

Spring Budget 2021 Pre-Budget Briefings

**Maternity, paternity,
parental leave and
gender**

Maternity, paternity and parental leave

Pre Budget Briefing from the UK Women's Budget Group

Key points

- UK maternity, paternity and parental leave policy design is based on an **out-of-date model that does not encourage sharing of care between parents**.
- **Maternity leave provision** is up to 52 weeks of leave, 39 of which can be paid (6 at 90% of earnings and 33 at statutory rate of £151.20 per week). **Statutory paternity leave**, on the other hand, comprises a 2-week entitlement paid at statutory rate of £151.20 per week.
- The shared parental leave policy introduced by the government in 2015 is based on a transfer of maternity leave to the second parent. Transfer of leave models are known to have very limited impact on fathers' take up of parental leave. 'Default policy option' **models that provide both partners with an equal share of leave, some of which is transferable, have been shown to be more effective at promoting more gender equal caring**.
- Statutory maternity and paternity pay rates are, in relative terms, among the lowest in Europe.
- **The low rate of replacement pay for paternity leave interacts with the gender pay gap, providing significant barriers to fathers using more leave.**
- **Coverage and eligibility for maternity and paternity leave is a key issue.** 28% of women and men in employment do not have access to paid paternity or maternity leave due to either their employment status and/or length of service. **With increasing casualisation of working arrangements, there are fears this number will rise and particularly impact some of the most vulnerable workers.**
- In the context of the coronavirus pandemic, there is the potential for the disparity in leave entitlements between mothers and fathers to lead to discrimination against pregnant women when redundancy decisions are made.

Maternity, Paternity and Parental Leave

Parental leave policies in the UK are complex and difficult to navigate for parents and employers alike. Leave entitlements remain structured upon a framework that privileges maternity and in doing so upholds stereotyped gender norms that lead to discrimination against women.

Statutory maternity leave comprises a 52-week entitlement, paid at 90% of earnings for the first 6 weeks, statutory rate of £151.20 per week for the following 33 weeks, and no replacement pay for the final 13 weeks. Maternity protection is a fundamental right at work, and pregnancy and maternity is a protected characteristic under the UK Equality Act 2010. Maternity leave can be taken from 11 weeks prior to a baby's due date. It is obligatory for women to take leave for two

weeks after childbirth, or 4 weeks if they work in a factory. Adoption leave provides the same entitlements as maternity leave for the primary adopting parent.

Statutory paternity leave is for fathers and partners of the mother or primary adopter and consists of two weeks of leave paid at statutory rate of £151.20 per week.

Eligibility

Eligibility for maternity leave and maternity pay is based on employment status, since the person claiming maternity leave must be classed as an employee, rather than a worker or self-employed. To be eligible for maternity pay, mothers must meet an earnings threshold of £120 per week before tax, and have worked for

their employer continuously for at least 26 weeks into the 'qualifying week', which is the 15th week before the expected week of childbirth. Some women not eligible for statutory maternity leave and pay are eligible for maternity allowance, which is paid at either £151.20 per week or 90% of average earnings for 39 weeks (whichever is lower), or £27 a week for 39 weeks, or £27 a week for 14 weeks. There is no six-week period paid at 90% of earnings for people eligible for maternity allowance.

To be eligible for paternity leave, fathers and partners must be classed as an employee and have worked for their employer continuously for at least 26 weeks up to the qualifying week. To be eligible for paternity pay, fathers and partners must also earn at least £120 per week before tax.

Shared Parental Leave and Pay

The Government introduced Shared Parental Leave and Statutory Shared Parental Pay in April 2015, whereby the mother or primary adopter can end their maternity/adoption leave from any time after two weeks of leave and transfer the remainder to the other parent if they wish. Fathers and partners do not have an independent right to parental leave beyond the two weeks of low-paid paternity leave. Since Shared Parental Leave (SPL) is effectively a transfer of maternity leave to the mother's partner, eligibility for SPL is based on the mother's eligibility for maternity leave and pay. This means that if the mother or primary adopter does not qualify for either maternity pay or maternity allowance then their partner will not qualify for shared parental leave.

