



**SUBMISSION BY AMICUS ON
DTI CONSULTATION ON
*Work and Families: Choice and Flexibility***

Introduction

1. Amicus is the UK's largest private sector trade union and the fastest growing union in the public sector. With over 1.2 million members Amicus has members in a range of industries including, financial services, manufacturing, print and media, the voluntary and non-profit sectors, local government and NHS health professionals.
2. We welcome the opportunity to comment on the DTI consultation on ***Work and Families: Choice and Flexibility*** outlining proposals from the Pre-Budget Report on improving the choice for parents and carers.
3. Amicus supports the extension of maternity pay from six months to nine months with a commitment to extend pay to twelve months by the end of the Labour Government's third term. However, we are concerned that many parents will not be able to afford to take advantage of the increased period of pay. The statutory rate of pay needs to be significantly higher for all forms of parental leave if parents are to have real choices about their home and working lives.
4. We believe that co-parents should be able to play a larger role in childcare and would support the transfer of leave to the co-parent. As an addition to transferability we would ask the Government to consider dedicated leave for co-parents. This could be facilitated by increasing the period of paternity leave.
5. It is unacceptable that the consultation does not include proposals to improve the pay and leave for paternity and parental leave. The Warwick agreement committed to reviewing both the accessibility and paid-time off for parental leave.

6. Amicus welcomes extending the right to request flexible working to carers of sick and disabled relatives and parents of older children. The current Flexible Working Regulations provide a legal minimum which can be improved on by collective bargaining. However, we would support the extension of the right to all workers and strengthening of the legislation, including allowing tribunals to examine the reasons for a refusal to work flexibly.
7. The consultation states that many employers have introduced working time policies that better support their staff. It is true that many organisations have introduced flexible working policies. However, Amicus has little evidence that they are working in practice. The UK is among the top three EU member states in terms of long-hours working.¹ The organisation of work remains routed in the 1950s model of the full-time working father and the mother taking responsibility for domestic work and caring responsibilities.

8. Maternity, Adoption, Paternity and Parental Leave and Pay

- 8.1 We welcome the commitment by the Government to increase paid maternity and adoption leave to nine months from April 2007, with the goal of 12 months by the end of the next Parliament. We also support that there will be clarification on the rules on the right to return after maternity leave and that the small firm's exemption will be removed. All these are positive steps forward for worker's rights.
- 8.2 However, we are concerned that many women will not be able to afford to take advantage of the leave unless statutory maternity pay is increased significantly. Specifically, we would urge the Government to increase maternity pay to 100% of earnings in the first 6 weeks and to consider earnings related pay for the remainder of what is currently OML and AML. Otherwise those that will benefit will be highly paid parents leaving little choice for the lower paid. The Warwick agreement acknowledged this with a commitment to look at improvements in maternity pay.
- 8.3 We are supportive of women being able to take 12 months' maternity leave regardless of length of service with an employer and therefore, our preference from those given is Option 2 which would abolish AML and have one type of maternity leave, OML, available for 12 months. This option would enable women to continue to benefit from all her terms and conditions (except pay) during her maternity leave. Additionally, it would give her the added protection of the right of return to the same job under OML.

¹ *Equal Opportunities Review*, February 2005, No 138

- 8.4 It is also unacceptable that the consultation does not include proposals to improve the pay and leave for paternity and parental leave. Again, the Warwick agreement committed to reviewing both the accessibility and paid time-off for parental leave. There is a small take-up of both paternity and parental leave where the organisation has not enhanced the benefits beyond the statutory minimum. Very few organisations have introduced paid parental leave, but some offer full pay for paternity leave. Most fathers take paternity leave if they receive full pay which highlights the importance of earnings related pay. A recent survey of fathers also suggested that 87% would take paternity leave if paid at full pay.² Therefore, we would support the introduction of earning related pay for both paternity and parental leave. This would encourage men to take a greater part in childcare. True equality at work cannot be achieved without equality at home.
- 8.5 The accessibility of parental leave should also be improved. It should be available to all parents of children up to the age of 18 and parents should be allowed to take parental leave in blocks of less than one week. This would allow parents to have more choice about their leave as they may wish to take less than one week's leave in some circumstances, e.g. Doctor's appointments or where a child is starting school. Additionally, paternity leave needs to be more flexible and should be available in blocks of less than one week. The Swedish parental leave scheme is very successful and allows leave to be taken from blocks as little as an hour.
- 8.6 We would ask the Government to honour its commitments in the Warwick agreement and to refer to the Swedish model which provides a lengthy period of leave, a combination of family and individual leave entitlement and significant income replacement. We realise that these improvements will add more to public expenditure, but family life would benefit and more parents would be able to work. This would lead to more tax revenue for the Government and improve the economy in the UK.

