Amicus Section

Unite Amicus section response to Work and Families Additional Paternity Leave and Pay Administration Consultation

1. Introduction

1.1 This response is submitted by the Unite Amicus Section (Unite Amicus). Unite is the UK's largest trade union with 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, education, health and not for profit sectors

1.2 Unite welcomes the Government proposals for the introduction of Additional Paternity Leave and Pay (APL&P). This will give some fathers the opportunity to take time off work to care for their baby. **However, Unite Amicus would reiterate, as in our previous response to consultations on APL&P, that it is disappointing that fathers have not been given their own period of APL&P regardless of whether the mother has returned to work, or indeed qualified for Maternity Leave and Pay. Additionally, the rate of APP needs to be significantly higher if fathers are going to be able to afford to take APL.**

2. Executive Summary

2.1 Unite Amicus supports the Government's commitment to ensure that APL&P is as simple as possible and that parents will be able to self-certify when applying for APL&P.

2.2 However, any transfer of rights from a mother to a father is going to be complex and both employers and employees will find it difficult to understand. **It is important that the Government ensures that clear, accessible guidance is provided to both employers and employees and to encourage employers to provide this information as early as possible to employees.**

2.3 **Unite Amicus is concerned about the proposals that would allow employers to force fathers to take APL&P if they do not give the required notice of a change of plan. This would put families under unnecessary stress at a very difficult period in their lives and would not support the purpose of the legislation or Government policy on the well-being of babies**.

2.4 **Unite Amicus would reiterate, as in the union's previous response to consultations on APL&P, that it is disappointing that fathers have not been given their own period of APL&P regardless of whether the mother has returned to work, or indeed qualified for Maternity Leave and Pay. Additionally, the rate of APP needs to be significantly higher if the majority fathers are going to be able to afford to take APL. The Government has missed an opportunity to bring about real cultural and social change that would see fathers playing a bigger role in childcare and for it to become acceptable for fathers to take a period off work to care for their children.**

3. **Response to Questions**

1. Are there any practical problems with the process and if so, what can be done differently to overcome these problems?

3.1 Amicus Unite supports that the parents should self-certify to the father's employer key personal facts affecting the father's eligibility. **However, this should be supported by clear, accessible guidance to both the parents and employers because of the complexity of APL and the process and that the employer should be encouraged to provide this information as early as possible to employees**.

2. Do you agree that there should be a notice period for an employer to confirm an employee's entitlement to APL and pay?

3.2 The union agrees that an employee should be required to give a minimum 8 weeks' notice of intention to take APL to tie in with notice periods under maternity leave and pay

3. Would 28 days be a reasonable period for both employer and employee?

3.3 Yes, as this notice period will tie in with the notice period that is required under maternity leave and pay. However, clear guidance needs to be given on APL by both the government and employers as problems could arise if the father is advised that he is not entitled to APL at 28 days as the mother is required to give 8 weeks' notice of return to work if there is a change of plan. This would leave the parents with only four weeks to arrange alternative childcare. As previously stated employers should be encouraged to communicate early with employees to ensure that employees are fully aware of their eligibility.

4. Should an entirely new form be developed purely for APL&P, instead of amending the existing SC3?

3.4 Amicus Unite does not believe that it is necessary for an entirely new form to be developed for APL&P. **However, the draft form is not clear and does not give sufficient information. There is no explanation of the difference between Statutory Paternity Pay and APL&P, the eligibility and notice periods, the duration of APL or that eligibility for APL&P is dependent on the mother having an entitlement to SMP or Maternity Allowance which they wish to transfer to the father. All this information should be included to avoid confusion and mistakes being made on application for both SPP and APL&P.**

5. Should it be a mandatory requirement to use either this form or a substitute to notify the intended dates for APL & P?

3.5 Amicus Unite supports the requirement for a mandatory form provided that if parents have given the correct information within the 8 week notice period, but not completed the correct form, that they should not be disqualified from transferring the leave. The mandatory form should then be completed as soon as possible and the employer has a reasonable time to check and confirm eligibility.

6. Is there anything else that should be included in the checklist for employers?

3.6 More information is required in some of the questions in the checklist for employers. Under question 2 on eligibility full details should be given of the length of service requirement for APL&P. Additionally, under Questions 3 and 10 the relevant period needs to be stated for the earnings calculation.

7. Should completion of the employer checklist (or substitute) be a mandatory requirement in every APL&P case?

3.7 Yes as this will ensure that the employer makes proper checks and should reduce the risk of mistakes.

3.8 **Unite Amicus is concerned that the consultation document states that an employer will not be penalised for making a genuine mistake, but there is no reference to similar protection for employees**.

8. How much notice should the regulations require the employee to give his employer of any change of plans before beginning his APL&P?

3.9 This should be 28 days' notice which would mirror the same notice requirement for a mother wishing to change her start dates for maternity leave and pay.

9. Do you agree with the proposal to allow employers, where a late change of circumstances cannot reasonably be accommodated, to

oblige a father to take his APL&P (or unpaid leave if he is no longer entitled to APL&P), at the agreed times, if the employee provided insufficient notice of a change of plan?

3.10 **Unite Amicus cannot support this proposal, and do not see that it would be reasonable, to compel a father to take the whole period of APL&P, or a reduced period for which he has failed to give notice, and that it is a totally disproportionate penalty for any detriment to the employer. Consideration should be given for the reason for any change in circumstances, such as the mother losing her job or family breakdown. Forcing a father to take APL&P in these circumstances will cause financial strain on the family and is not conducive to the well-being of the baby, parents and other children. It could also cause difficulties in the employee/employer relationship. It is necessary for the legislation to include defining circumstances in which an employer could not force an employee to take APL and that strong guidance is given to employers about when it would not be appropriate to impose this penalty. Additionally, if there is no impact on the employer, then no penalty should apply and the employer would have to demonstrate a significant cost burden before requiring a father to take APL.**

Unite Amicus would welcome the opportunity to discuss the issues further.

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