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INEQUALITIES IN ACCESS TO PAID MATERNITY & PATERNITY LEAVE & FLEXIBLE WORK



BRIEFING

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Full briefing

1. Introduction and background

The late 20th and early 21st centuries have witnessed a global expansion of parental leave and flexible working as managing work-life balance has become more difficult especially for parents and younger generations (ILO, 2014; Moss & Deven, 2015; World Bank, 2016). Even market-oriented countries such as the UK have expanded a role for governments in developing parental leave policies, extending their duration and increasing the payment level, for fathers as well as mothers.

Recently concerns have increased about the reach of statutory work-life balance support to those who need it especially at key times in life such as the birth of a child and for those in low-income jobs (McKay, et al, 2016; TUC, 2016). These concerns have intensified with rising insecure employment contracts and practices creating precarious working conditions including zero-hours contracts, the so called “gig economy” (e.g. *The Taylor Review of Modern Working Practices*, 2017; Clarke, 2017). Similarly, the growth in self-employment, accounting for 15 per cent of the British workforce (ONS, 2017) signals further reshaping of the economy, labour market and family life. For countries where eligibility for work-life balance support is dependent on strict conditionalities based on outdated definitions of employment (The Work and Pensions and Business, Energy and Industrial Strategy Committees, 2017) it is likely that there will be growing inequalities and divisions between workers with and without access to the benefits of paid leave and flexible working.

This briefing focuses on Britain. It examines the individual eligibility of those in employment to take advantage of statutory paid maternity and paternity leave and flexible work measures.

It uses nationally representative data from the 2017 Labour Force Survey and the 2015 Understanding Society to examine how extensive poor access to paid family-friendly statutory support is amongst the British workforce and to uncover typical individual and workplace inequalities in access to statutory provision.

The analysis focuses on those employed parents or potential parents (men and women) who may have no individual access to statutory work-life balance provisions.

Background

Policies to support working parents, particularly mothers, have developed slowly in Britain since the introduction of statutory Maternity Leave in 1977. Parental Leave available to both mothers and fathers arrived in 1999, Paternity Leave and the Right to Request Flexible Working in 2003, followed by Additional Paternity Leave in 2011 and Shared Parental Leave in 2015¹. Despite their lack of generosity in duration and income replacement, particularly for fathers, these work-life balance measures have proved popular.

¹ The focus in this briefing is upon individual access to statutory support, we therefore do not discuss access to shared parental leave. However, many of the inequalities which we identify, particularly in relation to individual access to paid maternity leave, will also apply to shared parental leave.

Conditionalities for Leave and Payment

Paternity and maternity leave vary in *duration* and *payment* levels. Statutory paternity leave is two weeks in duration and both weeks are paid at a flat rate. Statutory maternity leave is 52 weeks in duration and only paid for 39 weeks, at a flat rate for 33 weeks, after a six-week period which is compensated at 90 per cent of average weekly earnings.

All employed women who have a baby are eligible for 52 weeks maternity leave, regardless of length of employment service. All employed men (or partner of the woman) are eligible for paid paternity leave if they are the biological father of the child, or the child's adopter or the mother's husband, partner or civil partner; and if they expect to have responsibility for the child's upbringing. There is no unpaid paternity leave.

Eligibility for *paid* paternity and maternity leave is based on three conditions: employment status, length of service/ continuous employment at the employer, and income:

- Individuals who are classed 'employees' (typically with a written employment contract) are eligible for paid maternity and paid paternity leave but those classed 'self-employed' are not and generally those classified as 'workers' are not.²
- A continuous employment-qualifying period of working for an employer for 26 weeks (just over 6 months) by the end of the 15th week before the expected week of childbirth are required for paid maternity and paternity leave.
- An economic activity test with an earnings threshold is required for paid maternity and paternity leave. Gross weekly earnings need to be at least equal to the lower earnings limit for National Insurance in order to secure the financial contribution (£113 in 2016-17).