9. Keeping in touch and planning ahead

- 9.1 We do not support changing the notice period for women. We would argue that it should remain as present, with the assumption that a woman will return to work after her full maternity leave entitlement and that if she returns earlier she is required to give her employer 28 days' notice. A change in circumstances may mean that a women needs to return to work

² *Flexible Working and paternity leave* – Chartered Institute of Personnel and Development, October 2004

- quickly and 28 days' notice is an adequate time for the employer to prepare for this.
- 9.2 We support improving communication between employers and employees both before and during maternity leave. The EOC's proposal to provide information on maternity and flexible working rights at an early antenatal appointment would ensure that women are informed of their rights. It would not depend on the employer providing this information.
 - 9.3 The third option of increasing awareness through providing improved guidance to employers and employees on keeping in touch via ACAS would be the preferred option to support effective communication during maternity leave. This would ensure that both employees and employers understand contact arrangements. It could facilitate discussion of part-time or flexible working options and the smooth return to work. Additionally, it would allow for a link with work to remain during maternity leave. However, it could be a vehicle for the employer putting pressure on the woman to return early or to resign. Therefore, employers' guidance must stress that this is not acceptable and would constitute discrimination on the grounds of maternity. Any guidance should also indicate that a woman is able to contact her union representative for information and advice if she is a union member.
 - 9.4 We would recommend that ACAS should provide a one-stop-information shop for working families. ACAS is a nationwide organisation with experience of providing advice on workplace issues. They would be able to provide services both by telephone and through their website, as well as face-to-face advice with their providers. However, it will be necessary for the Government to fund this service sufficiently and for it to be well publicised.
 - 9.5 It is vital that women wishing to return to work are provided with support after taking time out to bring up children. The Regional Development Agencies are well placed to provide this support and we await the results of the pilot schemes with interest. Again, any support service must be well publicised to ensure that people are aware of this service. Potential employees and employers need to be aware of any scheme to take advantage of the services. The service would also need to work closely with employers to understand the jobs available and skills' requirements of the local labour market. Equally, this support should be available to men who are returning to work after a period of childcare.
 - 9.6 However, many women return to part-time, low-paid jobs after taking time out of the labour market. This is the ghetto in which many women

are trapped. The Government must address the issue of the undervaluing of women's work and the lack of part-time or job share available for many managerial and professional roles if women are to have real choices about their working lives.

10. Transferable maternity leave and pay

- 10.1 Amicus agrees that co parents should have the choice to play a bigger role in childcare. This will allow greater choice at home and also, could facilitate a culture change in work. If co parents take time off to care for their children then it may change the attitude of some employers that once a woman has a child she is no longer committed to work as childcare, will become a joint responsibility. In turn, this could help to close the gender pay gap with women able to work in higher paid roles and have a better position in the labour market.
- 10.2 We are supportive of a mother being able to transfer statutory maternity leave and pay to the co-parent to give maximum choice for the parents at the earliest opportunity, but further thought and consideration should be given to this issue regarding the health and safety implications for new mothers returning to work after childbirth. As stated in the consultation it must be the mother's choice to transfer the leave and pay to the co parent.
- 10.3 Once transferred we would recommend that the leave is redefined as "primary carer's leave". Maternity leave is specifically for the mother to recover from the birth and to be able to breastfeed the baby so this makes it necessary for the leave to be redefined. It will be necessary that the terms and conditions of those employees taking transferred leave are protected as under maternity leave. It should also be possible to transfer leave twice, so that the co parent can take a portion of leave without necessarily taking the final portion. The right to transfer leave must also apply to same sex and adopting couples. Amicus believes that further consideration must be given to the legal issues surrounding transferability of maternity leave, to ensure that the UK is compliant with EU directives concerning pregnant women and parents.
- 10.4 Many women may still wish to breast-feed on returning to work so it will be necessary for women returning from maternity leave to have a statutory right to have access to a rest room where they are able to express milk in privacy.
- 10.5 Amicus would also like the Government to consider an addition to transferable maternity leave. The experience in both Norway and Sweden

is that very few fathers took advantage of transferable parental leave. Subsequently, both countries have introduced a proportion of paid parental leave exclusively for fathers. This has resulted in a much greater take-up of parental leave by fathers in both countries.³ Therefore, the Government should consider increasing both the pay and period of leave for paternity leave.

