoption and time off for partners to attend ante-natal or adoption appointments as well as the extension of the right to request flexible working.
2. In the document which was issued for the Sharing Parental Rights consultation, the Department stated that the government 'is committed to developing and maintaining an employment rights system that is consistent with best practice and enhances Northern Ireland's reputation and competitiveness in a global economy.'
3. We welcome this statement and have consistently urged the Department and the Northern Ireland Executive to use their devolved powers to construct

employment legislation which is progressive and which reflects international best practice rather than simply implementing UK Government proposals.

4. Alongside the NIPSA trade union, we argued that if the Executive was serious about addressing inequality in our society and creating a culture of shared parenting, that the proposals needed to go beyond what was contained in the UK proposals.

Whilst we welcome the Department's commitment to retaining a statute based procedure to govern flexible working requests, we are disappointed that in the main the new Bill does not address many of our original concerns.

5. Our response to the earlier consultation noted that:

*Shared parental leave and pay will increase choice for some parents and can result in a fairer sharing of parenting responsibilities. This could enhance gender equality, better relationships and improved child well-being. We support the leave being taken on a more flexible basis and by allowing parents to take leave at the same time.*

*However, there are a number weakness in the shared parental leave and pay scheme. It will not lead to a substantial change in the number of fathers/partners taking time off work to care for children because it lacks sufficient incentives.*

*International evidence shows that fathers are most likely to take leave that is clearly available solely to them on the basis that if they do not use it they lose it.*

*Shared entitlements are mostly used by mothers. The absence of reserved leave for fathers means they are less likely to apply. ICTU believes a reserved period of leave for fathers/partners, perhaps as an extension of the current paternity leave entitlement and in a way that does not reduce the entitlements of the mother would enhance the credibility of the scheme.*

**We are therefore disappointed that the new Bill does not introduce a reserved period of leave for fathers/partners.**

6. We are further concerned that if the new legislation does not allow for a day one right to shared parental leave and pay that this will

exclude the very low paid and those on short term contracts, a growing proportion of the workforce.

7. We have pointed out that the biggest deterrent for fathers/partners taking parental leave is because they cannot afford to do so.

To achieve significant change in parenting roles and more choice for low income families, the issue of very low pay for those taking time off to care for children needs to be addressed.

We disagree with the Department in their view that the proposed rates of pay for fathers and partners are appropriate and strongly believe that this will deter take up of shared parenting opportunities. (see original submission for expansion of views).

We note that the Department has given a commitment to 'keep the uptake of shared parental leave and pay by fathers and partners under review'.

We would ask to see a clear terms of reference for this review including a timetable and how the Department would propose to monitor uptake.

8. We pointed out, alongside other respondents, in our submission to the consultation on Sharing Parental Rights that the proposed new rights should be available as day one rights.

We believe that not only will this will ensure that no group of workers is disadvantaged but also that it will be much easier for employers to understand and administer. We are therefore extremely disappointed to learn that the Department does not propose to make paternity/parental leave a day one right.

9. We are disappointed that the Department has chosen not to make parental leave more flexible. We have pointed out that only allowing parents to take leave in one week blocks is highly inflexible and will discourage shared parenting. We would advocate a system whereby parents could take unpaid leave as both single days or in blocks of less than one week. This would facilitate parents to attend special occasions such as sports days.

10. We welcome the Department's decision to allow for up to 20 Keep in Touch days.

11. We understand that the Department is not proposing to allow parents to nominate another individual as a person with whom parental leave could be shared.

We are extremely disappointed that one of the reasons for not doing so has been given as 'such an approach would represent a substantial departure from the system proposed and would remove the benefits of consistency across the UK'.

We disagree with this and would again point out to the Committee that the NI Executive has an opportunity with this piece of employment legislation to reduce inequalities. Facilitating this would particularly benefit lone parents who may wish to share their entitlement with the child's grandparent for example.

12. We welcome the commitment to establish rights for partners to attend antenatal and pre adoption appointments.

However we are again disappointed that paid leave will not accompany these rights. We would draw to the Committee's attention the impact on those in low paid employment of having to take unpaid leave for these important appointments.

If, as the Department states, this right is to 'encourage shared parenting from as early a stage as possible', we would argue that this is going to be made much more likely if the leave is paid. The restriction to two appointments is, in our view inadequate and we would suggest that the right to time off should be for a reasonable period of time. This right should also apply to agency workers as a day one right.

### **Right to request Flexible working.**

13. We welcome the Department's decision to retain the statutory process governing the right to request flexible working.

14. However we remain concerned that the Bill does not propose to remove the 26 weeks continuous service eligibility rule for those who wish to request flexible working.

We advocated that the right to request flexible working should be a day one right. Having the 26 week qualifying period will exclude many parents and carers, particularly lone parents, who find themselves in precarious employment of limited duration including zero hours contracts.

We are concerned about the equality impact of this proposal believing that it may have a disproportionate negative impact on women.

In summary, to increase take up of shared parental leave, ICTU believes that legislation should provide for:

- A reserved period of leave for fathers and partners;
- Eligibility for shared parental leave and paternity leave as a day one right;
- Improvements in the low flat rate of pay;
- Making the take up of leave more flexible by allowing parents to take single days and blocks of less than one week;
- Giving fathers/partners a right to take reasonable paid time off to attend all ante natal appointments and for this to apply as a day one right;
- Allowing parents to nominate someone other than their partner with whom to share parental leave.
- Right of return to the same job regardless of the length or periods of leave taken to care for a child.

In addition, the right to request flexible working should:

- Apply as a day one right

We remain available for expansion of our views.

Yours sincerely

Clare Moore  
Irish Congress of Trade Unions.