Departmental Response to Public Consultation: -

Sharing Parental Rights, Extending Flexibility at Work
Foreword

Working parents have a critical role to play in ensuring that Northern Ireland remains competitive in a global economic context. It is therefore important that we create the necessary policy and legislative framework to allow parents to more effectively balance their parental and work priorities. It was with this objective in mind that I launched the “Shared Parental Rights, Extending Flexibility at Work” consultation in May 2013 on a range of proposals designed to allow for a greater sharing of pay and leave entitlements during the first year following the birth or adoption of a child.

I want to thank all of the organisations and individuals that have responded to this consultation, which sought views on a series of draft policy proposals that would make significant changes to statutory leave entitlements, both paid and unpaid, for working parents. The Department for Business Innovation and Skills has conducted a similar consultation exercise in Great Britain and through the Children and Families Bill 2014 will facilitate greater sharing of parental leave and pay entitlements from April 2015. Although Northern Ireland has generally mirrored the rest of the United Kingdom in relation to employment rights for working parents, I wanted to take the views of local stakeholders on the merits of the GB proposals; the extent (if any) to which they should be implemented here in Northern Ireland; and whether alternative options ought to be considered.

A second important aspect of the consultation was the proposal to broaden very significantly the existing right to request flexible working. Again, steps are being taken to extend the right to request in Great Britain and I considered it important to take the views of Northern Ireland stakeholders. It is evident from the consultation responses that there is widespread recognition that getting the right work/life balance can add value in terms of the flexibility and effectiveness of our labour market.

The overriding response to the consultation proposals has been broadly supportive of the draft policy proposals and I will therefore be taking the necessary steps to ensure that working families in Northern Ireland have the same rights to paid and unpaid parental leave as their counterparts in Great Britain. The proposed changes to employment rights for working parents will require primary legislation and it is my intention to bring a Work and Families Bill to the Assembly at the earliest opportunity. This will allow for detailed scrutiny of my Department’s policy proposals as well as a wider debate on the positive contribution that working families make to the local labour market.
In enhancing working parents’ rights to leave and pay, we need to build upon the positive attitudes to working families evidenced in the consultation responses in a way that strikes an appropriate balance between flexibility for working families and certainty for employers. I do acknowledge the genuine concerns of both employers and employees in terms of the practicalities of giving effect to these new entitlements and want to assure stakeholders that my Department will seek to develop administrative arrangements that are proportionate and consistent with the Executive’s Better Regulation commitments. Where possible, the rights will operate in the same manner as existing provisions which are familiar to employers and employees.

This document provides a summary of the consultation responses and the key actions which my Department will take to implement the agreed policy changes. My officials remain available to discuss any aspect of the policy proposals that are set out in this consultation response.

Dr Stephen Farry MLA  
April 2014
1. Introduction and executive summary

**INTRODUCTION**

1.1. On 6 June 2013, the Department issued for public consultation the document ‘Sharing parental rights, extending flexibility at work’. The document set out proposals supporting a new system allowing for greater sharing of pay and leave entitlements during the first year following the birth or adoption of a child. It also sought views on whether the existing right to request flexible working should be expanded to cover all employees, and move away from prescribed procedures towards a Code of Practice and guidance led model. The intention was to promote female participation in the workplace, enhance choice for parents and their partners around childcare, and challenge traditional assumptions about the balancing of responsibilities at home and at work. An associated aim was developing and maintaining an employment rights system that is consistent with best practice and enhances Northern Ireland’s reputation and competitiveness in a demanding global economic environment.

1.2. The proposals that were the subject of the consultation were derived from a programme that is being taken forward in Great Britain. As employment rights available to working families in Northern Ireland are currently essentially the same as the rights available in the remainder of the United Kingdom, it was reasonable to ask whether these new systems should be extended to Northern Ireland or whether, alternatively, different arrangements should be applied here. The full text of the consultation is available at: Sharing Parental Rights-Extending Flexibility at Work | Department for Employment and Learning.

1.3. The consultation period ended on 23 August 2013. The Department received 32 responses, 28 of which contained substantive comment on some or all of the issues. A list of those who responded is attached at Annex A.

1.4. A breakdown of the consultation responses by type of organisation is set out in Table 1 below.
### Table 1: Breakdown of consultation responses

<table>
<thead>
<tr>
<th>Type of Organisation</th>
<th>Number of Responses Received</th>
<th>Percentage of Total Responses Received¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Government</td>
<td>1</td>
<td>3.13</td>
</tr>
<tr>
<td>Employers’ Organisation</td>
<td>7</td>
<td>21.88</td>
</tr>
<tr>
<td>Individual</td>
<td>2</td>
<td>6.24</td>
</tr>
<tr>
<td>Legal</td>
<td>3</td>
<td>9.38</td>
</tr>
<tr>
<td>Local Government</td>
<td>2</td>
<td>6.24</td>
</tr>
<tr>
<td>Professional Body</td>
<td>2</td>
<td>6.24</td>
</tr>
<tr>
<td>Public Sector Body</td>
<td>5</td>
<td>15.63</td>
</tr>
<tr>
<td>Trade Union</td>
<td>3</td>
<td>9.38</td>
</tr>
<tr>
<td>Voluntary / Community Sector</td>
<td>7</td>
<td>21.88</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>32</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

---

**EXECUTIVE SUMMARY**

**Central policy proposals**

1.5. Respondents supported both of the headline proposals outlined in the consultation. They favoured the extension of existing working parents’ rights, including the introduction of shared parental leave and pay. They also overwhelmingly welcomed the proposed expansion of the right to request flexible working to cover all employees, although in the main they did not support the replacement of the statutory steps for dealing with requests with a Code of Practice.

1.6. In the consultation document the Department had explained that the rationale for the proposed introduction of shared parental leave and pay is to:

- allow working families greater flexibility and control over care arrangements for children during the early stages of their lives; and

¹ Subject to rounding
increase paternal involvement during these formative periods and address gender equality issues that arise from women being away from the workplace for long periods due to parental commitments.

1.7. The Department did emphasise that the sharing of parental leave would be optional, and that there is no intention to place pressure on mothers to return to work before they wish to do so. On the basis of the consultation the following rights will be retained:

- a new mother /primary adopter’s entitlement to 39 weeks’ paid and 13 weeks’ unpaid maternity/adoption leave; and
- a mother’s partner/secondary adopter’s entitlement to up to two weeks’ paid paternity leave.

