

Good Work Plan: Proposals to better support families

TUC response to BEIS consultation

Introduction

The Trades Union Congress (TUC) is the voice of Britain at work. We represent more than 5.5 million working people in 48 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

Trade unions negotiate enhanced workplace policies that support parents to manage their work and childcare responsibilities¹. The TUC estimates that unions organise around 130,000 union representatives. Union reps have a unique workplace insight and experience of the common issues that working parents face. Unions campaign for improvements to the rights of working parents, based on what our 5.5 million members tell us.

The TUC recognises that families come in all shapes and sizes. We adopt the broadest and most inclusive concept of parenthood. Where we make specific reference to increasing paternal involvement, this is because we believe that is where the change needs to be directed to better achieve the policy goals on gender inequality.

The TUC believes that meaningful reform is needed to address systemic problems in the labour market that have shackled the potential and aspirations of working mothers and prevented fathers from becoming more actively involved in caring for their children.

We welcome the opportunity to contribute to this consultation on reforming the parental rights system and agree that reform is necessary. However, we believe that half measures or repackaging of existing rights where a gain for one parent comes at a cost to the other will not begin to address the barriers that working parents face. We recommend that the current system of maternity, paternity and shared parental leave is replaced by a simpler, more equal system that would provide stronger rights for each parent and better achieve the objectives of a progressive parental leave system.

Reform of the parental leave system on its own is not sufficient to address the entrenched disadvantage faced by working parents and in particular mothers. It must be part of a package of wider reforms, encompassing subsidised, affordable childcare, a day one right to flexible working and meaningful steps to promote equal pay and reduce the gender pay gap.

The TUC's submission will focus on:

- i) The objectives that a reformed parental rights system should achieve,
- ii) The key principles that should underpin a reformed parental rights system
- iii) A proposed model of parental rights, and
- iv) Recommendations for next steps

¹ Annex A, https://www.tuc.org.uk/sites/default/files/Congress_2016_TUC%20Equality%20Audit_Digital.pdf

Key summary

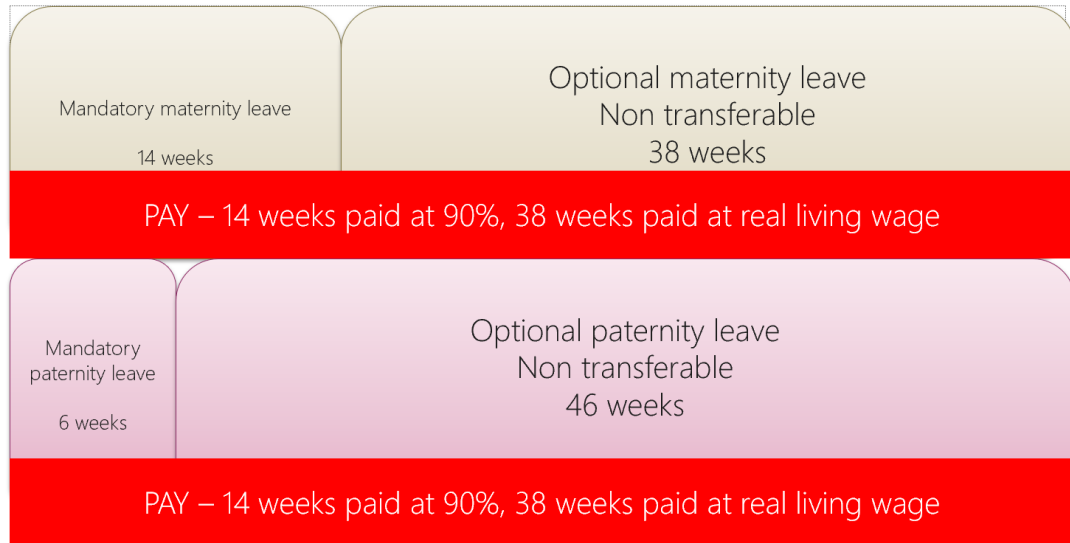
The TUC believes that any new model should meet the following objectives:

- Enable families to share caring responsibilities more equally so that children can spend quality time with both parents in their early years
- Reduce pregnancy and maternity discrimination, by rebalancing the responsibility for childcare more equally between mothers and fathers/partners
- Cut the gender pay gap, by removing the “motherhood penalty”
- Enable dads and partners to spend significant time as primary carers for their children in the early years
- Make parental rights accessible to all workers, regardless of employment status, and address difficulties faced by self-employed parents
- Unleash the wasted potential in the labour market, boost workplace productivity and help employers recruit and retain staff

