



Northern Ireland  
Assembly

Committee for Employment and Learning

# OFFICIAL REPORT (Hansard)

Parental Leave Consultation:  
Departmental Briefing

25 September 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Employment and Learning

### Parental Leave Consultation: Departmental Briefing

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**Members present for all or part of the proceedings:**

Mr Thomas Buchanan (Deputy Chairperson)

Mr Sammy Douglas

Mr Phil Flanagan

Mr David Hilditch

Mr Fra McCann

Ms Bronwyn McGahan

Mr Pat Ramsey

**Witnesses:**

Mr Tom Evans

Department for Employment and Learning

**The Deputy Chairperson:** I welcome Mr Tom Evans, deputy director of the European and employment relations division, and Dr Alan Scott, from the employment relations policy and legislation branch. Tom and Alan are here to give us a briefing on the summary of responses to the parental leave consultation. You will find that on page 52 of your tablets.

**Mr Tom Evans (Department for Employment and Learning):** I propose to highlight the key issues coming out of the consultation responses. We are at a fairly early stage, but we have done a preliminary review. We have not gone to the Minister yet with that, but that is the purpose of today. We were with you on 1 May when we briefed you on the content of the consultation document, which was launched on 6 June. The consultation closed on 23 August, and we had 32 responses. A breakdown of those responses is in your papers. The shared parental leave proposals are in the briefing paper. In essence, the consensus from the responses of stakeholders is that they are positively disposed towards the main proposals set out in the consultation document. It is a fairly complex policy area, and I thought that it might be worthwhile to set out what the shared parental proposals would mean for working parents.

Mothers and primary adopters would retain their existing entitlement, which is 52 weeks' maternity/adoption leave and 39 weeks' statutory pay. Fathers and secondary adopters would retain their right of up to two weeks' paid parental leave. The current additional paternity leave and pay arrangements would then be replaced by the shared parental leave and pay proposals. It would mean that once the mother or the primary adopter ends their paid maternity/adoption leave, the balance of the 52 weeks' leave and the 39 weeks' pay would become available to both parents. As I said, there was a positive response to that from all the responses that we received. Parents can take that leave separately or together. Fathers would have a right to unpaid leave to attend two antenatal appointments, and a primary adopter would be entitled to paid time to attend up to five pre-adoption appointments. The secondary adopter would also have an entitlement to unpaid leave for up to two

pre-adoption appointments. The unpaid parental leave would extend to all parents with children up to the age of 18. Again, there was support for those proposals through the consultation.

The consultation also asked a series of questions on the more detailed implementation of the shared parental leave proposals, which generated a range of views, and those are the ones that I am going to pick up on now. The first issue is whether there should be a harmonisation of the current differing notice periods for paternity leave and paternity pay. The consensus was that it is appropriate to rationalise the existing notice periods associated with paternity leave and pay. I think that is to bring some simplicity and clarity to the process and to make it more manageable for parents and employers.

Moving on, another issue is whether a mother should have a four- or six-week grace period after the birth of a child to revoke the notice that she has given to her employer about the way in which the maternity leave and shared parental leave proposals would be taken. There was no strong feeling on the period that the mother should have after the child is born to change a decision about the leave, so there was a fairly bland response to that. It was probably accepted that that was a reasonable thing to do.

Moving on, the next issue relates to the kinds of information that should be provided by an employee to the employer as part of the notification process for shared parental leave and pay arrangements and whether that was appropriate. There were some suggestions that what was proposed was reasonable, but there may be a need to require additional information as part of the notification process. We will consider those in advance of going to the Minister.

The next issue was whether parents should be able to notify employers of their intention to share leave on an ongoing basis, providing that they give eight weeks' notice, rather than have to set out all of their leave plans at the start of the process. I think that the thinking behind that is that, sometimes following the birth of the child or the adoption, the situation changes, and there needs to be flexibility. Again, views were expressed that the negotiation and notice periods should be as long as possible to facilitate employers in business planning and decision-making. We are going to look at that to ensure that any new arrangements that are in place do not create additional burdens or complexities for employers and the parents.

The next issue was whether parents should be required to use their entitlement to shared parental leave by 52 weeks from the start of maternity leave or by 52 weeks from the birth. The majority view is that the shared parental leave should be used within 52 weeks of the start of the maternity leave, rather than 52 weeks from the birth. That was a majority view, and we will consider that.

The next issue was whether it is appropriate to provide for keeping-in-touch days during the shared parental leave proposal. Again, there was general support for that. It is about helping the parent, particularly the mother, who is returning to work to reintegrate and to become comfortable back in the workplace, as quickly as possible.

The final issue was on an employee's right to return to the same job after a single continuous block of 26 weeks or after an aggregated leave of up to 26 weeks, which could be taken in separate blocks. There is no consensus on whether the right to return should be on a 26-week continuous leave block or the alternative, which would be the aggregation of leave. Again, we will consider that and go to the Minister on the issue.