1.8. On the basis of the responses to the consultation the Department is committed to replacing the existing more restrictive system of additional paternity leave and pay with a more flexible system of shared parental leave and pay. The Department is also committed to taking forward a range of other measures that were referenced in the consultation document, and which were broadly welcomed by consultees. It will:

- establish rights for partners to attend antenatal appointments;
- establish rights for primary adopters and secondary adopters to attend pre-adoption appointments;
- make statutory adoption leave a ‘day one’ right;
- enhance statutory adoption pay to 90% of the primary adopter’s salary for the first six weeks; and
- extend unpaid parental leave to cover all employees who are parents of children age up to 18.

1.9. Taking into account the analysis of the responses to the consultation as well as the feedback the Department has received during the general course of our ongoing engagement with stakeholders, this document sets out the policy decisions in relation to the implementation issues highlighted in the consultation.

Working parents’ rights

1.10. Turning to specific points raised in the consultation document in relation to working parents’ rights, amongst those who responded, there was overwhelming support for an alignment of the currently differing notice periods for paternity leave and pay. The Department therefore intends to align the notification periods for paternity leave and pay at the end of the 15th week before the
expected week of childbirth (or within seven days of being matched with a child for adoption); or as soon as reasonably practicable.

1.11. Opinions were divided on the issue of whether a woman should have four or six weeks from her child’s 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. The Department has decided to set the cut-off point for revoking a binding notice at six weeks after birth.

1.12. Contributors were also asked if they agreed on the level of information to be provided by an employee as part of the notification process. Again opinions were divided. The Department will require the same mandatory information to be provided as at present in relation to additional paternity leave and pay, that is: the names and national insurance numbers of both the applicant and the mother and the total maternity leave and pay or allowance that the mother has taken. The Department is also proposing the introduction of a procedural requirement on employees to provide a non-binding indication of their expected pattern of leave as part of the mandatory information for notifying an employer of their eligibility and intention to take shared parental leave.

1.13. There were divergent views on the proposal to allow parents to notify their employer of their intentions as they require them and explain accordingly. The Department is proposing a limit of three notifications for leave or changes to periods of leave (excluding changes that are mutually agreed between the two parties, which will not be counted).

1.14. The proposal to set the negotiation period at two weeks in order to allow employers to know their employees’ definite leave plans at least six weeks before any leave starts had a mixed response. The Department has determined that the proposed two week negotiation period is appropriate as part of an overall eight week notification period.

1.15. The question was asked as to whether the cut-off point for parents taking shared parental leave should be 52 weeks from start of maternity leave or 52 weeks from birth. The Department has decided that the cut-off point for parents taking shared parental leave should be 52 weeks from birth.

1.16. Respondents were asked if they considered that up to 10 ‘Keeping in Touch’ (KIT) days per parent during shared parental leave was the right number. The Department is now proposing that up to 20 KIT days per person be available (by agreement) for those on shared parental leave.

1.17. Respondents were also asked which ‘right to return to the same job’ option they would prefer be applied to shared parental leave. The options offered were, firstly, the right for employees to return to the same job from a continuous block of leave of 26 weeks or less; and, secondly, the right to return to the same job for employees returning from aggregated leave of up to 26 weeks even if the leave has not been taken as a single block. The Department has determined that
the right to return to the same job will be for employees returning from aggregated leave of up to 26 weeks even if the leave is not taken as a single block.

1.18. The consultation sought opinions on how realistic notification could be given to employers of the need to take adoption leave and pay in cases of fostering to adopt where the child is matched and placed with the prospective adoptive parents on the same day. The Department has decided that there will be no changes to the current notification arrangements for adoption where a child is matched and placed on the same day.

Right to request flexible working

1.19. An overwhelming majority of respondents supported extending the right to all employees, although several consultees, while supporting the extension of the right to all employees, sounded a note of caution in relation to the detrimental effect this might have on those who have the right at present. The Department proposes an extension of the right to request flexible working to all employees.

1.20. The consultation also asked if it was appropriate to move towards a model imposing a duty on employers to deal with requests reasonably, supported by a Code of Practice and guidance rather than, as at present, requiring a statutory series of steps to deal with requests. The majority of respondents favoured retaining the statutory procedures. The Department also proposes to maintain the statutory steps to deal with requests.
2. Consultation responses

2.1. This chapter lists the questions asked in the consultation document and provides a summary of the responses received from consultees. Not every respondent is cited in each case; however, representative views and pertinent quotations have been provided to give an indication of the tenor of the responses received.

2.2. The subsequent chapter presents the Department’s policy response on these issues.

**PART I: SHARED PARENTAL PROPOSALS – GENERAL**

| Q1. | What are the arguments supporting the introduction/extension of the shared parental proposals to Northern Ireland? |
| Q2. | What are the arguments against this course of action? |
| Q3. | What alternative approaches should be considered? |

2.3. The changes to shared parental rights proposed in the consultation document were broadly welcomed by the respondents.

2.4. Of the 28 consultees who responded to this question, 14 either supported or strongly supported the proposed changes to working parents’ rights in Northern Ireland. The Northern Ireland Public Service Alliance (NIPSA) welcomed the move and stated that “it is important that we move towards greater shared parenting”, while the CBI suggested that “the introduction of a shared parental leave system is a real chance to revolutionise the approach to working parents”.

2.5. A further 12 consultees generally supported the proposals but had some reservations. The most common concern cited was the extent to which any new measures might increase the burden on employers, and in particular, small employers.

2.6. A number of respondents expressed particular concerns about the proposal to allow leave to be taken in weekly blocks and the difficulties this might present to employers. Legal-Island stated that “intermittent absences are much harder for an employer to accommodate and upset the working arrangements for other employees” and suggested that this might be made easier “by allowing each partner half the time off to be taken in one block each”.

2.7. There was, however, an alternative view to this position. The trade union view, expressed by NIC ICTU, NIPSA and the University Colleges Union, was one of disappointment with the proposal that shared parental leave could only be taken in weekly blocks; all three suggested that it should be possible to take the leave in a more flexible way. There was agreement, however, that this would need to
be dependent on discussions between the employee and employer on the
suitability of the relevant arrangement for both parties.

2.8. Several consultees suggested that some form of advance notice of the proposed
leave patterns for each individual from the outset would go some way towards
easing the burden on employers. The CBI felt it was important for the
Government to “strongly encourage employees to present employers with their
plan at the earliest possible opportunity”.

2.9. It was also suggested by a significant number of respondents that the absence of
separate protected leave and pay rights for fathers and partners was a significant
omission from the proposed changes. Working Families stated that “evidence
suggests that fathers are more likely to take up leave if it is specifically labelled
for them rather than made available to either parent” and also suggested that
“fathers’ take up is also influenced by whether it is adequately paid”. Parenting
NI agreed and stated that “in order to enable parents to take up their full
entitlements to maternity/paternity/parental leave, it is vital that this leave is paid
at an adequate rate to make it financially viable for parents to do so”. NIPSA,
however, highlighted the importance of ensuring that such a right did not diminish
the entitlements of the mother.