Parental leave and gender inequality

The birth of a first child is a pivotal moment in how couples organise responsibility for childcare throughout their lives and is foundational in forming and perpetuating gender inequality.¹ Use of parental leave in the UK, as in most other

countries, is highly gendered. Time away from the labour market affects skills and experience which affect human capital, and when time away from the labour market is inequitably distributed, women bear the brunt of care penalties through discrimination, loss of human capital and the gender pay gap. Disparities in use of leave by women and men negatively impact on women's salaries and career progression across the board, not just mothers', because it leads to discrimination which affects all women.²

There are indications that discrimination against pregnant women has been heightened in the context of Covid. In a survey of 20,000 women, 11% of pregnant women said they 'had been made redundant or expected to be made redundant'.³ Of these, 53% believed their pregnancy was a factor in their redundancy (a figure that rises to 67% of BAME pregnant women).

Parental leave policy design has the potential to recalibrate or reinforce patterns of gender inequality that become embedded as a result of gendered caring norms. EU legislation introduced in 2010 has informed a host of changes to leave configurations across Europe, aimed at increasing fathers' use and couples' sharing of leave, through the introduction of gender-neutral entitlements and father incentives ('daddy quotas') in several countries. The UK policy design lags behind these shifts.

Affordability and Take-Up of Shared Parental Leave

Take up of the Shared Parental Leave policy has been low, at less than 10% of eligible parents. Some estimates, derived from collating freedom of information requests, suggest the rate could be as low as 1%.⁴ Since the government doesn't routinely collect data on use of maternity or paternity leave entitlements, understanding the full extent of take-up is difficult at present.

¹ Sundström, M. and Duvander, A. E. (2002). Gender Division of Childcare and the Sharing of Parental Leave among New Parents in Sweden. *European Sociological Review*, 18(4), 433-447.

² Castro-García, C. and Pazos-Moran, M. (2016). Parental Leave Policy and Gender Equality in Europe. *Feminist Economics*, 22 (3), pp.51-73.

³ Pregnant then screwed (2020) The true scale of the crisis facing working mums (<https://bit.ly/2M3qPW5>)

⁴ O'Brien, M., Atkinson J., and Koslowski, A. (2019) 'United Kingdom country note,' in Koslowski, A., Blum, S., Dobrotić, I., Macht, A., and Moss, P. (eds.) *International Review of Leave Policies and Research 2019*. (<http://bit.ly/2VZEYUG>)

Research has found that take up is highest among dual-earner professional couples, or where the mother earns more than her partner.⁵

The low rate of paternity and shared parental leave pay for UK fathers makes it unaffordable for many families. Some fathers take annual leave upon the birth of their child instead of, or in addition to, paternity leave.⁶ A number of surveys have found that some employers top up statutory paternity pay (between 54% and 81%) but many do not.⁷ In addition, mothers' existing statutory entitlements, and often enhanced entitlements, are significantly longer than fathers'.⁸ These two factors work together to reinforce gendered caring norms.

The introduction of Shared Parental Leave intended to address this disparity. However, research shows that fathers tend to make use of well paid, non-transferable parental leave entitlements,⁹ while their use of shared or transferable entitlements is much more limited.¹⁰ It is not surprising therefore that the new policy has seen low uptake, since transfer models do not lead to increases in fathers' uptake.

Some research has found that the shared policy in the UK has resulted in some couples regarding the transfer as a 'gift exchange' from one partner to the other,¹¹ failing to meaningfully promote fathers' use of parental leave and doing little to tackle fixed gender roles that disadvantage

women.¹² There is emerging evidence that some women are reluctant to relinquish their allocated time with the child in order for their partner to use it.¹³

Reconfiguring shared parental leave through use of a default policy option

These issues could be addressed through a default policy option where half the total allocated leave time is provided to each partner. This is the case in Sweden where both partners are provided with 240 days as the default, with the option to transfer up to 150 days to the other partner. The remainder (90) of the days are an individual and non-transferable entitlement, reserved for each parent only ('use-it-or-lose-it'). This policy dramatically increased take up of father's leave in Sweden. Upon the introduction of the first month of 'pappamånader' ('father's quota') leave, the proportion of fathers using any leave increased dramatically, from 43% to 75%. The average number of days used by fathers increased by 10 days.¹⁴ There is no such 'use-it-or-lose-it' portion in the UK policy, although calls for the introduction of this have been made.¹⁵ The level of pay is also crucial to fathers' take-up.