There is a further payment provision, maternity allowance, for those women on maternity leave who are not able to meet any of the three employment conditions. It is paid at a less generous flat rate for 39 weeks (Appendix Box 2). Eligibility is more inclusive than for paid maternity leave but conditionalities remain:

- Employment status is extended to include the self-employed: employees and self-employed are eligible.
- A flexible 26 week employment-qualifying period which can be discontinuous and can occur over a longer period before the baby is due (over 66 weeks [15 months]).
- Lower earnings threshold (more than £30 weekly in 13 of the 66 weeks in 2016-2017).

There is no paternity allowance for men.

Conditionalities for access to flexible work arrangements

Eligibility to access the statutory right to request flexible working (e.g. to reduce working hours or work flexitime) is a universal right independent of the parental responsibility or family status of an employee, although its original target group were parents with a responsibility for children under 6 years (or under 18 years in the case of disabled children).

² <https://www.gov.uk/employment-status/selfemployed-contractor-although-statutory-maternity-and-paternity-pay-may-be-possible-in-some-circumstances-for-those-classified-as-workers>.

Conditions for eligibility:

- Individuals who are classed ‘employees’ (typically with a written employment contract) have a legal right to apply to their employers to work flexibly and employers have a legal duty to consider these requests. The provision is deemed not relevant for self-employed workers.
- Continuous employment test /qualifying periods: employees must have worked for their employer continuously for 26 weeks before applying.

2. Data and Methodology

This analysis uses nationally representative data from the UK Labour Force Survey (January-March 2017) and Understanding Society, the UK’s household longitudinal study (Wave 6, 2015).

To assess access to paid maternity and paternity leave we use cross-sectional data from the first quarter of the UK Labour Force Survey collected in 2017.

For this analysis, we define two categories:

- “*New parents*” - individuals who are employed (employees and self-employed) and have had a child in the last year. The total N in our sample is 1,410 employed parents: 652 mothers, 758 fathers.
- “*Potential parents*” – individuals who are employed (employees and self-employed) and aged 20-49 years, the peak fertility and employment period (ONS, 2017a). The total N in our sample is: 26,634 in employment: 13,165 women, 13,469 men.

Our analysis focuses on those individuals whose employment conditions constrain their eligibility for statutory paid maternity and paternity leave and maternity allowance – the “not eligible”. The selected indicators are Employed < 6 months (less than 6 months); Paid < threshold (less than £113 gross weekly); and Employed < 6 month and paid < threshold.

To assess access to flexible work arrangements we use cross-sectional data from one year of Understanding Society, Wave 6, collected in 2015. There is no nationally representative data set to assess the profile of formal requests for flexible work arrangements or employer responses.

For this analysis, we define ‘employed parents’ as employed males or females with responsibility for one or more dependent children within their household. A dependent child is defined as one aged under 16 or aged 16-18 and in school or non-advanced further education, not married and living with a parent. Types of parenthood covered under this definition are biological parents, adoptive parents, foster parents, and step parents. The total N in our sample is 8,176 employed parents: 3,965 mothers, 4,211 fathers.

In the Understanding Society Wave 6 individual respondent survey, each employed participant was asked:

I would like to ask about working arrangements at the place where you work. If you personally needed any, which of the arrangements listed on the card are available at your workplace?

The options given on the card were: flexi-time, part-time working, working a compressed week, to work from home on a regular basis, working term-time only, job sharing, to work annualised hours, other flexible working arrangements, none of these.

Our analysis focuses on those who indicated 'none of these'. Although we note that the reported absence of "no flexible working options available" may not always be the same as actual absence (Dex & Smith, 2002).

We present stepwise weighted logit regression estimates for each survey sample. We control for a standard set of variables both at employee level and workplace level for the following characteristics: qualifications, ethnicity and age, occupation, sector, industry composition, gender composition of workplace, plus trade union membership (USoc only).