2.10. In addition there were a number of calls to make paternity leave a ‘day one’ right.
NIPSA proposed “removing the long notice and length of service eligibility criteria
for paternity leave”. Working Families agreed and also suggested that the
Department consider paying statutory paternity pay at 90 per cent of earnings, in
line with statutory maternity and adoption pay.

2.11. A number of consultees suggested that the proposed introduction of shared
parental leave and pay seemed to be aimed primarily at economically active
couples and that those outside this grouping were therefore being denied the
same rights. One respondent, Working Families, felt that single mothers, self-
employed fathers and mothers on Maternity Allowance were likely to lose out
under the proposed arrangements.

2.12. Several respondents expressed the view that the proposed eligibility rules for
shared parental leave and pay were overly complex and that this was likely to
create confusion for both employees and employers.

2.13. One respondent, the CEF, was opposed to the proposed changes:

As it stands many employers face challenges understanding and complying with
existing employment law. Businesses cannot afford additional red tape or
inflexible requests from workers.

2.14. NICS Corporate HR was unconvinced by the value of the proposed changes and
felt that it was “difficult to see what practical difference the shared parental leave
proposals will make to working parents’ ability to have time off work during the
first year following the birth or adoption of a child”; it was suggested that
amending the existing additional paternity leave arrangements might be more
appropriate and that this would prevent employers being faced with “significant costs in making changes to policies, Payroll and HR Systems”.

**PART II: ADMINISTRATION OF SHARED PARENTAL RIGHTS**

**Q1.** Please provide any evidence on any administrative difficulties that the different notice periods for paternity leave and pay currently cause employers.

**Q2.** 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 seven days of being matched with a child for adopters)? Please explain.

2.15. There was overwhelming support for an alignment of the notice periods from those respondents who provided a substantive response to this proposal.

2.16. 10 of the 12 respondents who provided comment favoured alignment at 15 weeks. There was a general consensus that this move would provide consistency and would make it easier for both employers and employees to follow and understand. Several respondents questioned why such a disparity between the notice periods had existed in the first place.

2.17. Two respondents favoured alignment at 28 days. While several consultees felt that the longer overall notice period for both might be beneficial, particularly to employers, Working Families felt that “if it is sensible to align notice periods, then these should be aligned at 28 days, not the onerous 15 weeks”. NIPSA agreed, stating that “it would be fairer to harmonise the notice periods at 28 days given the short length of paternity leave”.

**Q3.** Do you think that a woman should have four or six 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? Please explain.

2.18. Opinions were divided on this issue. Out of 13 respondents who provided a substantive response, five favoured four weeks while eight favoured the six week option.

2.19. The general consensus amongst those who favoured the four week option was that a notice period of four weeks provided parents with sufficient flexibility while also giving employers a better opportunity to effectively manage their workforce.

2.20. There was a feeling amongst those who favoured the six week option that a longer period was preferable as it might be difficult to predict before the birth exactly what pattern of leave might be best for the family, for example if the mother or child were subsequently unwell, and a longer period of grace was felt to be more appropriate. It was also noted that several of these respondents
suggested the phrase ‘or as soon as reasonably practicable’ with regard to when the employer could expect to be informed.

2.21. The Law Centre pointed out that there was no proposal to make a similar ‘grace period’ available to adopters or parents through surrogacy and they queried this decision, stating that it would be preferable to align the rights between parents and adopters/surrogacy as this would increase clarity.

Q4. Do you agree on the level of information to be provided by an employee as part of the notification process? If not, please explain why and what information you would like to be required.

2.22. There were 13 substantive responses to this question. Six respondents felt that the level of information to be provided was appropriate, while seven were of the opinion that more information was required.

2.23. The common theme among those who felt that more information was required was that there was a need for more detail to be included on intended leave patterns. Several respondents suggested that it might be appropriate for employers to provide some form of written confirmation of whatever leave had been agreed.

2.24. The University of Ulster felt that it might also be useful for employers to provide written confirmation of the employee’s eligibility and employment status.

2.25. The CBI provided a comprehensive response to this question, highlighting in some detail how it felt that the proposed form could be improved. It suggested that particular phrases were somewhat vague in the draft form and felt that more background information would be required if the shared parental leave system was to work effectively.

Q5. Do you agree with the proposal to allow parents to notify their employer of their intentions as they require them? Please explain.

2.26. Out of 14 respondents who provided a substantive response, five supported the proposal, three gave qualified support, five opposed the proposal and one respondent was undecided, citing significant issues.

2.27. In general those that supported this proposal indicated that this approach is required to allow parents the flexibility to adjust to any changes in circumstances. The Law Centre suggested that the eight week notice period should give employers sufficient time to make the necessary arrangements, while the University of Ulster, although supporting the proposal, pointed out that “there needs to be a balance achieved between the desire for flexibility and the need for employers to be able to plan for business continuity during any period of leave”.

2.28. One of the respondents who indicated tentative support was Working Families. The organisation felt that employees should be allowed to adapt and amend their plans to suit their individual family’s changing needs but recognised the
difficulties this could cause employers, suggesting that parents should be encouraged to set out their plans as far as possible in advance. This sentiment was echoed by Craigavon Borough Council, while Belfast City Council felt that, although this might work for an organisation such as theirs own, the timescales involved might make it difficult for some employers to arrange appropriate cover.

2.29. The potential difficulties for employers in planning cover for staff absences, particularly within the proposed timescales, was a common concern for those respondents who opposed this proposal. The CBI felt that the eight week notice period might prove insufficient for employers, while the Engineering Employers Federation suggested that a pattern of leave should be required from each employee at the outset alongside an entitlement to apply for changes if required. The Christian Employers Network felt that a single block of leave would make it much easier for employers to plan ahead and arrange temporary cover as required.

2.30. The Northern Ireland Retail Consortium was undecided, stating that while it recognised the need for flexibility it felt that this proposal would be very difficult for businesses to manage.

Q6. To allow employers to know their employees’ definite leave plans at least six weeks before any leave starts, it is proposed to set the negotiation period at two weeks. Do you agree? Please explain.

2.31. 14 consultees provided a substantive response to this question; six supported the proposal, two were in support but had some concerns and six were opposed.

2.32. Those supporting this proposal were broadly in agreement that the two week negotiation period would be sufficient for the parties to conclude their discussions.