The TUC believes the following principles must underpin any reformed system:

- Existing maternity rights and protections must not be diminished in any way
- Maternity rights must be enhanced
- There must be a significant increase in paternity leave and pay entitlements
- Fathers/parents acting equally as primary care givers in the early years (not using leave concurrently with mothers) is more likely to help meet the objectives above, including tackling the gender pay gap
- Statutory parental pay needs to be significantly increased to make it feasible for parents to access their parental leave entitlements and care for their young children
- Parental leave reform must be part of a package of wider reforms including:
- Subsidised, affordable childcare from as soon as maternity and paternity paid leave finishes
- Strengthening flexible working rights.
- Meaningful steps to promote equal pay and narrow the gender pay gap
- Parental rights should be accessible to all, regardless of employment status
- Self-employed workers should not be excluded from the scope of the consultation and steps should be taken to implement new parental rights for them
- Qualifying periods for parental rights should be scrapped and they should be available from day 1 of employment.

Overview of TUC's proposal parental leave model



Objectives

Enable families to share caring responsibilities more equally

More women are in paid employment than ever before, but caring responsibilities remain unequally divided between mums and dads, impacting women's equal access to employment and increasing the discrimination and marginalisation women face in the workplace.

The unequal division of caring responsibilities has a direct negative impact on women's ability to maintain and progress in employment. There is a large body of international evidence showing that women with children suffer large pay penalties and that taking time out of the labour force or returning to work part-time due to caring commitments may be damaging for career progression²:

- The lack of affordable childcare and flexible work opportunities forces mums into part-time, work exacerbating the gender pay gap- 87% of men in paid work are full-time workers, whereas only **59% of women are in paid full-time work**³. At least 29,000 women in the UK working on a part-time basis are underemployed, meaning that they would prefer to work more hours if flexible working opportunities were made more widely available⁴
- Two thirds of female professionals returning to the workforce after a career break such as maternity leave are forced into lower-skilled or lower-paid roles, experiencing an immediate earnings reduction of up to a third⁵
- Gendered patterns of occupational segregation are reinforced after childbirth, 5 years after a child's birth, only 13% of mums' earnings have increased compared to 26% of dads⁶

Studies show that where paid paternity leave lengths are greater, the motherhood penalty is smaller⁷. Enabling families to share caring responsibilities more equally improves women's employment outcomes and has positive benefits for children's health and development⁸:

- An analysis of data on more than 4,000 women from an English national maternity survey found that mums whose partners had taken no paternity leave were more likely to report feeling ill or unwell at three months, and mothers with more than one child

² GEO (2019) [Employment pathways and occupational change after childbirth](#); Anderson, S (2018) Journal of Marriage and Family 80: 1125-1143

³ ONS (Oct 2019) A05 NSA: Employment, unemployment and economic inactivity by age group (not seasonally adjusted) (<http://bit.ly/2JqVurZ>)

⁴ PWC (2016) [Women Returners](#)

⁵ PWC (2016) [Women Returners](#)

⁶ Costa a Dias, M; Joyce, R; Pardo, F (2018) Wage progression and the gender wage gap: the causal impact of hours of work

⁷ Budig, M; Misra, J; & Boeckman, I (2016) Work-Family Policy Trade-Offs for Mothers?

⁸ Huerta, M et al (2017) Eur Journal Society Security

whose partners took no leave also reported much higher rates of post-natal depression⁹.

- Mothers with pre-school children are twice as likely to return to employment at nine months and at three years' post-childbirth if the father is involved by sharing or doing the most childcare at these times¹⁰. This is the case even when other factors affecting a mother's decision to return to paid work are taken into account – such as the father's employment status, the mother's occupational class and the mother's gender role attitudes towards work and care.

Reforming parental leave policies is a way that the government can give working parents legal rights and financial support to share caring responsibilities more equally, giving every child the opportunity to spend time bonding with and being cared for by both parents and to ensure women do not lose out due to pregnancy and birth.

