

Dear Panel

I understand you are reviewing the impact of your legislation. I note your points of discovery include

- any benefits of challenges
- any unintended consequences or impacts
- any recommendations

My first feedback is that this is a complex policy and provision with various deadlines and options which are all a burden on the employer.

The flexibility afforded to parents is at a significant cost to businesses not only to fund the leave but in trying to find cover in such a difficult recruitment market.

I know of one successful retail business with just 2 people - the owner and one employee. The trigger of employee parental leave costs, and uncertainty around return was the straw that meant they gave up operating from a shop retail venue and moved to an online only event based business which lost another enticing footfall opportunity for St Helier.

The blocks of leave are not well used and typically cause confusion and further instability for businesses planning. You may be able to find cover for a six month contract or a year but you can't secure someone for six weeks here and there so you just burden the other staff and operate under resourced and under pressure. Ask any business and they will confirm this breeds poor morale and resentment in the work cohort as the other staff feel mucked about. Why not limit to 2 blocks or at least assess the benefit of 3 blocks as I have no feedback or data indicating this is of value to parents but it is hugely detrimental to business.

The worst impact is in schools where staff manipulate leave policies to maximum advantage to the detriment of teaching and pupils. As a government you should be ashamed of allowing staff to return to work two weeks before they break up in July (for the end of term gifts and sports day) or to leave mid term before GCSEs. If you correlate the alarming staff turnover figures in teaching to the departments impacted by the 20+ weeks of paid parental leave you will see the detriment to other staff clearly. Any private school has instead opted for an enhanced but CONDITIONAL parental leave provision to offer more than statutory 6 weeks of pay but with the condition that leave ends at the start of term or half term to allow better cover arrangements and better student teaching standards. This is NOT unreasonable and aligns with the majority of intake periods in local nursery provision and I would strongly recommend this as a minimum requirement for all schools- namely: as birth mother you start leave when baby arrives but return at a start of term or half term. As parent 2 you may take a week at the birth but all other leave aligns with the start and end of term. That is reasonable and puts education first. Education employees are paid salary over 12 months so there is no detrimental impact to periods of pay or unpaid leave.

Most second parents (fathers etc) only take the six weeks of paid leave. Some feel this is not necessary and take less but the majority take the statutory basic paid leave. I would estimate less than 10% of parent 2 take any unpaid.

We have had two examples where parent 2 has cut short even this six weeks paid and found it is not in fact an easy period to be in the home with a newborn and cancelled some weeks or requested to move the weeks to a few months later which is further disruption for a business.

If as previously claimed the provision is aiming to provide shared family time with a newborn I don't believe this is achieved in 50% of cases and almost never if it is a second or subsequent child. Parents split the paid leave separately to maximise the cover period re childcare. There is an urban myth

circulating about a Portuguese employee who brought over his pregnant lover to give birth in Jersey so he could claim his six weeks of paid leave to care for his existing school children by his existing wife in Jersey over the school holidays six weeks. This is not illegal but not helpful. Another confusion is various persons claiming to be the parent 2 meaning an employer has to unravel the facts. It would help to have parent one and parent 2 declared on the EWC document? Or to require a deadline of six weeks before due date for parents to sign up for six sec parental benefit and therefore have names in a remittance to show the employer. This would not require any law change but would support the employer.

The biggest negative impact of day one entitlement has been secondary parents asking for leave literally in week one of a new job. The “by the way I need six weeks paid off next month as my wife is expecting”. This has happened with at least six of my clients and is so unreasonable but what should an employer do? They can enforce the statutory notice period requirement of 15 weeks (but the staff member might go off sick instead anyway) and they would probably prefer to take the hit of the absence at the start before the new employee has got involved in work - but for the other staff you can’t get more cover at zero notice so they inevitably take the burden. This is a real kick in the teeth when you know the business was recruiting to help the team. Obviously this is not a good start for the employee with their new team either and it has led to probation not being passed because the person doesn’t get on in the team. Our recommendation is that you have to wait six months in a new role as the second parent before you take leave. That way you can take holiday around the birth but you don’t derail a business you have just joined.

And a point to note is that there are growing examples of bigger more affluent employers bypassing the statutory conditions and allowing fathers to take their six weeks paid as a single day off each week over six months- e.g the have every Friday off for the first six months/30 weeks . This suits families where the other parent can have a day off childcare and is far less disruptive for the business. I think this will become far more common as a back door route to the issue of lack of available cover. Obviously it runs the risk of settled work pattern requests but they are prepared to deal with that if it arises.

In terms of return arrangements I don’t have any common themes but where someone doesn’t want to return to full time hours it is far more difficult to accommodate this at the end of the leave compared to having a year of notice to try to think about it so any adjustment that would require the option to be requested before the 42 days before a return would support business.

My final point is that alongside DSARS, we are seeing FWA’s weaponised as a way to start disputes with the employer with a view to litigation. Employers are often worried about falling foul of the process and our default position now is that unless you are absolutely certain you refuse the request for the legal reasons and only then do you offer a trial informal arrangement to see if you can make it work. Not every employer has access to paid HR help and I would welcome data from JACS on how often a FWA is successfully achieved compared to declined?

Kind regards
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