2.33. Both the CBI and Belfast City Council tentatively supported the proposal, although both had their concerns. The CBI stated that the proposal made sense but felt that there were “practical concerns regarding instances when this two week negotiation period might be impossible for certain employers to implement”. Belfast City Council suggested that while this seemed appropriate for straightforward cases, it might prove difficult to reach an agreement within a two week period in instances where it was proving difficult to facilitate the requested leave pattern.

2.34. A number of issues were raised by those respondents who opposed the proposal. Both Northern Ireland Housing Executive (NIHE) and Craigavon Borough Council felt that a longer negotiation period was required, while the Christian Employers Network felt that for certain jobs, for example those of a more technical nature, these timescales might not be sufficient. NIPSA, on the other hand, suggested that the two week negotiation period was sufficient and that it was more appropriate for the notice period to be six weeks in total.
2.35. The Engineering Employers Federation also opposed this proposal. In its response, the Federation stated that each employee should be required to provide notice of their intended pattern of leave from the outset and suggested that in this instance a two week negotiation period would be insufficient; 28 days, it suggested, would be a more realistic period for reaching agreement.

Q7. Do you think that the cut-off point for parents taking shared parental leave should be: 52 weeks from start of maternity leave or 52 weeks from birth? Please explain.

2.36. Opinions were once again divided on this issue. Out of 13 respondents who provided a substantive response, eight favoured 52 weeks from the start of maternity leave; and five favoured 52 weeks from birth.

2.37. The general consensus amongst those who favoured the cut-off point being measured from the start of maternity leave was that it was preferable for there to be a degree of certainty about the start and finish dates from the outset. The Engineering Employers Federation pointed out that this arrangement would also mirror the current system for maternity leave. NICS Corporate HR felt that it was reasonable to ask both parents to fit parental leave into the same 52 week period, while the University of Ulster suggested that 52 weeks plus any period between the commencement of the maternity leave and the birth seemed somewhat excessive.

2.39. The primary concern amongst those respondents who favoured the cut-off being 52 weeks from birth was that the other option could dramatically reduce the amount of shared parental leave that might be available after the birth and in particular the amount of leave potentially available to partners. Working Families noted that there would only be 41 weeks of shared leave available where a mother started her maternity leave at the earliest point (11 weeks prior to the birth), and NIPSA pointed out that taking maternity leave early was very often unavoidable due to health issues.

Q8. Is 10 KIT days per parent for shared parental leave the right number? Please explain.

2.40. Out of 15 respondents who provided a substantive response, seven supported this proposal and three supported it but had some concerns.

2.41. Working Families, whilst supportive, raised concerns about KIT days being used as a substitute for a part time leave and part time pay option, while Women’s Forum NI felt that, even with the proposed KIT days, it could be difficult for individuals to slot back into the same job after extended leave periods.

2.42. The Engineering Employers Federation, while not against the proposals, questioned why a mother who takes a period of shared Parental Leave should be entitled to twice as many KIT days as a mother who takes 52 weeks of maternity leave.
2.43. Three respondents opposed this proposal, suggesting that 10 days in total between both employees during the period of shared parental leave would be more appropriate, while NICS Corporate HR proposed a maximum of 10 days each from the start of maternity leave as a suitable alternative.

2.44. NIPSA voiced concerns that KIT days would be used as a substitute for part time working but without the appropriate remuneration and recommended at least 20 KIT days each to allow for meaningful shared parenting if it remained the case that shared parental leave could not be taken on a part time basis.

Q9. Which “right to return to the same job” option would you prefer be applied to shared parental leave? Option 1 - Right to return to the same job for employees continuous block of leave of 26 weeks or less or Option 2 - Right to return to the same for employees returning from aggregated leave of up to 26 weeks even if the leave is not taken as a single block. Please explain.

2.45. Fifteen respondents provided a substantive response to this question. Of these, six favoured the right to return to the same job after a 26 week continuous block. The general consensus amongst those who preferred this option was that it would be easier to understand, manage and apply.

2.46. Two of the respondents, Belfast City Council and the Law Centre, favoured the right to return to the same job after 26 weeks’ aggregated leave.

2.47. A further seven respondents stated that neither option was appropriate. The majority of these felt that employees taking shared parental leave should be able to return to the same job regardless of the length of leave. The CBI and Women’s Forum NI, on the other hand, felt that there were times when an employee returning to the same job could prove problematic; the CBI suggested that it would be more appropriate to state that there was a right to return to the same job where possible and if not then to return to a similar job.

Q10. In cases of fostering to adopt where the child is matched and placed with the prospective adoptive parents on the same day, how can realistic notification be given to employers of the need to take adoption leave and pay?

2.48. There were nine substantive responses to this question. There was a general consensus that the employer should be informed at the earliest opportunity of this even being a possibility, but also an acknowledgement that such a scenario was likely to be relatively rare. Working Families suggested that “guidance and good practice might encourage prospective adoptive parents to discuss this issue with their employer in advance”. The NIHE felt that employers needed to accept that the adoption process is ‘unique’ and that often placement happens at short notice and so these situations would also need to be managed at short notice.

2.49. The Engineering Employers Federation however felt that there needed to be acknowledgement of the difficulties this might cause:
For some employers, accommodating parents who on almost no notice at all gain an entitlement to a significant period of leave, will be impossible – small businesses for example or larger businesses where the worker undertakes a unique role, for example as they are bilingual or the only person having a particular qualification. In such cases employers should not be penalised if they require some notice from the employee before a significant and continuous period of leave is to commence.

**PART III: RIGHT TO REQUEST FLEXIBLE WORKING**

**Q1.** Should the right to request flexible working be extended to all employees with an appropriate length of service, extended more narrowly to selected groups, or remain unchanged? Please explain.

2.50. An overwhelming majority, 19 of the 22 respondents who provided a substantive response to this question, supported extending the right to request flexible working to all employees. The CBI stated that “a flexible workforce can lead to better engagement, flexible staffing and a more diverse talent pool” while the University of Ulster suggested that “flexibility provides benefits for both the employee and the employer” and felt that it would not be appropriate “to restrict these benefits to a narrowly defined group of workers”. The Women’s Resource and Development Agency suggested that making the right to request flexible working available to all employees “removes the Us/Them divide and has the potential to establish new norms regarding the traditional gendered division of labour”.

2.51. A number of respondents, including both NIC/ICTU and NIPSA, suggested however that the proposed changes should go even further and that the right to request flexible working should be a ‘day one’ right that is open to all workers, including agency workers.

2.52. Several consultees, while supporting the extension of the right to all employees, sounded a note of caution in relation to the detrimental effect this might have on those who have the right at present. Employers for Childcare, for example, was “concerned that extending the right may diminish the benefits for working parents, for which the system was initially intended”. Citizens Advice had similar reservations but felt that such concerns “could be mitigated by a clear internal policy that sets out eligibility criteria”.