Enable dads and partners to spend significant time as primary carers for their children in the early years

Societal attitudes have shifted considerably since our parental leave systems were designed. The 2017 Modern Families Index¹¹ published by the charity Working Families and Bright Horizons, shows fathers wanting to take a much more active part in childcare and of workplaces failing to adapt and support their aspirations. Research by ACAS found dads pay a 'parenthood penalty', not in forgoing their careers and salary but in time spent with their children and family¹².

Our current model of parental leave entrenches the concept that dads/partners are secondary care givers - there is no period of mandatory leave for dads/partners and statutory paternity pay and leave is significantly less than for mums meaning many dads are unable to take it, despite wanting to.

Affordability is a key barrier preventing parents from accessing their paternity and shared parental leave rights. The failure of the current Shared Parental Leave policy, which has seen a take-up of 1% of those eligible, is not because of a lack of desire on the part of parents but because the scheme did not create any new rights for the non-birth parent and is so low-paid (£145.18 per week) that it is unaffordable for most parents and their families¹³.

Among employed men, fathers' use of parental leave is also strongly influenced by organizational culture, including their company's commitment to caring values, level of 'father friendliness' and support for equal opportunities for women; and also the fathers' perceptions of support from top managers, and of work group norms that reward task

⁹ NHS (2017) [National Maternity Survey](#)

¹⁰ Norman, H (2019) Does Paternal Involvement in Childcare Influence Mothers' Employment Trajectories during the Early Stages of Parenthood in the UK?

¹¹ Modern Families Index 2017, <https://workingfamilies.org.uk/publications/2017-modernfamilies-index-summary-report>

¹² ACAS (2017) Flexible working for parents returning to work: maintaining career development

¹³ TUC (2019) [TUC calls for overhaul of Shared Parental Leave system](#)

performance vs. long hours at work¹⁴. A newly reformed parental leave system led by BEIS can drive the systemic, workplace cultural changes need to rebalance the status quo of caring responsibilities.

The evidence strongly shows that uptake of parental leave among dads is shown to be much higher when the leave is paid at a rate families can afford to live on, such as 90% of AWE and is dads' individual and non-transferable right – that is, it cannot be transferred to the baby's mother, and is lost to the family if not used by the father¹⁵. The current rate of statutory paternity pay is inadequate for families to live on - paid at a rate of less than half of what someone on the National Minimum Wage would earn working a 35-hour week.

Studies show that the paternal quota works, as measured by how many men take leave. Uptake among dads increased in several EU countries after the introduction of a dedicated well-paid leave entitlement for fathers (so called 'daddy quotas')¹⁶:

- In Iceland, dads averaged 39 days of leave in 2001. After the fathers' quota was introduced on a 'use it or lose it' basis, this rose to 103 days by 2012
- In Sweden and Iceland, which offer a non-transferable fathers' quota, men's uptake is much higher (90%) than in Denmark (24%) and Slovenia (6%), which don't.
- In Sweden parents are given 480 days leave, 420 days of which are paid at 80% of average weekly earnings (AWE).

If a portion of leave isn't specifically designated for dads and remunerated at a rate they and their families can afford to live on, few men will take it, placing the responsibility for caregiving overwhelmingly on women and thereby reinforcing inequalities at home and at work.

Reduce pregnancy and maternity discrimination and tackle the gender pay gap

Our parental leave and pay policies should be designed to prevent employers from discriminating against women or treating them unfairly because they have been absent, or are likely to be absent, from work. But the evidence tells us they are failing to do so.

Research by the EHRC found strong evidence of employers' discriminatory attitudes towards pregnant women, new mums and women of child-bearing age¹⁷:

- 41% of employers agreed pregnancy puts an 'unnecessary burden' on the workplace
- Almost half (46%) of employers agree it is reasonable to ask women if they have young children during the recruitment process

¹⁴ Haas et al (2002) The impact of organizational culture on men's use of parental leave in Sweden. *Community, Work & Family*, 5(3), pp.319-342

¹⁵ Schulze, Erika and Maja Gergoric. 2015. *Maternity, paternity and parental leave: Data related to duration and compensation rates in the European Union*. Brussels: European Parliament.

¹⁶ OECD (2016) *Parental Leave: Where are the fathers?*, policy brief; Van Belle, J., *Paternity and Parental Leave Policies across the European Union*, RAND Corporation, Santa Monica and Cambridge, 2016.

