



**Amicus response to DTI Consultation on Work and Families  
Choice and Flexibility - Draft Regulations on Maternity and Adoption  
Leave and Flexible Working**

**Introduction**

1. Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors, Our members work in a range of industries including manufacturing, financial services, print, media, construction, not for profit sectors, local government, education and the NHS.
2. We welcome the opportunity to respond to the DTI's consultation on the draft Regulations on Maternity and Adoption Leave and Flexible Working. Although, the improvements to maternity and adoption pay and the extension of the right to ask to work flexibly to carers, are supported fully by Amicus, **we feel that the regulations do not go far enough. Statutory maternity and adoption pay needs to be increased and the flexible working regulations should be extended to all workers if the regulations are going to have significant impact on work-life balance in this country.**
3. **Executive Summary**
  - 3.1 Amicus welcomes the extension of maternity and adoption pay from six months to nine months in April 2007 and that all pregnant employees will qualify for additional maternity leave regardless of length of service. However, as stated in our response to previous consultations 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 maternity and adoption pay needs to be significantly higher for parents to have real choices about their home and working lives.**
  - 3.2 We support extending the right to request flexible working to carers of sick and disabled relatives, but are disappointed that that the Government is not extending the right to parents of older children at the very least. **These regulations should be extended to cover all**

**workers and strengthened if they are going to have significant impact on work-life balance in this country.**

- 3.3 The Government is seeking views on Keeping in Touch Days (KIT days) and whether there should be a total number of days permitted and a restriction on the period in which they are taken. Amicus recommends that the total number of days should be restricted to maximum of 5 days and that they should not be taken until the baby is months old. Additionally, Amicus would not support KIT days if the employee is not entitled to receive normal pay.

#### **4. Statutory Maternity and Adoption Leave and Pay**

- 4.1 We welcome that the Government will be increasing the period of maternity and adoption pay to nine months in April 2007. **However, the statutory rate of maternity and adoption pay needs to be significantly higher for parents to have real choices about their home and working lives.**

- 4.2 The reality is that many parents will not be able to afford to take advantage of the full leave available unless statutory maternity and adoption pay is increased. Specifically, we would urge the Government to increase statutory maternity and adoption pay to 100% of earnings for the first six weeks of leave and to consider earnings related pay for the remainder of the leave period. Otherwise the main beneficiaries will be highly paid parents with little choice for the lower paid. The Labour Party Manifesto made a commitment to improvements in maternity pay and we would again ask that the Government looks at the Swedish model which provides a lengthy period of leave and significant income replacement. Our full arguments on this issue were given in our previous response to the Work and Families consultation.

#### **5. Keeping in touch and planning ahead**

- 5.1 We do not support the increase in the notice period to 8 weeks which the employee is required to give her employer if she intends to return to work earlier than the end of her additional maternity leave. 28 days' notice is sufficient for employers to make the necessary arrangements and most contract notice periods are for 4 weeks, so it should not be necessary to have 8 weeks' notice if someone is returning to work earlier from maternity leave. Additionally, a change in circumstances, such as her partner being dismissed from employment may mean that a woman needs to return to work quickly and waiting for 8 weeks may cause financial hardship.
- 5.2 We support improving communication between employers and employees both before and during maternity leave. The Government must ensure that ACAS provides clear guidance to ensure that both employees and employers understand contact arrangements. Contact

should facilitate discussion of part-time or flexible working options and the smooth return to work, allowing a link to remain with work during maternity leave. However, it could be a vehicle for the employer putting pressure on an employee to return to work early or resign. Therefore, any guidance must stress that this would not be acceptable and 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.

- 5.3 The Government is seeking views on Keeping in Touch Days (KIT days) and whether there should be a total number of days permitted and a restriction on the period in which they are taken. Amicus recommends that the total number of days should be restricted to 5 days maximum and that they should not be taken until the baby is 4 months old. If a mother is breast feeding it is going to make it difficult for her to attend work and prior to 4 months a baby may not be weaned and will be completely dependent on the mother's milk. The mother also needs this period to recover from childbirth and to concentrate fully on caring for her baby.
- 5.4 However, we have of concerns surrounding KIT days. Firstly, there will only be an entitlement to statutory pay, although collective and individual agreements could be made to improve on this. This may be a breach of the Sex Discrimination Act and in any event it is not acceptable that a worker will not receive normal pay for KIT days. Amicus would not support KIT days unless the employee is entitled to receive normal pay.
- 5.5 Secondly, although there will be no right to demand that an employee undertake work, or the employer to offer work during leave, it may be difficult for low paid, or low status workers to refuse a request to work, particularly in non-unionised organisations.
- 5.6 Finally, some employees will find it difficult to arrange and afford childcare for KIT days, particularly if an employee is only receiving statutory pay for any days worked.

## **6. Flexible Working Regulations**

- 6.1 We support extending the right to request flexible working to carers of sick and disabled relatives, but are disappointed that that the Government is not extending the right to all workers and parents of older children at the very least.
- 6.2 The UK is among the top three EU member states in terms of long-hours working.<sup>1</sup> A survey by Amicus in 2003 found that 75% of respondents stated that their working hours had a negative impact on

---

<sup>1</sup> *Equal Opportunities Review*, February 2005, No 138

other aspects of their lives.<sup>2</sup> 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.<sup>3</sup>

- 6.2 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% of working mothers.<sup>4</sup> 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.
- 6.3 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."<sup>5</sup> Amongst employees there is a perception, particularly amongst men, that taking up flexible working will be detrimental to their career prospects.<sup>6</sup> The reality is that policy does not usually translate into practice and 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.
- 6.4 Although, we welcome the extension of the flexible working regulations to carers, 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

---

<sup>2</sup> *Ensuring compatibility between work and family life*, Amicus, 2003

<sup>3</sup> *Time, Health and the Family – What Working Families Want* – Working Families, 2005

<sup>4</sup> *Part-time is no crime – so why the penalty*, EOC, 2005

<sup>5</sup> Labour Research, April 2005

<sup>6</sup> *Part-time is no crime – so why the penalty?* – EOC, February 2005

a flexible working arrangement. A strengthening of the flexible working regulations would facilitate a greater take-up by employees in all sectors.

- 6.5 In the absence of the extension of the flexible working regulations to all workers, the definition of carer should be as wide as possible and that it should be extended beyond “near relative” to all relatives, neighbours and friends. Anyone who is involved in the care of another person should be entitled to request flexible working. The focus should be on the fact that an employee is caring for an individual and not on whether that person is a relative.

We would welcome the opportunity to discuss the issues further.

Our contact details are as follows:-

Siobhan Endean  
Head of Equality  
Amicus  
35 King Street  
London WC2E 8JG

Telephone: 020 7420 8907  
e:mail:siobhan.endean@amicustheunion.org

21 April 2006