2.53. Evangelical Alliance was also concerned about the potential impact on parents and carers and felt that a gradual introduction to additional groups beyond carers and parents might be more appropriate.

2.54. The Engineering Employers Federation felt that there should be no change or extension to the current requirements to the right to request flexible working:
Trading conditions are difficult and EEF believe that the current statutory regime works well and balances the needs of employees in the workplace against the need for the growth of small to medium sized businesses in the workplace.

2.55. Christian Employers Network stated that a wide range of views had been put forward by its members and outlined arguments for and against the extension of the right to request.

Q2. Is it appropriate to move towards a model imposing a duty on employers to deal with requests reasonably, supported by a Code of Practice and guidance rather than, as at present, requiring a statutory series of steps to deal with requests? How might this work?

2.56. Out of the 18 respondents who provided a substantive response to this question, 12 favoured retaining the statutory procedures and five favoured replacing the existing system with a Code of Practice and guidance, while one respondent was undecided on the best option.

2.57. Of those who favoured retaining the statutory procedures the majority were of the opinion that the current system worked well and had clear processes to follow. There was also a general feeling that the proposed new system would bring with it a degree of uncertainty and that it would be open to abuse and misinterpretation. Like many respondents, the Law Centre was strongly supportive of retaining the existing processes and procedures:

We believe that having a procedure set out in statute provides certainty for both employers and employees. We would not want to see any of the stages of the current process omitted or reduced. Accordingly, we believe that shifting from statutory regulation to a statutory Code of Practice could undermine existing rights.

2.58. It was also suggested by a number of respondents that there might be difficulties with the defining reasonableness, while several respondents pointed out that the new system was likely to impose an additional administrative burden on employers. In addition a number of respondents felt that the proposed change might be seen by employers as a downgrading of the significance of flexible working.

2.59. The Engineering Employers Federation, which favoured retaining the existing procedures, expressed serious concerns that the proposed ACAS Code seemed to create a presumption that a request would be granted. The organisation suggested that it is employers who should decide the outcome of a request; a Code should not steer them in a particular direction.

2.60. NIPSA also supported the retention of the current procedures but suggested that it might be appropriate to have a statutory Code of Practice to accompany them.

2.61. Queen’s University, Belfast was one of the five respondents favouring replacement of the current system with a Code of Practice and felt that Northern
Ireland should act in a manner consistent with Great Britain, where an ACAS Code is being introduced. Belfast City Council also supported the proposed change, suggesting that it would be beneficial to place an emphasis on the need to be reasonable in considering requests rather than simply satisfying a statutory requirement.

2.62. Christian Employers Network was undecided on the best approach and stated that “it is difficult to comment fully until a draft Code of Practice is produced”.

**PART IV: GENERAL**

**Q1. Having read the impact assessment, please detail any potential impacts that you believe require further consideration.**

2.63. There were 11 responses to this question, with a number of common themes emerging.

2.64. Several consultees voiced concerns that the eligibility criteria for entitlement to shared parental leave were likely to exclude the very low paid, and those on short term contracts which several respondents suggested, was a growing part of the workforce. Parenting NI questioned whether these proposals might unintentionally widen the socio-economic gap.

2.65. A number of respondents were also concerned about the eligibility criteria for shared parental leave and the exclusion of lone parents. The Women’s Support Network suggested that a high percentage of lone parents were female and that subsequently the majority of those excluded from the proposed shared parental leave entitlement, by virtue of being lone parents, would be female. They suggested that, in order to take account of this exclusion and promote equality of opportunity between different kinds of households in Northern Ireland, the Department would need to consider alternative proposals such as allowing lone parents to share leave entitlement with other adult family members.

2.66. A number of consultees were also concerned that the retention of the requirement for applicants to have 26 weeks’ continuous service with their employer in order to qualify for the right to request flexible working. Retention, it was suggested, would not address concerns that only a narrow pool of jobs is advertised on a flexible or part time basis from the outset. This, it was suggested, disadvantages unemployed parents, lone parents and carers seeking to enter or re-enter the labour market.

2.67. The Women’s Resource and Development Agency raised a number of other issues. Among these was a concern that the mother or primary adopter was able to choose when shared parental leave would begin and that the father or partner might therefore be effectively excluded from that decision process. The Agency sought clarification on how the Department intended to ensure that men would be protected by discrimination legislation in relation to parental leave.
2.68. **Citizens Advice** suggested that further consideration be given to occupational pay and entitlements for fathers and partners such as allowing for the sharing of occupational maternity entitlements including pay which could be administered through the workplace, or through a government sponsored scheme, and suggested that this could have a positive anti-discrimination impact on young women in the workplace who traditionally may have been overlooked in favour of older women or men. It was also suggested that the extension of the right to request flexible working was likely to have a positive impact on older workers, such as those preparing for retirement, or where there was a need to fulfil caring responsibilities.

Q2. *Are particular impacts likely to be experienced by small employers and, if so, what steps can be taken to minimise them?*

2.69. Six respondents made specific reference to the potential impact the proposed changes might have on small employers.

2.70. Several consultees made reference to the disproportionate impact they believed the changes would have on small employers vis-à-vis larger organisations. The CBI suggested that impacts would be particularly felt by small employers, many of whom, it pointed out, might see “only one period of maternity or paternity per decade”. **Citizens Advice** felt that the implementation of these measures would intensify the compliance requirements faced by employers, which could have a disproportionate effect on small businesses, stating that “all employers do not have a dedicated human resources function to assist with compliance and the administration of pregnancy-related absences and related matters”.

2.71. The impact of the various notification periods on small businesses was a concern to a number of respondents. The CBI felt that ensuring temporary staff cover for short periods of leave with only eight weeks’ notice could prove both challenging and costly for smaller enterprises and pointed out that there were likely to be occasions when staffing levels were low and dealing with such requests within two weeks would be difficult. It recommended that the two week negotiation period should therefore be a minimum guideline rather than a requirement.

2.72. The **Engineering Employers Federation** suggested that the costs involved, particularly when an employee changed his or her plans, would have a disproportionate impact on smaller businesses, stating that while larger businesses might be in a position to absorb such costs, smaller enterprises could find this much more difficult.

2.73. Both the **Evangelical Alliance** and the **Christian Employers Network** also pointed out that there would be a disproportionate burden placed upon small employers who employed both partners.

2.74. The **Evangelical Alliance** asked if the Department would consider a phased introduction of the proposed changes which would be applicable to larger employers in the first instance and whether there might be a minimum threshold
regarding the number of employees in an organisation for which these changes would be applicable.