¹⁷ EHRC (2018) *Pregnancy and Maternity Discrimination Research Findings*

- A third of employers believe that women who become pregnant and new mothers in work are 'generally less interested in career progression' when compared to other employees in their company

These discriminatory attitudes have a direct impact on women's working lives.

- 54,000 women a year are forced out of their job due to pregnancy and maternity discrimination¹⁸
- Pregnant women are twice as likely to be made redundant as non-pregnant colleagues¹⁹
- Over three quarters of women (77%) reported experiencing discrimination or disadvantage as a result of pregnancy, maternity leave, and/or on return from maternity leave – equivalent to 390,000 mothers a year²⁰

Protecting women and families from discrimination not only protects women's economic participation but the health and wellbeing of their child. The evidences overwhelmingly shows that: *"the most important condition for children's well-being is families' economic stability. Parental leave [guarantees] that people can have children and return to their jobs without adverse consequences, thus ensuring children's well-being."*²¹

A reformed parental leave system that enshrines the individual, non-transferable rights of both parents, rebalancing childcare responsibilities between mums and dads and protecting parents from discrimination would ensure BEIS better meets its objective of reducing pregnancy and maternity discrimination and achieving gender equality in the workplace

Parity for workers and employees, and address the difficulties faced by self-employed parents

Employment status should not be a barrier to parents accessing their parental rights but increased casualisation of the workforce, lack of day one paternity rights and the challenges faced by the genuinely self-employed pose particular problems for new mums and dads.

Research by the TUC in 2018, found that 1 in 4 new dads did not qualify for two weeks' statutory paternity pay because they are either ineligible for it or are unable to afford to take it. Around 41,000 dads didn't get paternity leave in 2018 because they hadn't been working for their employer for long enough. The law requires employees to have at least six months' service with their current employer by the 15th week before the baby is due to qualify for paternity pay.

Around 100,000 dads weren't entitled to statutory paternity pay because they were self-employed. Unlike self-employed mums who may be eligible for maternity allowance, dads who work for themselves don't get a similar paternity allowance. Many of these dads may

¹⁸ EHRC (2018) Pregnancy and Maternity Discrimination Research Findings

¹⁹ Harris, S (2019) [Maternity Action: Pregnant women and new mums twice as likely to be redundant](#)

²⁰ EHRC (2018) [Pregnancy and Maternity Discrimination Research Findings](#)

²¹ Haas, L; Hwang, P (1999:49) in Moss, P. & Deven, F. Parental Leave: progress or pitfall? NIDI, report

be 'bogus self-employed' – a tactic used by some employers to deny staff basic rights at work.

The rise of precarious, low-paid work, often without any guaranteed hours and with few employment securities (such as sickness or maternity benefits) has created additional pressures for workers. Pregnant women and new mums are facing a weakening of their maternity rights in the workplace. Women have reported that they stopped receiving shifts when they told their employer they were pregnant or were deliberately asked to carry out tasks that were unsafe, consequently forcing them to leave work or risk their health and that of their unborn baby. This is concerning as when "maternity leave is: paid, provided in a job secure context and with a duration of at least 10 weeks"²² there are positive health gains for children.

Dads in zero-hours or short-term contracts have told us they are also experiencing difficulties accessing their parental rights as a result of casualisation. Many dads in precarious report that they have been unable to attend ante-natal appointments with their partner or are worried that if asking for family friendly shift patterns or more notice for shift cancellations, they would be offered fewer shifts and less work in the future or would not get any work at all²³.

Develop a system which unleashes the wasted potential in the labour market, boosts productivity and helps employers recruit and retain staff

Women's progression in the workplace continues to be held back by the tensions between current ways of organising work and caring responsibilities. Mums are more likely to withdraw from full-time employment compared to dads after having children and enter part-time work or leave the workforce altogether²⁴. Whilst this is often positioned as an active choice, in truth it is often a necessity driven by the lack of quality flexible jobs and lack of affordable, flexible childcare. This exacerbates existing gender inequalities and pay disparities. Pay and progression opportunities are worse for part-time workers than for those in full-time work. The gender pay gap for part-time work compared to full-time equivalents is 34.8% - much higher than the national gender pay gap average of 17.9%²⁵.