Separate analyses and tables are presented for men and women.

3. Findings

Paid leave

Over **one-quarter (28%)** of men and women in employment do not have access to paid paternity or maternity leave.

New parents

- 27% of employed fathers who have had a child in the last year were not eligible for paid paternity leave. This is due to their employment status rather than failing to reach the earnings threshold – self-employment (20%), employed < 6 months (7%).
- A minority (16%) of employed mothers who have had a child in the last year were not eligible for paid maternity leave because their earnings fell below the economic activity test earnings threshold (7%), were self-employed (7%) or did not meet the continuous employment condition (2%).
- 4% of new mothers were not eligible for the maternity allowance payment.

Potential parents

- 24% of men aged 20-49 years and in employment would not be eligible for paid paternity leave. This is mostly due to self-employment (16%) and failing to meet the continuous employment condition (8%).
- 26% of women aged 20-49 years and in employment would not be eligible for paid maternity leave. This is partly due to self-employment (9%), failing to meet the continuous employment condition (10%) and failing to meet the earnings threshold (7%).
- 12% of women aged 20-49 years would be ineligible for both paid maternity leave and the maternity allowance payment.

Who has poor access to paid family-friendly leave provision?

Those in self-employment, flexible or low paid work are not eligible because of the conditionalities in accessing paid paternity or maternity leave.

Men are further disadvantaged by virtue of not having access to a paternity allowance benefit.

Our multivariate analysis focuses upon **employees** and explores the extent to which being paid leave poor relates to individual characteristics (age, ethnicity), qualifications, socio-economic class, industry and sector of employment:

- Younger employees are less likely to be eligible for paid paternity and maternity leave;
- Pakistani men and women are less likely to be eligible for paid paternity and maternity leave;
- Those working in intermediate, semi-routine or routine occupations are less likely to be eligible for paid paternity and maternity leave;
- Men working in male dominated industries are less likely to be eligible for paid paternity leave.

Flexible working arrangements

Amongst parents who are **employees**:

- 30% of fathers report no access to flexible working options in the work-place (70% have access to at least one form of flexible working);
- 10% for mothers (90% of whom had access to at least one form of flexible working).

When the type of available flexible work arrangement is examined:

- part-time employment, the most frequently mentioned form, is significantly less likely to be reported by fathers than mothers (42% of fathers and 78% of mothers);
- access to flexi-time, the second most common form, is reported by similar proportions of fathers and mothers (38% of fathers and 37% of mothers);
- access to job shares and term-time working are more likely to be reported by mothers than fathers (31% vs 19% and 28% vs 13% respectively);
- whereas, access to working from home is more likely to be reported by fathers than mothers (23% of fathers and 19% of mothers).

Who has poor access to family-friendly flexible work arrangements?

Fathers are much less likely than mothers to have access to flexible working arrangements.

Our multivariate analysis focuses upon **employees** and explores the extent to which being flexible working poor relates to individual characteristics (age, ethnicity), qualifications, socio-economic class, industry, sector of employment and trade union representation.

- Fathers with qualifications below degree are less likely to have access to flexible working;
- Fathers in lower supervisory and technical; routine occupations are less likely to have access to flexible working compared to professional and managerial fathers;
- Fathers and mothers working in the private sector or in workplaces without trade unions are less likely to have access to flexible working than those working in the public sector and those in workplaces with a trade union or staff association present;
- Fathers working in male-dominated sectors (rather than those with equal gender representation) are more likely to report no access to flexible working.

4. Priority areas for policy and practice innovation

It is notable that civil society and professional bodies have started lobbying government about perceived injustices for employed parents, especially the self-employed.

For instance, the *Six Week Support* campaign, launched by NHS doctors in 2017 has started a national petition “Self-employed women receive less maternity pay than their employed equivalents. They receive the same government (state) maternity allowance as people who are employed by a company, however, they do not receive the first 6 weeks of 90% of their annual weekly salary, as employed people do.” <https://www.gpdq.co.uk/sign-the-petition-here/>.