Parental leave policy and the gender pay gap

Parental leave policy design also interacts with the gender pay gap. Women in heterosexual partnerships often earn less than their male

⁵ Birkett, H. & S. Forbes (2019): Where's dad? Exploring the low take-up of inclusive parenting policies in the UK, Policy Studies (<https://bit.ly/37ow6ij>)

⁶ O'Brien, M., Connolly, S. Speight, S., Aldrich, M. and Poole, E. (2015) 'Father involvement with young children in the contemporary United Kingdom'. In: Adler, M.A. and Lenz, K. (Eds.) *Father Involvement in the Early Years: An International Comparison of Policy and Practice* (pp.157-192). Bristol: The Policy Press.

⁷ Burgess, A. and Davies, J. (2017). *Cash or Carry: Fathers combining work and care in the UK*. London: Fatherhood Institute. (<https://bit.ly/2QKAnSG>)

⁸ CIPD. (2016). *Labour Market Outlook: Focus on Working Parents*. London: Chartered Institute of Personnel and Development. (<https://bit.ly/2QOoz1D>)

⁹ Castro-García, C. and Pazos-Moran, M. (2016). Parental Leave Policy and Gender Equality in Europe. *Feminist Economics*, 22(3), 51-73.

¹⁰ Haas, L. and Rostgaard, T. (2011). Fathers' rights to paid parental leave in the Nordic countries: consequences for the gendered division of leave. *Community, Work & Family*, 14(2), 177-195.

¹¹ Moss, P., and Deven, F. (2006). Leave Policies and Research. *Marriage & Family Review*, 39(3-4), 255-285.

¹² O'Brien, M. and Twamley, K. (2016). Fathers Taking Leave Alone in the UK – A Gift Exchange Between Mother and Father? In O'Brien, M. and Wall, K. (Eds.) *Comparative Perspectives on Work-Life Balance and Gender Equality: Fathers on Leave Alone* (pp.163-181). Online: Springer International Publishing. (<https://bit.ly/2yireJZ>)

¹³ My Family Care (2017) *Shared Parental Leave - Where Are We Now?* London: My Family Care; Ndzi, E. G. (2018). *Report on the Challenges of Shared Parental Leave: Why mothers may or may not want to share their maternity leave*. Hatfield: University of Hertfordshire; Birkett, H. & S. Forbes (2019): Where's dad? Exploring the low take-up of inclusive parenting policies in the UK, Policy Studies (<https://bit.ly/37ow6ij>)

¹⁴ Duvander, A. Z. and Johansson, M. (2012). What are the effects of reforms promoting fathers' parental leave use? *Journal of European Social Policy*, 22(3), 319-330.

¹⁵ Women and Equalities Committee. (2018). *Fathers and the Workplace*. London: HM Government.

partners: for example, only one third of women in dual-earner households bring home at least half of the household income.¹⁶ Finances are a central factor in couples' decision-making when it comes to planning family leave to care for a new baby and, due to the gender pay gap, on average, women are paid less than their male partners. Moreover, given government parental leave policies do not provide fathers with a well-paid portion of leave, the majority of heterosexual couples stand to lose a greater proportion of their household income if the father stays at home, acting as a further disincentive to fathers' use of leave.¹⁷ This is supported by evidence from Sweden, which indicates that lack of economic constraint is associated with increases in the number of days leave that fathers use.¹⁸

Coverage

Coverage is a key problem with parental leave policy. *Maternity leave* is a 'day one right' whereby women qualify for up to 52 weeks off no matter how long they have worked for their employer prior to the baby's arrival. *Maternity pay* and *paternity leave* is a different matter with stricter eligibility criteria (see 'Eligibility' earlier in the briefing). Eligibility criteria based on employment contract type and length of service mean that a significant proportion of people in employment cannot access paid maternity/paternity benefits, with concerns rising about the impact of increasing precarity and casualisation on access to parental leave.¹⁹