Reforms to maternity, paternity and parental leave should be part of a package of wider reforms that includes a day one right to flexible work and subsidised, affordable childcare system. OECD evidence suggests that affordable quality childcare is the main driver in achieving better female labour market participation outcomes; and that parental leave policies and flexible work practices can help support this²⁶. There are also a number of benefits to employers when adopting family-friendly working policies and practices –

22 O'Brien, M. & Wall, K. (2017) *Comparative Perspectives on Work-life Balance and Gender Equality. Fathers on leave alone*, Springer Open, 2017.

23 TUC (2017) *Better jobs for mums and dads*

24 GEO (2019) *Employment pathways and occupational change after childbirth*

25 TUC (2019) *Unpublished ASHE data analysis*, available upon request.

26 Thévenon, O. (2013), "Drivers of Female Labour Force Participation in the OECD", OECD Social, Employment and Migration Working Papers, No. 145, OECD Publishing, Paris.

increased loyalty, commitment, performance and productivity, as well as improved recruitment and retention of valued staff, that bring financial benefits for employers in the longer-term.²⁷

²⁷ GEO (2019) Employment pathways and occupational change after childbirth

Key Recommendations

1. Commit to a non-regression clause relating to existing maternity rights and protections

The government should commit to a non-regression clause principle to ensure reforms to our parental leave system improve and strengthen existing maternity rights and protections, not undermine them.

Pregnant women and new mums require strong maternity rights to ensure they do not feel compelled to work when it is unsafe to do so and strong protection from discrimination as a result of pregnancy or maternity leave. These rights and protections ensure women's equal access to employment and a secure income for their family.

We do not accept the government's proposition that reforms can only take place by redistributing existing leave entitlements. Any attempt by BEIS to weaken or undermine women's existing package of rights and protections could worsen the already significant levels of discrimination they face in the workplace and exacerbate gender inequalities, and should therefore be avoided.

2. Extend the compulsory element of maternity leave to 14 weeks

The government should extend the compulsory element of maternity leave from 2 to 14 weeks to ensure pregnant women and new mums have adequate time to prepare for and recover from birth.

Mothers need sufficient time to fully prepare for and recover from birth. The International Labour Organisation's standard for a minimum period of maternity leave is 14 weeks and recommend that it should be taken immediately before and after birth to protect the health and wellbeing of both mother and baby.

Mums will only be able to take this period of leave if it is remunerated fairly. Therefore, the TUC recommend it is paid at a rate of 90% of AWE, without a cap, to ensure families do not incur a financial penalty.

This mandatory period of paid leave should be considered by BEIS as separate and distinct to a parent's right to leave in order to bond with and care for their baby.

We recognise that some mothers may wish to return to work before 12 weeks. Therefore, we propose reforming the way KiT days operate, giving a mother the right to choose to activate a KiT day which would enable her to keep in touch with work before the end of the 14 weeks if this was her choice.

3. Introduce a compulsory 6-week period of paid paternity leave

The TUC recommends a period of mandatory paternity leave for new dads so that they can provide support to their partner and to help her recover from childbirth.

Dads will only be able to take this period of leave if it is remunerated fairly. Therefore, the TUC recommends it be paid at a rate of 90% of AWE, without a cap, to ensure families do not incur a financial penalty and to meet the objective of increasing paternal involvement in the early years.

This mandatory period of leave should be considered by BEIS as separate and distinct to a parent's right to leave. The purpose of this mandatory leave would be to provide support to their partner and for the father/partner to bond with and care for their baby.

4. Introduce an optional period of 'use it or lose it' leave

The TUC proposes that the government align the period of optional paternity and maternity leave/pay for mums and dad/partners. This optional, non-transferable period of paternity and maternity leave for both parents would provide simpler and stronger rights for workers, provide much needed clarity for employers and enable both parents to spend valuable time bonding with and caring for their baby.

These will be individual entitlements and non-transferable to the other partner, given the evidence that a 'use it or lose it' element is the best incentive to achieve the objective of increasing paternal involvement in the early years and equalising caring responsibilities between mums and dads.

5. Increase statutory levels of pay for the optional period of maternity and paternity leave

The government should increase statutory maternity, paternity, adoption and shared parental pay to at least Real Living Wage²⁸ levels so that new parents aren't forced to go back to work before they or their baby are ready.

While the UK has a comparatively long maternity leave compared to the rest of the EU, only a small proportion of this is paid at an adequate level²⁹. Without adequate maternity pay, women's choices are limited and many cannot afford to take their leave entitlements. Mums in the UK get one of the lowest amounts of decently-paid maternity leave in Europe, most European countries offer three months or more³⁰. This means many new mums feel forced to return to work before they or their child are ready, risking their health and that of their new-born.

