



**Low Incomes
Tax Reform
Group.**

A voice for the unrepresented

13 August 2025

Parental leave and pay - call for evidence

By email ParentalLeaveReview@businessandtrade.gov.uk

Dear Sir or Madam,

Parental leave and pay review: call for evidence – response from the Low Incomes Tax Reform Group (LITRG)

I am writing on behalf of LITRG in connection with the recent call for evidence. We are a group of pay and tax experts – you can read more ‘About us’ at the end of this letter. Among other things, we provide guidance to workers, often in precarious or atypical employment arrangements, to help them navigate the UK tax and employment systems.

As an educational tax charity, we do not advise workers on parental leave and pay issues. However, there is one area where we do have particular insight and expertise that we feel it is useful to share: the gap between employment rights law (which governs leave) and tax law (which governs pay).

We therefore wish to restrict our input and provide a response only to question 6:

Are there further or other objectives that you would like to see included as part of the parental leave and pay review?

Our answer is yes – we would like to call for simplicity and certainty to be adopted as guiding objectives of the parental leave and pay framework. These are currently missing due to the gap highlighted above, meaning some workers are not entitled to receive the parental leave and pay that they might expect.

We expand further below. We are happy to meet with you to discuss any of these points in further detail.

Further information

There is a structural inconsistency in the statutory parental leave and pay regime — namely, the mismatch between how entitlement to leave is determined under employment law and how entitlement to statutory pay is assessed – which is connected to the tax system. This misalignment is

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not only confusing for workers but also creates barriers to accessing entitlements, particularly for those in non-standard roles (such as those in bogus self-employment, agency workers, or those working in the gig economy).

Under the current system:

- **Leave entitlement** (e.g. for maternity, paternity, shared parental leave) is governed by the Employment Rights Act 1996 and related regulations, requiring a certain level of employment continuity with the same employer. To be clear, at the moment it is an employee right, not a ‘worker’ right despite the significant number of ‘workers’ out there¹. However under the single worker status proposals², we understand these two categories will soon be blended - with employee rights extended to all.
- **Statutory pay**, however, is determined by whether you have a ‘secondary contributor’ (someone who is liable to pay employee Class 1 secondary National Insurance contributions (NIC)). In practice this usually means being paid under the PAYE system - the system that collects tax and NIC from employment. Secondary contributors are responsible for administering and part-financing statutory payments under the Social Security Contributions and Benefits Act 1992. However employers can claim most, if not all, parental pay back from the government.³

Putting aside the significant problem of false self-employment, where individuals who in reality are employees are treated as self-employed and get no parental leave or pay, this disconnect means that it is possible for individuals to get statutory pay without leave. It is also technically possible for individuals to be entitled to statutory leave without pay, and this will become more common under the single worker status proposals. Individuals who are in temporary work or who are incorrectly classified or paid outside of PAYE, will be the ones to fall through the cracks.

Example – agency workers

For example, agency workers will usually have ‘worker’ employment rights, which do not currently give them access to parental leave. However, as agency workers are usually paid under the PAYE system and have a secondary contributor⁴, they have access to parental pay, provided they meet the relevant criteria.

Although agency workers can still negotiate informally with the agency/end client to take time off, we can see that official messages like ‘You may be able to get Statutory Maternity Pay, but you cannot get Statutory Maternity Leave’⁵ could cause uncertainty and worry for agency workers.

It is of note that the outcome can be different where an agency worker is employed through an umbrella company, as they will theoretically have access to both leave and pay. It changes again,

¹ Recent HMRC research estimates the ‘worker’ population to be in the region of 5 million people: <https://www.gov.uk/government/publications/employment-status-in-the-uk-2023-survey-and-qualitative-research>

² <https://labour.org.uk/wp-content/uploads/2024/05/LABOURS-PLAN-TO-MAKE-WORK-PAY.pdf>

³ <https://www.gov.uk/recover-statutory-payments>

⁴ <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm2001>

⁵ <https://www.gov.uk/agency-workers-your-rights/maternity-rights-for-agency-workers>

where an agency worker works through their own limited company— particularly if caught by the off-payroll working rules, where PAYE is operated by a deemed employer but statutory payments are not due from that deemed employer.⁶

Example – gig economy

Conversely, because there are three statuses for employment law and two for tax/NIC law, it is technically possible currently, for someone to be entitled to parental leave because they are an employee for employment law purposes, but not parental pay because there is no secondary contributor⁷. Going forward, the incidence of this will increase.

For example, in the gig economy, we know that some workers have successfully challenged their self-employed status for employment rights purposes⁸. If these ‘workers’ in the gig economy receive increased rights under the single worker status proposals but continue to be treated as self-employed for tax purposes, then they may well be entitled to take parental leave but be denied pay because there is no secondary contributor. Those in the gig economy who genuinely fall just outside the worker/self-employed boundary, or whose engagers manoeuvre their arrangements to fall just outside it, will be entitled to neither parental leave nor pay.

These types of situations can and will create real hardship and uncertainty at a time when financial and emotional security is critical.

Recommendation

We believe that simplicity and certainty must be central design objectives of any statutory regime designed to support working parents. The current framework does not meet that standard, with limited coherence, frequent misunderstandings, and inconsistent and potentially unfair outcomes for people in otherwise similar situations.

We understand that there are no plans to look at employment status for tax as part of the single worker status reforms, meaning the wholesale changes needed to iron out issues like these are unlikely. We therefore urge policymakers to explore discrete options for better alignment between employment rights and tax-based parental entitlements — whether through making the engagers of ‘workers’ secondary contributors somehow, clearer guidance for atypical workers, or more fundamental changes that reflect the realities of today’s labour market. For example, could parental pay be disconnected from the tax/NIC system and made expressly an employment law right, payable directly by the government?

In summary, this aspect of parental leave and pay requires reform. Without a clearer and more joined-up approach, some of the most vulnerable working parents will continue to fall through the cracks.

⁶ <https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10033a>

⁷ Although rare, we think examiners would fall in this category: <https://www.gov.uk/hmrc-internal-manuals/national-insurance-manual/nim74100>

⁸ <https://www.supremecourt.uk/cases/uksc-2019-0029>

I would be grateful if you could please confirm receipt of this letter – and LITRG would be happy to be listed as a respondent to the consultation.

Kind regards

Meredith McCammond

About us

The LITRG is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those who are least able to pay for professional advice. We also produce free information, primarily via our website www.litrg.org.uk, to help make a difference to people's understanding of the tax system, including Statutory Payments, given their link to the tax system.