**Q3. Please provide any other comments that might aid the consultation process as a whole.**

2.75. While some consultees provided direct responses to this question, a significant number of responses did not follow the formal structure of the questions as contained in the consultation. Substantive observations made by respondents throughout their responses, where not already dealt with, are therefore also considered in this section.

2.76. The proposed changes in entitlements to attend antenatal appointments are one such issue. While there was general support for the proposal to allow qualifying fathers and partners to accompany the mother to these appointments, a number of respondents raised concerns that this would be unpaid. Citizens Advice felt that “this leave should not be unpaid, as this may discourage take-up of this leave, particularly for low-earning partners who may see it as a financial barrier”.

2.77. There were also some concerns over the proposed limit of two antenatal appointments. One respondent, Belfast City Council, suggested that “it might be helpful to consider additional entitlement to time off for antenatal appointments for partners in circumstances where complications in pregnancy are identified in the antenatal period”.

2.78. Several consultees also raised concerns that the entitlement for fathers and partners to attend antenatal appointments would only extend to employees and qualifying agency workers. Children in Northern Ireland suggested that the “basic right to time off to attend antenatal appointments should apply to all pregnant agency workers and partners who are agency workers from day one”.

2.79. One respondent, the Women’s Resource and Development Agency, asked what would happen in instances where there was a disagreement between partners about the transfer of leave. Clarity was also sought on the impact of either parent being made redundant. In addition the Agency suggested that it might be problematic to allocate parental leave to a family unit rather than to individuals.
3. Departmental response

3.1. This chapter sets out the Department’s policy response to the consultation in light of the responses to the consultation discussed in Chapter.

PART: SHARED PARENTAL PROPOSALS – GENERAL

3.2. The majority of respondents considered that it would be appropriate to introduce shared parental leave and associated proposals in Northern Ireland. While there were some reservations about specific aspects of the package there remains substantial support, which is consistent with feedback from previous consultations, for the continuation of arrangements which ensure that working parents here have the same entitlements to leave and pay as their counterparts in Great Britain. No substantive arguments for establishing bespoke arrangements for Northern Ireland were advanced during our engagement with stakeholders. The Department is content therefore that it is appropriate to introduce the shared parental and related measures in Northern Ireland.

3.3. The Department recognises that there are some concerns around the practical operation of the new systems. Specific points about the administrative processes are examined below. Observations on equality and social impacts have been considered, and the outcome of the Department’s considerations is reflected in the updated impact assessment material. In addition, particular concerns were raised about the extent to which the burden on employers, and particularly small employers, may increase. In reaching its decision on the way forward, the Department has been conscious of the requirement to balance the concerns of employers with the needs of employees when implementing any proposed changes. The responses provided in the rest of this chapter aim to outline the course of action that will be adopted and address the main substantive issues raised by respondents.

PART II: ADMINISTRATION OF SHARED PARENTAL RIGHTS

Alignment of paternity leave and pay notice periods

3.5. The views of those who responded, which were overwhelmingly in support of alignment at the 15th week before expected childbirth. While a small number of respondents suggested that if notice periods should be aligned it should be for the shorter timeframe of 28 days, due to the short nature of paternity leave, the Department is not convinced that this would balance the needs of the employers with those of employees. As such the Department intends to align the notification periods for paternity leave and pay at the end of the 15th week before the expected week of childbirth (or within seven days of being matched with a child for adoption); or as soon as reasonably practicable. It is anticipated that this will simplify the process and will provide employers with sufficient notice of their
employees’ plans, while also providing protection for those employees who, for whatever reason, might not be in a position to provide notice within this timescale.

3.6. As applicants will continue to be able to change their notification details by giving at least 28 days’ notice before the week of the birth, the Department is content that there will be no detriment to employees.

**Revoking notice of intention to end maternity leave and opt into Shared Parental leave**

3.7. While opinions among respondents were divided on this issue, the Department has decided to set the cut-off point for revoking a binding notice to end maternity leave and opt into Shared Parental leave at six weeks after birth. This will provide employers with sufficient time for organising their workforce whilst giving mothers time to readjust and cope with any unplanned situations that might only become apparent following birth. In making this decision, the Department has taken into account that there is only one opportunity for the mother to make such a revocation, given that binding notice is necessary to make the system viable and to minimise the uncertainty for partners and employers.

3.8. It is anticipated that providing mothers with the flexibility to revoke a binding notice that has been made before the birth, for a period of six weeks after birth will encourage early planning and notice to employers. This is on the understanding that in the event that the mother changes her mind upon the birth of her child or any unforeseen circumstances arise that there is sufficient time to permit her to change her decision about the end of her maternity leave. This is in recognition of the unique situation of childbirth and that many mothers can feel very differently once they have given birth. It is therefore considered that it would be both unreasonable and impractical to hold a woman to a commitment that she has made prior to giving birth. The unique circumstances of childbirth are why this facility only applies to mothers and not to primary adopters.

3.9. It should be noted that the notice to end maternity leave is only binding when combined with one or both employed parents submitting a form to take shared parental leave and/or pay.

**Notification**

3.10. Opinions in the responses to the Department’s consultation were divided on the range of issues around notification. There were significant reservations regarding the difficulties employers might encounter both in administering applications and in planning cover for staff absences. Concerns were also expressed that employees should be allowed to adapt and amend their plans to suit their families changing needs.

3.11. Bearing this in mind, it is the Department’s intention that notification periods for leave should provide employers with an appropriate period of time in which to
make plans while also giving parents the necessary certainty and flexibility to allow them to take shared parental leave.

3.12. With regard to the level of information provided by employees, the Department is committed to making the administration of parental leave as light-touch and straightforward as possible. As such, the Department will ensure that essentially the same mandatory information that is currently required in relation to additional paternity leave will be required for shared parental leave, that is: the names and national insurance numbers of both the applicant and the mother and the total maternity leave and pay or allowance that the mother has taken.

3.13. Some respondents indicated a preference for more information to be provided on intended leave patterns at an early stage. With that in mind, the Department is proposing the introduction of a procedural requirement on employees to provide a non-binding indication of their expected pattern of leave as part of the mandatory information for notifying an employer of their eligibility and intention to take shared parental leave. The intention of this is to ensure that parents consider their leave plans from the outset while employers will be provided with an early indication of the potential leave pattern they can expect to be dealing with. It is also hoped that this will encourage a culture where open and honest conversations can take place between employers and employees from the outset.