Self-employed people and those working in casual, flexible or low-paid roles have reduced access to paid leave, with more than a quarter (28%) of men and women in employment lacking access to paid paternity or maternity leave.²⁰

¹⁶ Burgess, A. and Davies, J. (2017). *Cash or Carry: Fathers combining work and care in the UK*. London: Fatherhood Institute. (<https://bit.ly/2QKAnSG>)

¹⁷ Batljan, I., Tillander, S., Ljungh, S., and Sjöström, M. (2004). *Föräldrapenning, pappornas uttag av dagar, fakta och analys [Parental insurance, fathers' take up of days, facts and analysis]*. Stockholm: Regeringskansliet, Socialdepartementet; Brandth, Berit and Kvande, E. (2013). "Free Choice or Gentle Force? How Can Parental Leave Change Gender Practices". In Kjörholt, A. and Qvortrup, J. (Eds). *The Modern Child and the Flexible Labour Market: Early Childhood Education and Care* (pp.56-71). Basingstoke: Palgrave Macmillan.

Among new parents, 27% of employed fathers who had a child in the last year were not eligible for paid paternity leave due to their employment status, with 20% ineligible due to self-employment and 7% because they had been employed for under 6 months. For employed mothers, 16% of those who had a child in the last year were not eligible for paid maternity leave, either because their earnings fell below the economic activity test earnings threshold (7%), because they were self-employed (7%) or did not meet the continuous employment condition (2%). Furthermore, 4% of new mothers were not eligible for the maternity allowance payment.

Groups with the lowest eligibility for paid maternity and paternity include young employees, both men and women of Pakistani origin, people working in intermediate, semi-routine or routine occupations, and men working in male-dominated industries.

Awareness

Compounding these factors is the fact that there is low awareness of parental leave policy and significant complexity in administering it. The policy is complicated for individuals, managers and HR support professionals to navigate. The government's 'Share the Joy' campaign in early 2018 aimed to raise awareness of the shared parental leave policy two years after it was first introduced. However, the impact of this campaign is uncertain and debate continues over the efficacy of the campaign, especially given the issues with the policy design.²¹

¹⁸ Haas, L., Allard, K. and Hwang, P. (2002). The impact of organizational culture on men's use of parental leave in Sweden. *Community, Work & Family*, 5(3), 319-342.

¹⁹ McKay, L., Mathieu, S. and Doucet, A. (2016). Parental-leave rich and parental-leave poor: Inequality in Canadian labour market-based leave policies. *Journal of Industrial Relations*, 58 (4), pp.543-562.

²⁰ Aldrich, R. et al. (2018). *Inequalities in Access to Paid Maternity & Paternity Leave & Flexible Work*. London: UCL.

²¹ O'Brien, M., Atkinson J., and Koslowski, A. (2019) 'United Kingdom country note,' in Koslowski, A., Blum, S., Dobrotić, I., Macht, A., and Moss, P. (eds.) *International Review of Leave Policies and Research 2019*. (<http://bit.ly/2VZEYUG>)

Women and Equalities Select Committee Review

The Women and Equalities Select Committee (WESC) published the 'Fathers and the Workplace' report in 2018,²² which reviewed all government policy affecting fathers' ability to balance work and care responsibilities. The report made a series of recommendations for change, including:

(1) the Government undertake an analysis of the costs and benefits of an alternative policy of 12 weeks paternal leave and pay to replace shared parental leave. This would be an individual, non-transferable entitlement reserved for fathers only—or a 'daddy quota'. This type of leave, when combined with adequate pay, is proven to increase fathers' take up of entitlements.

(2) That two weeks' paternity leave should be paid at 90% of earnings (capped), similar to maternity pay which is paid for six weeks at 90% (uncapped).

(3) That paternity leave should be a 'day one' right, in line with maternity leave.

(4) That the Government brings forward legislation to achieve the Prime Minister's intention to ensure that all new jobs are available for flexible working.

Promoting greater gender equality through parental leave policy

The recommendations by the Women and Equalities Select Committee are welcome, but do not go far enough. Further action is required in a number of areas.

