



Women's Budget Group response to the Department of Trade and Industry's Consultation on Additional Paternity Leave and Pay

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About The Women's Budget Group

The Women's Budget Group (WBG) is an independent organisation bringing together academics and people from non-governmental organisations and trades unions to promote gender equality through appropriate economic policy.

The WBG is co-chaired by Adele Baumgardt, Kate Bellamy, and Alifia Chakera.

If you would like more information about the work of the WBG, or to join the group and contribute to our work, please contact the Senior Project Officer, Erin Leigh, or visit our website.

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Introduction

The Women's Budget Group welcomes the proposed introduction of Additional Paternity Leave (APL) as an opportunity to enable men to play a greater role in caring for their very young children. This should be a start towards encouraging greater equality in caring roles in the home and through that could make a significant contribution to gender equality in work-life balance and in employment opportunities. However, the proposed legislation puts in place several barriers to the take-up of APL, reinforcing rather than challenging the economic and cultural factors that promote unequal gender roles. It is not surprising that the consultation paper's predictions are that only in the region of 9,000 to 16,000 fathers, out of the 238,000 to 277,000 estimated to be eligible, are likely to take their entitlement to APL. In our response, we outline some key elements of APL that are required for it to be successful in its objective to truly enable fathers to take on greater caring responsibility for their young children. We discuss the principle of sharing caring responsibilities between women and men, and the policy levers required to support this, as well as address some of the particular questions raised by the consultation document.

Caring as a shared responsibility between women and men

We see APL as a *necessary* adjunct to the extension of maternity leave. The extension of maternity leave is to be welcomed as fulfilling the wishes of many mothers and enabling parents to opt for maternal care for their children for most of the first year of their children's lives. However, by itself it will have deleterious consequences on gender equality. Research has shown that countries with long maternity leave, particularly if it is poorly paid, have less gender equality than those in which leave is available to both parents and is better paid (Moss and Deven, 2005).

Timing of APL introduction

Introducing APL along with the extension of maternity leave is one way partially to counteract that effect by enabling men to play a greater role in caring for their very young children, thus encouraging greater equality in caring roles in the home. The government clearly sees that one of the benefits of APL, is a way to "*provide an opportunity for [parents] to have equal caring responsibilities for the child during the first year of its life*" (DTI APL consultationn, 2006, p. 8). However, by proposing to introduce APL at a later date than when maternity leave will be extended to nine months, the likelihood of APL functioning to promote equality of caring roles is severely undercut. If it is to promote equal opportunities, APL should be introduced at the *same* time as any extension to maternity leave, so that the extension is seen as being available equally to fathers as to mothers (if the mother so wishes), even if this were to result in a delay in the extension of maternity leave.

Given commitments that the government has already made, this now looks unlikely to happen, but we would urge that APL be introduced as soon as possible. If APL is brought in within six months of the start of the extension to maternity leave, the number of families for whom the delay will cause disappointment should be minimal. Further to counteract the adverse effects

of the delay on gender equality, active measures should be taken to improve men's take-up of APL when it is available including a publicity campaign, commencing from the date that the maternity leave extension is in force, to encourage future take-up of APL.

The Women's Budget Group urges Government to introduce APL as soon as possible.

APL available to all men who are in paid employment

Another area of concern we would like to highlight is the employment status required of women for men to receive APL. Because the right to APL depends on the mother's employment status, men whose partners are not in employment are not eligible for APL. This seems unfair to those fathers and those children who will not have the chance to have their parents share in their care during the first year of their lives, but we recognise is an intended consequence of the regulations that the government is proposing.

However, there is another consequence which the government may not have intended, that is, that mothers who are currently out of employment when their child is born will be discouraged from returning to work before their child's first birthday because the father will not be able to take APL. This is a severe restriction on the choice of parents as to how to care for their children, which goes against encouraging more equality and greater involvement by fathers. We do not believe that this was an intended consequence of the proposed legislation and suggest that the government attempts to rectify this anomaly by allowing men to take APL whose partners return to work before their maternity leave entitlement would have run out, whether or not they were actually in employment at the time of the child's birth.