3.14. The Department is also proposing a limit of three notifications for leave or changes to periods of leave (excluding changes that are mutually agreed between the two parties, which will not be counted). It is anticipated that this will provide a greater level of certainty for the employer while providing adequate opportunities for an employee to apply for leave or make changes. This is on the understanding that parents will have already considered in advance their pattern of leave when providing the employer with their non-binding indication of the leave they intend to take. The fact that this limit excludes mutually agreed changes is evidence of the principle that flexibility and choice is a core aim of the introduction of shared parental leave, giving employers and employees the ability to manage the maternity period in ways that can benefit both parties.

3.15. On the issue of notice and negotiation periods, the Department has considered the opinions of its respondents and feels that, on balance, the proposed two week negotiation period is appropriate as part of an overall eight week notification period. While concerns were raised in the consultation responses that two weeks may be insufficient, the Department is satisfied that this balances the employer’s need to know their employee’s leave plans by ensuring that there is never less than eight weeks’ notice of any leave to be taken with flexibility for employees to be able to take leave whenever they need it. If employers and employees cannot agree the periods of leave, then the leave defaults to a block to start on a date specified by the employee, and therefore a two week negotiation period is an appropriate and proportionate amount of time. It is anticipated that the majority of employers and employees will be able to come to an agreement about how the leave may be taken. However, the default provision
establishes additional certainty for employers in cases where agreement is not possible.

3.17. Linked to the issue of ‘blocks’ of leave, the Department recognises that some respondents suggested that it should be possible to take leave in a more flexible way such as in individual days rather than weekly blocks. The Department considers that the introduction of the shared parental system is a substantial change to arrangements which are currently available. For example, additional paternity leave is constrained by:

- being available only to the mother’s or adopter’s partner (so cannot be shared);
- not being able to start before the baby is 20 weeks old or the child has been placed for 20 weeks;
- by lasting no more than 26 weeks; and
- by only being able to start when the mother or adopter has gone back to work (i.e. that person cannot take any further leave).

3.18. The new shared parental system will dispense with these requirements. The shared parental system will enable parents to share leave and pay equivalent in length to the untaken entitlement to maternity leave and statutory maternity pay and allowance. It will allow both parents to be at home at the same time with their family, if they choose, and for the leave to be shared between the parents. This increased flexibility has to be balanced with the needs of the employer and therefore the Department is content that the requirement that shared parental leave will need to be taken in blocks of one week minimum is proportionate.

3.19. The Department believes that this represents a balanced package of proposed changes that seeks to address the concerns of employers about being able to manage the business while providing employees with an appropriate level of flexibility and choice.

Cut-off point for taking shared parental leave

3.20. Once again the views of consultees were divided on this issue. Although employers in particular appeared more likely than not to favour a cut-off point at 52 weeks from the start of maternity leave, there was by no means a consensus on this point. The Department has considered the arguments in favour of both options and has concluded that it is most appropriate for the cut-off point to be set at 52 weeks from the birth of the child. This is in keeping with the current arrangements in place for additional paternity leave so should be a familiar premise for employers and employees. It will ensure that the mother’s partner can take advantage of a reasonable amount of leave, which is consistent with the Department’s stated objective of maximising choice and flexibility for parents during these critical formative periods.
3.21. Responses to the consultation showed a reasonable level of support for the proposed 10 KIT days per parent availing of shared parental leave. The Department acknowledges that some stakeholders wanted still greater flexibility and also notes that BIS intends to provide as many as 20 KIT days for each person availing of shared parental leave in Great Britain, in addition to the 10 days available to women on maternity leave and to primary adopters.

3.22. BIS has rightly noted that KIT days are a light-touch mechanism that enables employers and employees to reach a mutually beneficial agreement allowing the employee to return to work a number of times during leave without affecting that leave. Since there is a need for agreement between employer and employee, with no obligation on either, the Department has concluded that allowing up to 20 KIT days for each individual taking shared parental leave (in addition to those already available) does not place an unreasonable burden on business, whilst it opens up the potential for flexible arrangements that allow employees to stay in touch with developments in the workplace, for example through participation in training or as part of a phased return. The Department therefore intends to allow for up to 20 KIT days to be taken by each person on shared parental leave, with the continuing stipulation that this must be by mutual agreement between employer and employee.

Right to return to the same job

3.23. No clear consensus emerged in respect of this issue. Indeed, a number of respondents felt that neither of the options proposed was appropriate.

3.24. The Department, having reviewed each option, has been persuaded that the right to return to the same job will be maintained for employees returning from any period of leave that includes maternity, paternity, adoption and shared parental leave that totals 26 weeks or less in aggregate, even if the leave is taken in discontinuous blocks. Failure to make provision of this kind risks creating arbitrary results, and has the potential to result in unintended discrimination on grounds of gender.

3.25. The Department will apply the right to return to the same job following up to 26 weeks of aggregated leave.

Fostering to adopt

3.26. Although fostering to adopt processes operate differently in Northern Ireland than in England, the consensus among the majority of respondents was that in any (rare) instance where a child is matched and placed with the prospective adoptive parents on the same day, provided the employee makes efforts to inform the employer at the earliest opportunity, the employer will simply need to manage the situation. In light of this the Department does not propose to make special notification arrangements.
PART III: RIGHT TO REQUEST FLEXIBLE WORKING

3.27. To reflect the overwhelming support for this proposal from the respondents to the NI consultation, the Department will implement measures to facilitate the extension of the right to request flexible working to all employees. Length of service criteria will remain unchanged; the Department considers 26 weeks’ continuous service with an employer represents a reasonable balance between promoting a culture of flexibility and ensuring that there are not additional pressures on employers from requests of newly recruited staff.

3.28. It is important to highlight that the vast majority of NI respondents favoured the retention of the existing statutory process for dealing with requests which, in summary, outlines that the request must be made in writing and the employer must meet the employee within 28 days to discuss it and, subsequently, notify the employee of the decision within 14 days. The employer must consider the request and may only refuse it if one or more grounds specified in the legislation apply.

3.29. The Department is content, based on the responses that it has received, that it is appropriate in NI to maintain the statutory steps to deal with such requests. A significant advantage of this approach, which differs from that being taken forward in Great Britain, is that it offers employers in particular clarity as to precisely what is expected of them in dealing fairly and appropriately with a request. Whilst there are undoubtedly arguments for a ‘reasonableness’ based approach, as in GB, the Department has listened to NI stakeholders and is content to preserve a statutory process.

3.30. The Department acknowledges that further consideration will need to be given as to how this right will be administered in light of the extension of the right to request to all employees. It is anticipated that detailed guidance will issue to assist employees in making applications and assist employers to make decisions that meet the needs of their businesses whilst being compliant with the relevant legal requirements.