- 10.6 We would support Option 1 of self-certification by the mother and co parent of their eligibility for administering transferable leave. This system would provide for the least administrative burden on both parents and employers. If the system is too onerous some parents may not wish to go through the process of transferring leave.
- 10.7 We would recommend that the Government does not introduce a direct payment scheme for maternity pay. This may reduce the administrative burden of employers, but it will be to the detriment of employees if the direct payment system is not administered effectively as has happened in the past, e.g. tax credits. Additionally, as mentioned, many employers enhance maternity pay beyond the statutory minimum and in these cases a direct scheme would complicate payments for employers.
- 10.8 We seek clarification on the position of transferring maternity leave for same sex co-parents. Failure to give the same rights will be discrimination on grounds of sexual orientation and contrary to the EU Directive.

11. Flexible Working

- 11.1 The UK is among the top three EU member states in terms of long-hours working.⁴ A survey by Amicus in 2003 found that 75% of respondents stated that their working hours had a negative impact on other aspects of their lives.⁵ The organisation of work remains routed in the 1950s model of the full-time working father and the mother taking responsibility for domestic work and caring responsibilities. This is despite the fact that 70% of women now work. The most common model for working families in the UK is where both parents work, often one full-time and the other part-time.⁶
- 11.2 A vicious circle has been established with men working long hours in order to retain and progress in an organisation. This particularly affects fathers, as a third of fathers work over 48 hours a week, compared with only 5%

³ IDS Diversity at Work No. 9, March 2005

⁴ *Equal Opportunities Review*, February 2005, No 138

⁵ *Ensuring compatibility between work and family life*, Amicus, 2003

⁶ *Time, Health and the Family – What Working Families Want – Working Families*, 2005

- of working mothers.⁷ This leaves fathers unable to take a larger role in domestic and caring duties, with the burden falling on women. Women who do reach management also have to work long hours which is difficult if they have caring responsibilities. Many women do not apply for promotion because of the long hours' culture. To achieve equality in the home and workplace men and women must be able to have real choices. One of the ways of achieving this is through better work-life balance for all employees.
- 11.3 Many organisations have excellent family friendly policies, but in practice they are not communicated to staff and management effectively. There is also a reluctance by management to encourage flexible working by their staff. Research by LRD found that most employers are complying with the minimum requirements when pushed by employees, but the majority are not "picking up and running with it."⁸ Amongst employees there is a perception, particularly amongst men, that taking up flexible working will be detrimental to their career prospects.⁹ The reality is that policy does not usually translate into practice. As stated in the consultation the majority of requests to work flexibly are from women. More fathers would request flexible working if the culture was to change in the workplace so that it becomes acceptable and the norm, for fathers, as well as mothers, to play a full role in caring. The communication of flexible working policies needs to be improved and management needs to lead by example. Good role models, both male and female, would help facilitate a change in the culture of a workplace.
- 11.4 Although, we would welcome the extension of the flexible working regulations to carers and older children, we believe that the right should be available to all workers. There should be a right for an employee to challenge the reasons for refusal, both through workplace grievance systems and employment tribunals. Additionally, the level of compensation needs to be reviewed as it is not at an adequate level to compensate employees for their loss and to act as a deterrent for employers. Finally, an employee should have the right to revert to their original contract hours of work following a flexible working arrangement. A strengthening of the flexible working regulations would facilitate a greater take-up by employees in all sectors.
- 11.5 In the absence of the extension of the flexible working regulations to all workers, we agree that the new law must be based on a straightforward and easily understandable definition of carers. We would not support a

⁷ *Part-time is no crime – so why the penalty*, EOC, 2005

⁸ Labour Research, April 2005

⁹ *Part-time is no crime – so why the penalty?* – EOC, February 2005

specification in legislation of the level of care that an employee would need to provide in order to determine eligibility, but that it should be dealt with in guidance.

- 11.6 We would support the extension of the Flexible Working Regulations to caring for any dependent, but not that the dependent should be defined as disabled. This is too narrow a definition and would not provide for a period of illness and incapacity that the dependent could recover from. Our experience of the Disability Discrimination Act is that it is very difficult to prove that you are disabled.
- 11.7 We would prefer the extension of the flexible working regulations to parents with children under 19 rather than 17. As stated in the consultation, teenagers require a great deal support through secondary school and many are taking examinations at 18 which is a stressful period for both the child and the parent.
- 11.8 Any changes to the Flexible Working Regulations needs to be accompanied by good publicity to both employees and employers by the Government and its agencies. A greater awareness of rights should lead to the spread of flexible working.

We would welcome the opportunity to discuss the issues further at any level. Our contact details are as follows:-

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