The second dimension of the consultation was on flexible working. It is clear from the consultation responses that there is strong support for extending the right to cover all employees. Currently, it is available to most parents and carers of adults, but there is support to extend it. However, there was little support for the separate question of whether the current statutory process should be replaced by a code of practice and guidance. That is the approach that has been adopted in Great Britain, which is moving forward at a quicker rate, but stakeholders were quite clear that we should keep it on a statutory footing.

Today's briefing is very much a preliminary view of what the consultations are, and the Minister wanted to share that with you. The Minister has not signed off the proposals. We have not gone to discuss the consultation responses with him at this stage, but he wanted the Committee to have the opportunity to hear about them and to raise some questions. As you will be aware, GB is moving forward at quite a pace on shared parental leave proposals. Coming out of the consultation responses, there is an energy that we should mirror the broad proposals. At one stage, there was an option that if the Minister and the Executive agreed to that, we might be able to move forward on a UK-wide basis, in which case the Minister would seek approval for the legislation through a legislative

consent motion. However, the Department for Business, Innovation and Skills is moving forward at a much quicker pace, and the parliamentary process will be completed before we will have the chance to complete all of the necessary processes. The Minister, therefore, is minded to advance any changes through primary legislation, because it will need primary legislation. I suppose that the positive of that is that it allows for further robust scrutiny of the whole policy proposals, and it will allow for the Committee to look at that in more detail through the Committee Stage. If that happens, I am sure the Committee will want to have us back to take it through the fine detail.

As I said, the Minister is keen to introduce the Bill early in the new year, to give time for full consideration. That is my formal presentation. We are happy to pick up on questions.

**The Deputy Chairperson:** Thank you, Tom, for your presentation. You talk about 32 responses. Overall, they are fairly favourable and positive to this. One of my concerns is the impact that this could have on small businesses and the financial burden that it could put on them. You referred to small businesses perhaps being protected. Will you elaborate on that a little bit? Will small businesses be protected in any way so that this will not put an extra financial burden on them?

**Mr Evans:** We did a regulatory impact assessment and found that the actual impact is quite small. That is in the consultation document in respect of both the transitional costs and the recurring costs. At the previous evidence session, the Committee asked us to include in the consultation document a question on how this would impact small employers. The reality, which has been raised by stakeholders, particularly the primary stakeholders who represent small employers, is that there are burdens with all employment legislation and, in their view, disproportionate burdens for small employers, particularly those that do not have a dedicated HR function.

No real concerns or complaints have been raised about existing maternity and adoption leave and pay. We await the GB response to the consultation on the administrative arrangements supporting the shared-term leave proposals in GB. We will seek to put in place arrangements that minimise the administrative burden for all employers and working parents.

That is a very general response, but I do not think that there was any intention that we would provide additional protections for small employers. We are certainly mindful of that. The Committee and stakeholders, particularly the Federation of Small Businesses, put it in our minds that we need to be mindful. We will look to minimise the administrative burdens as we take this through.

**Mr P Ramsey:** The question of how you can minimise the risk to small businesses was a fairly good one to start with. This is a hugely important piece of work, and we look forward to the Bill coming forward. Are the consultation responses available for the Committee to see? Are they online?

**Dr Alan Scott (Department for Employment and Learning):** They will be put online.

**Mr P Ramsey:** Given that those responses will be made public, can you share the areas of contention or concern for those who have responded? Tom, clearly you would want to get to the stage of being able to tell us that there is a fair level of consensus. However, there are some areas in which there may be other opinions or diverse opinions. Is diverse too strong a word?

**Mr Evans:** It is. There is general support for the broad policy proposals. They are saying that the current arrangements work well but that this gives increased flexibility to working parents. In the same way, it gives increased flexibility to employers as regards how to handle it. The notice period and negotiation period gives time to sit down and talk through how the maternity and paternity leave arrangements will be managed.

**Mr P Ramsey:** That being the case, we look forward to its progression to Executive approval and coming before us for scrutiny. Will you let us know when we can see those responses online?

**Mr Hilditch:** Like Pat, I look forward to seeing the responses. Tom, in the consultation, was there any sense that this could have a positive impact on general absence figures?

**Dr Scott:** Nothing has come out of the consultation that suggests any specifics. However, past research suggests that, if people are granted flexible working patterns, for example, that has a positive effect on staff morale and attendance figures. We anticipate benefits if flexible working becomes more culturally embedded. People will have more flexibility about when they feel that they can work, there

will be more motivation, and so on. It is likely to have a positive effect, but we do not have any positive response that suggests any specific effect of that type.

**Mr Evans:** It is an important question, One of my team very recently flagged up a web link at which the Chartered Institute of Personnel and Development (CIPD) or an academic — I am not sure which — states that, rather than creating inflexibility, increasing the flexibility of parental rights and flexible working makes the labour market move better. It may have a positive impact on working patterns and the extent of time off because of sick leave and other matters. That sort of information is often under the ground and hard to mine. However, it is helpful that that is on the record. We will talk to our statisticians and economists about whether we can look to any evidence that supports that.

**The Deputy Chairperson:** No one else has indicated that they want to ask a question. Tom and Alan, thank you for coming, giving your presentation and taking questions. We look forward to the Bill coming to the House early in the new year. Thank you.