The WBG urges government to make APL available to men in paid employment, even if their partner is not.

Women's and men's absence from the labour market to provide unpaid care

We understand that it is concern for the difficulties of implementation that has led to APL being implemented later than the extension of maternity leave. Some employers and the CBI have not welcomed the introduction of APL, emphasising the difficulties that it might cause for them. It is important to distinguish between two types of difficulties involved that are sometimes conflated in these representations. One is the administrative difficulty for employers in implementing such a scheme, which does have added complexities compared with maternity leave and existing paternity leave, the other is the problem of having men as well as women take longer periods of leave to look after children.

The government is right to consult carefully about the administrative difficulties but should be aware in assessing employers' responses that these might be overemphasised by those who dislike APL because they do not wish to cope with longer absences by their male employees. The WBG recognises that this may in some cases be a problem for employers, but would urge the

government to stand firm on this point. Women are now 46% of the labour force, if employers can adjust to nearly half their workforce having the right to take maternity leave, it is only reasonable that they make the adjustment for the other half to be able to do so too (ONS, 2006). Those who claim that this will be a different order of disruption are using an outdated model of the British labour force. The “normal worker” is no longer male and unlikely to get pregnant.

The problem is that given gender divisions in the labour market, the employers who would have to make an adjustment to cope with APL are different from those who have already learned to make the adjustments necessary to cope with maternity leave. Even some of the latter may fear being required to make such adjustments for a different group of workers. But it is important that they do adjust and that the government does not demand more of the employers of women than it does of the employers of men. To do so is unfair to employers and certainly does not constitute a level playing field. Further it would be a direct discouragement to the promotion of real equal opportunities.

This is an important economic issue, for the country loses productivity and potential output from the underemployment of women and their skills. There is a ‘hidden brain drain’ in the UK estimated at 5.6 million women working below their potential (EOC 2005). Employers that are unwilling to let men play an equal part in caring responsibilities in the home contribute to the underemployment of women, and to the concentration of mothers in part-time jobs in which their skills are underused. Such employers are free-riding on the rest of the economy; it is good business for them but does not make good economic sense for the economy as a whole. The negative response to APL of employers who currently benefit from such free-riding is not surprising.

In its emphasis in the consultation document on the small numbers of men who are expected to take this leave, we believe that the government is, perhaps unintentionally, encouraging this response. We urge the government to stand firm on this issue, not only to implement APL, but to encourage men to take it up and men and women to think about sharing equally in the care of children in the first year of their lives. A robust approach to employers who do not like the idea of giving their male employees leave to care for babies is essential if the right signals are to be given by government.

The WBG urges Government to ensure that men are encouraged to take up APL, and ensure that employers expect both women and men to have labour market absences to care for children.

Administrative difficulties for employers in implementing APL

To allay employers’ legitimate fears about administrative difficulties, it is important that the scheme be implemented in as administratively straightforward a way as possible. We also welcome the idea that employers who may face particular difficulties should receive help. We believe that, in general, the simplest scheme is one in which employees and employers are not in the normal circumstances expected to provide a great deal of

documentation, but can be required to provide proof if asked by employers or the government.

The WBG recommends implementing the simplest system possible for employers to administer the APL.

Low pay of APL

It is also disappointing that the uptake of APL will inevitably be limited by the level of pay attached. Research from the Equal Opportunities Commission showed that only 28 per cent of fathers surveyed would take statutory paternity leave at £106 per week, but this would rise to 80 per cent if statutory pay was increased to £200 per week (EOC, 2005b). As it stands, current maternity and paternity pay is below the weekly minimum wage level and therefore many families remain better off in employment than on leave. For those families at the margins of poverty, this means that their choices about work-life balance are constrained by their financial situation. Some families will feel that they cannot afford for either parent to take their full leave entitlement.