Father's quota/default policy option

The Committee's recommendation to introduce a three month, individual and non-transferable, use-it-or-lose-it fathers' quota would likely lead to an increase in fathers' use of parental leave in the UK, but only if combined with higher, earnings-related pay levels. Therefore, we would

urge the government to go further and adopt a default model akin to that in Sweden or Iceland. A default model provides each parent with 50% of the total leave period, with a non-transferable portion of minimum four months and the option to shift the remainder to the other parent if desired. This extension of leave has to be combined with higher pay for take-up to increase. Such a model would improve gender equality in sharing care work for young children at a critical moment in the organisation of work and reproductive life.

Maternity and Paternity Pay

Currently, the rates of pay for maternity and paternity leaves are among the lowest in Europe. The Government should consider increasing the statutory payment rate to ensure all families can afford to meaningfully share caring responsibility.

Eligibility

As recommended by the Women and Equalities Select Committee report, fathers and partners should be able to access the period of paternity leave no matter how long they have worked for their employer. In addition, eligibility for both maternity and paternity, as well as parental leave, should not be limited to those on legal employment contracts. In an age of increasing casualisation, this has significant implications for some of the most precarious workers and those with the lowest incomes. Self-employed mothers, who can be eligible for maternity allowance, are also disadvantaged. Maternity Allowance is paid up to the same rate of £151.20 per week but does not include entitlement to the first six weeks paid at 90% of earnings, meaning that self-employed mothers miss out on the well-paid part of the leave.

To address these coverage problems, greater clarity is required over statutory definitions of, and protections linked to, employment status. In particular, information about the national insurance and tax contributions that self-employed and 'worker' status individuals need to

²² Women and Equalities Select Committee (2018) *Fathers and the Workplace*. London: House of Commons. <https://bit.ly/3spD9j1>

make in order to secure access to paid family-friendly statutory support should be improved and made more accessible.²³

Furthermore, introducing an individual, non-transferable fathers' or partners' only portion of leave (as in the default option model), which is not based on the eligibility status of the mother would also ensure greater coverage and, if combined with a period of higher, earnings-related pay, promote more gender equal caring.

BEIS Parental Leave Consultation

In 2019, the Department of Business, Energy and Industrial Strategy launched the Good Work Plan: Proposals to support families²⁴ consultation. This closed on 29 November 2019 and sought views on three areas: parental leave and pay; neonatal leave and pay; and transparency of flexible working and family related leave and pay policies.

WBG, alongside many other women's and equalities organisations, responded to the consultation. Part of our response outlined our commitment to the Alliance for Maternity Rights principles and objectives for parental leave reform:

- Each parent should have an individual right to time off and pay, reserved just for them; this has been shown in other countries to reduce gender inequality.
- Maternity leave is important because mothers need to recover from childbirth and may breastfeed their new baby.
- Leave for fathers to care for their infant alone is important to lay the ground for fathers' role in caring for children.
- The system must be simple and easy to understand for both parents and employers while enabling flexibility for parents, including some time off together if that's what they want.
- Time off and pay should be available to all parents (those classified as 'workers' and

'self-employed') from the start of their employment as an individual right.

- Flat-rate payments during time off should be substantially increased and then kept in line with the cost of living.
- The system should ensure that parents have the right to return to the same job after taking leave and protected by law from losing their job during their leave or when they return to work, through discrimination or redundancy.
- Parental leave and pay policies should work alongside a flexible by default UK labour market and a more affordable childcare system that is available and ensures work pays from the day parents return to employment.

In addition, WBG would like to see the inclusion of an earnings-linked system that offers significant well-paid periods of leave (defined at 66% or above of earnings) for both mothers and fathers/partners.

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UK Women's Budget Group, March 2020.

WBG is an independent, voluntary organisation made up of individuals from Academia, NGOs and trade unions. See www.wbg.org.uk

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²³ Aldrich, R. et al. (2018). *Inequalities in Access to Paid Maternity & Paternity Leave & Flexible Work*. London: UCL.

²⁴ Department for Business, Energy & Industrial Strategy. (2019). *Good Work Plan: Proposals to support families*. (<http://bit.ly/2N3EiJU>)