PART IV: GENERAL

Impacts

3.31. The Department notes that a number of respondents have voiced concerns about those who might be excluded from benefitting from the proposed changes. The primary purpose of shared parental leave is to allow working parents to better manage competing work and domestic demands by sharing childcare responsibility between them. These changes do not impact negatively on the existing entitlements for other groups. Single mothers, for example, will continue to be entitled to maternity leave, statutory maternity pay and maternity allowance in the same way that they are currently. The Department, in developing this response document, considered whether it would be feasible to allow a single
parent to nominate another individual (e.g. a close family member) as a person with whom parental leave and pay could be shared. However, such an approach would represent a substantial departure from the system proposed; would remove the benefits of consistency across the UK; would carry additional costs; would complicate administration for employers; and may be more open to abuse.

3.32. Several respondents felt that the Department should remove the 26 weeks’ continuous service eligibility rule for those who wish to request flexible working, believing that such an approach would benefit new employees to whom conventional working patterns are not suited. While the Department acknowledges the desire to promote as much flexibility as possible, it must also consider the impact of the proposed, and already significant, extension of the right to request flexible working on employers. Many employers already offer flexibility up front, and job applicants will already be aware of the working pattern associated with the job for which they are applying. In the Department’s view, it would be unreasonable to place a legal requirement on employers, upon request, to revisit the issue in so short a timeframe after initial employment has commenced. With that in mind the Department does not propose removing the eligibility rule.

3.33. There were some concerns among respondents regarding the mother having the choice as to when shared parental leave, and therefore the father’s leave, would begin. However the Department considers this necessary to protect the mother, allowing her the opportunity to take sufficient maternity leave and pay and feels it is appropriate that the mother be allowed to make the decision to end her maternity leave and pay at her discretion. There is also some protection provided once an agreement has been reached to end maternity leave and commence shared parental leave, as the mutual consent of each parent (partner) is required to amend this.

Small employers

3.34. The Department acknowledges that there are some concerns regarding the impact of the proposed changes on small businesses. It intends to make the administration of parental leave as light-touch as possible in order to minimise the burden on employers. Processes will be designed, insofar as is possible, to resemble those with which employers are already familiar. Measures such as the requirement for employees to provide non binding indication of their expected pattern of leave and a limit of three notifications of changes are also aimed at maximising certainty and employers’ ability to plan. It is hoped that these measures will go some way towards addressing the concerns identified.

3.35. Consideration was given as to whether it would be appropriate to exempt small businesses from the new arrangements. This option was discounted because creating a two-tier system of maternity and parental leave by exempting micro-businesses and new companies would deny these employers the ability to be more flexible and to negotiate with their employees on when leave is taken or to split the burden of absence where the mother or adopter works for a small
employer. The creation of two tiers of business responsibilities also has the potential to cause confusion and disincentivise growth in those businesses who wish to keep their exemption.

3.36. It should also be highlighted that the measures are not increasing the amount of leave but giving parents and employers more flexibility in how that leave can be taken. The new system no longer dictates that a long, continuous period of leave must be taken, and allows employers and their employees to agree a pattern of leave that suits them both. It is hoped that this flexibility will be beneficial to small businesses.

3.37. It should also be noted that some of the challenges associated with employment regulation more generally facing small employers are currently being considered as part of the Department’s comprehensive employment law review.

Other issues

3.38. A number of respondents asked why there were no plans to provide protected leave and pay for fathers and partners. There were also concerns raised that the proposed rates of pay for fathers and partners would restrict take-up. The Department intends to keep the new system of parental leave as simple as possible for both employers and employees and feels that an additional category of leave would make the new system overly complex. The Department must also consider the overall financial implications of any policy proposals and any statutory financial support has to take account of affordability for both employers and taxpayers. In light of this the Department considers the proposed rates of pay for fathers and partners to be appropriate. The Department will, however, keep the uptake of shared parental leave and pay by fathers and partners under review.

3.39. Several respondents also asked why there were no plans to make paternity leave a ‘day one’ right. The Department feels that it is important to find the right balance between the needs of employees to take leave and the needs of employers to have certainty when recruiting and hiring new staff. Maternity leave operates as a day one right to ensure the health and well-being of both mother and baby. That same need does not apply for those who wish to take paternity leave. Employers need to plan effectively to cover an employee’s absence during the paternity leave period, which wouldn’t be possible if the employee had just been recruited. This is why it is considered important to retain the qualifying period for paternity leave.

3.40. However, adoption leave for the primary adopter will become a day one right. The Department is content that it is appropriate to enhance the rights of primary adopters so that they more closely resemble those of mothers, as there is a need to ensure that prospective adopters are not prevented from adopting because they have not met certain duration of service qualifying criteria. This is because, unlike for birth parents, in the absence of this provision neither parent would be entitled to leave and there would therefore be no-one available to look after the child. This may mean that the child is not adopted at all, or remains in care...
longer than necessary. A further measure that will be implemented to support the primary adopter and align rights more closely with those of mothers is the provision for statutory adoption pay to be enhanced to 90% of the primary adopter’s salary for the first six weeks.

3.41. The Department confirms that in addition to the measures outlined above, it will also be taking forward measures to establish rights for partners to attend antenatal appointments and establish rights for primary adopters and secondary adopter to attend pre adoption appointments. This is to encourage shared parenting from as early a stage as possible. Giving fathers and those who will be involved in the upbringing of a child a right to take unpaid leave to attend antenatal appointments is an important factor in this. The burden to businesses has been minimised by making the time off unpaid and by restricting the entitlement to two appointments, capped at six and a half hours per appointment.
4. Annex A: List of respondents

Belfast City Council (BCC)

Children in Northern Ireland

Christian Employers Network

Citizens Advice (CAB)

Confederation of British Industry (CBI)

Construction Employers' Federation (CEF)

Craigavon Borough Council (CBC)

Employers for Childcare

Engineering Employers Federation (EEF)

Evangelical Alliance

Labour Relations Agency (LRA)

Law Centre NI

Law Society

Legal Island

NIC/ICTU
NICS Corporate HR

Northern Ireland Commissioner for Children and Young People (NICCY)

Northern Ireland Housing Executive (NIHE)

Northern Ireland Human Rights Commission (NIHRC)

Northern Ireland Public Service Alliance (NIPSA)

Northern Ireland Retail Consortium (NIRC)

Parenting NI

Public Health Agency

Queen's University Belfast (QUB)

Roy Kelly

Trevor Girvan

University and College Union (UCU)

University of Ulster (UU)

Women’s Forum NI

Women’s Resource and Development Agency (WRDA)

Women's Support Network (WSN)

Working Families
Further Information:
Employment Relations Policy and Legislation Branch
Department for Employment and Learning
Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD
Tel: 028 90 257 580  Web: www.delni.gov.uk