The Campaign for Parental Pay Equality, launched in 2017 by the Music Producers Guild is focusing on lobbying for Shared Parental Pay to be available to all self-employed people. “The current system of Maternity Allowance for the self-employed places the entire burden of childcare onto the mother and offers no financial support for self-employed fathers or same-sex partners wanting to share childcare. We would like to see ShPP implemented for self-employed parents, as it would allow them more flexibility to successfully run their businesses without claiming any more money from the government than the mothers are currently entitled to.” <https://www.mpg.org.uk/news/parental-pay-equality-campaign-petition/>.

Similarly, journalists and other workers in the creative industries, many of who work as free-lancers, have started writing about and campaigning for a modernization of employment law as regards parental rights e.g. The Evening Standard (Britain’s self-employed army needs modern solutions such as parental leave and a new-tech tax system, Rohan Silva November 16th).

The evidence from this report suggests five priority areas for policy and practice innovation:

Greater clarity about statutory definitions of employment status in recognition of new forms of employment

Employment rights and entitlements are closely associated with employment status. Only individuals who are classified as “employees” have access to the full complement of statutory family-friendly employment rights although statutory maternity and paternity pay may be possible in some circumstances for those classified as “workers”.

Self-employed people, those who run their own businesses, have very few statutory employment rights, although self-employed mothers do have access to the maternity allowance benefit, some protection for health and safety purposes, and some protection against discrimination.

Individuals working in non-standard employment conditions in the new economy (e.g. across intermediary digital platforms, gig workers) can be classified as “workers”, “self-employed” or other categories with consequential employment status uncertainty.

In order to improve access to family-friendly employment rights and entitlements there should be legislation to clarify statutory definitions of and protections linked to employment status. In particular greater clarity is needed about the national insurance and tax contributions the self-employed and “worker” status individuals need to make in order to secure access to paid family-friendly statutory support.

Enhanced and proactive public awareness of any new clarification should take place so that citizens can plan for a sustainable and affordable work-family balance over their life course.

A flexible 26 week qualifying period

In recognition of new forms of discontinuous employment, more flexibility about the timing of the 26 week qualifying period is required to extend the reach of family-friendly support.

Consideration should be given to a flexible 26 week employment-qualifying period which can be discontinuous and can occur over a longer period before the baby is due. One example is over 66 weeks (15 months) in line with the current design of maternity allowance.

Paternity allowance

A majority of men ineligible for statutory paternity pay are self-employed. Unlike self-employed mothers, self-employed fathers have no alternative allowance. Men who have not worked with their employer for the 26 week qualifying period are in the same situation.

In order to reduce gender inequalities between men and women at this time, consideration should be given to an allowance to men who do not meet statutory paternity pay employment conditions - a form of paternity allowance.

Supporting cultural change in male dominated work-places

Almost one-third of fathers report not having access to flexible working arrangements in their workplace. This perception varies by industry and is as high as 37% in male dominated industries, 27% in industries where the gender composition is equal and 17% in female dominated industries.

Employers should review practices, particularly in male dominated and mixed workplaces, where local norms (peer and employer) may not be supporting access to visible family-friendly arrangements. Mentoring, training and awareness raising to support organisational change, for instance as part of future gender pay gap audits are recommended.

Government commitment to timely data collection of statutory leave and flexible work arrangements and usage

The UK Government does not routinely collect data about access to and take-up of leaves and flexible work.

The most recent publically available nationally representative survey was conducted nearly 10 years ago: the *Maternity and Paternity Rights and Women Returners Survey 2009/10* (Chanfreau et al, 2011). This joint survey for the Department for Work and Pensions with the Department for Business, Innovation and Skills provided a detailed, statistically representative profile of maternity and paternity leave and pay and maternity allowance.

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