This also has a gender dimension. Given that most fathers earn more than most mothers, more families will be able to afford mothers to take leave than fathers. Where mothers earn more than fathers they may find that they cannot afford for the mother to take the full first six months and there is a perverse gap before the father is allowed to take APL. The government has recognised the extra expenses incurred by parents during the first year of a baby's life through a higher level of Child Tax Credit, and for the poorest families WTC payments will increase to those whose income drops through a parent taking leave during that period. However, it is not just the poorest families who have extra expenses at this time and other financial commitments do not reduce. For most families the biggest cost in that first year is loss of earnings.

The most important step that the government could make through its maternity/paternity leave scheme to enabling young babies to be cared for by parents in the first year of their life, to encourage men to play a part of this and to promote equal opportunities in both caring and employment would be to raise the rate of statutory maternity/paternity pay to at least minimum wage levels, with an earnings related period for men as well as women.

The WBG recommends raising the statutory maternity/paternity pay to at least minimum wage levels, with an earnings related period for men as well as women.

In addition to the above recommendations, the WBG has also addressed some of the particular questions raised by the consultation, which are set out below.

Question 1: What is the minimum length of time a father should have worked for his employer before he can qualify for APL?

On the grounds that we gave above, we see no reason why men should have any greater requirements on length of service than women do. No length of

service requirements should therefore be imposed on men as are they are being removed for women taking maternity leave from April 2007, and they should be removed for Ordinary Paternity Leave too.

Question 4: What circumstances do you think should constitute returning to work?

We recognise that the government is concerned that both parents should not be on paid leave to look after their baby at the same time (except during Ordinary Paternity Leave). However if a mother chooses to use annual leave or some other form of leave, or is on sick leave, then we see no reason why her partner cannot take additional paternity leave at the same time. Indeed many parents may feel that it is necessary to have a few days transition between one parent looking after the baby full-time and the other one doing so.

Question 5: Do you agree that the earliest point should be 20 weeks from the birth or 20 weeks from the date the child was placed for adoption is the best way of reserving 26 weeks for the mother?

If a mother does not to take her full six months maternity leave, we would favour the time not taken being added to the time available for fathers to look after the baby. This is important since the low rate of maternity pay means that some women do not even take the full six months paid maternity leave to which they are currently entitled. We see no reason why fathers should not be able to take the leave in that case and enable the child to be looked after at home for those first six months.

Question 6: Do you agree the rules should allow for the possibility of a gap between the end of maternity leave and adoption leave and the beginning of APL and ASPP?

If fathers are not going to be able to start additional paternity leave until a specified time, there will inevitably be gaps between the end of maternity or adoption leave and the beginning of APL, whenever the former does not last until that specified period of time. It would be completely counterproductive to the aim of allowing parental care for babies and encouraging choice for parents to prohibit such a gap

Question 7: Are there any circumstances where you think a gap in 'leave' or 'pay' should not be allowed?

No

Question 8: Should all situations outlined above in relation to the situation where a mother dies be included in the regulations?

If the mother dies, the "extended" APL, including any remaining paternity pay, should be available to fathers to cover the first year of the child's life and the regulations should include all the situations outlined in the consultation document.

Question 9: Do you agree with the principle that the number of KIT days for a father on APL should be the same as those for a woman on maternity leave

We can see no reason why similar arguments re Keeping in Touch days should not be made for fathers as for mothers.

Questions 10 and 11: Should a father taking APL be entitled to the benefit of his terms and conditions to the same extent as a mother on OML or as a mother on AML? Should a father taking APL be entitled to the same right of return as a mother returning after OML, or a mother returning after AML?

As we have argued above it is important that men are not just enabled but encouraged to take APL. To do this men need the stronger protection offered by OML, i.e. that the employee benefits from all their terms and conditions other than the right to remuneration. They also need to be given the right to return to the same jobs. Men are unlikely to take the leave unless they can be assured of this. On equality grounds men should have the right to take six months leave on as good conditions as women do and their employers should be required to treat them as well as those of women.

References

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