Statutory maternity, paternity and adoption pay should be funded by the State and the current level of reimbursement of 92% for all employers. Reimbursement for small businesses who qualify for Small Employers Relief should be raised to ensure small

²⁸ As set out by the Living Wage Foundation, the rate in November 2019 is £9.30 across the UK. £10.75 in London: <https://livingwage.org.uk/what-real-living-wage>

²⁹ TUC (2017) 'UK in the relegation zone: Maternity Leave and Pay' <https://www.tuc.org.uk/news/uk-relegation-zone-decently-paid-maternity-leave-europe-warns-tuc>

³⁰ "

employers receive appropriate levels of payment in recognition of additional costs towards associated costs of maternity, paternity and adoption leave, such as accrual of annual leave.

6. Parents can take leave concurrently and consecutively

The TUC recognises that to change cultural norms and positively impact on gender equality, caring responsibilities will have to be rebalanced, with fathers taking on an equal share of caring responsibilities. The most effective way of achieving this aim is to make sure that fathers undertake a significant period of childcare on their own. A whole body of evidence shows that fathers who undertake childcare on their own in the early years are more likely to be involved in the future:

- Dads who take paternity leave tend to do more hands-on caring for their babies. One UK study found that fathers who took formal leave were 25% more likely to change nappies and 19% more likely to feed their 8-12 month old babies and to get up to them at night. This was irrespective of their commitment to parenting before the child's birth, or the time mothers or other family members spent with the children.

Dr. Helen Norman's analysis of over 10,500 two-parent, opposite-sex (mother-father) households in Great Britain reveals that mothers with pre-school children are twice as likely to return to employment nine months, and three years post-childbirth if their partner is involved by sharing or doing the most childcare at these times. This is the case even when other factors affecting a mother's decision to return to paid work are taken into account, such as the father's employment status, the mother's occupational class and the mother's gender role attitudes towards work and care.

However, we also recognise that there may be circumstances where families want and need to decide on joint caring arrangements which best suit their circumstances. Therefore, the TUC proposes that parents could use their leave concurrently for a maximum period of 6 months. This would enable families who choose to do so to spend time together and for parents to jointly care for their children. This may be of particular benefit where parents or children experience ill health.

Evidence from Sweden suggests introducing a 'double month' (a period of leave that can be taken concurrently) has encouraged more fathers to take leave earlier and potentially to take more leave than they otherwise would have³¹ If parents choose to take leave consecutively, this would allow parents to care for their child up to, or close to, the time that subsidised childcare provision starts. This would better achieve the outcome of reducing the gender pay gap and negative impact that caring responsibilities have on women's career development and earnings.

7. Parity between workers and employees

All working parents should have access to the same rights, from day one in their jobs, regardless of their employment status. All workers, including zero-hours contracts workers,

³¹ ISF (2018) [Dubbeldagar – vissa pappors väg in i föräldrapenningen?](#)

agency workers and those in casual work, should benefit from the same decent floor of rights currently enjoyed by employees. This includes all family friendly rights, which are by and large, only available to “employees”. This would give greater security to workers who already face a high degree of job precariousness and income instability and ensure the parental leave system reflects the changing nature of the labour market.

8. Scrap qualifying periods

All parental rights should be a day one right so that no parent is prevented from accessing their parental rights and protections.

9. New rights for self-employed workers

A paternity allowance for dads who are not eligible for statutory paternity pay, similar to the maternity allowance some self-employed mothers can claim. The rate of pay should be harmonised in line with the newly improved rates of statutory maternity, paternity and adoption leave pay we suggest in recommendation 5.

10. Implement parental leave reforms alongside a wider package of family rights reform

Implementing a progressive, parental rights system is good for families, employers and the economy. Reforms to parental leave policies should go alongside:

- A day one right to flexible work: that would enable parents to balance caring commitments with maintaining and progressing in employment
- Duty on employers to advertise all jobs flexibly: to ensure parents can access their day one right to flexible work
- Reform Gender Pay Gap regulations: to include mandatory action plans, wider use of Equal Pay Audits and sectoral collective bargaining
- Legislation that requires employers to publish maternity and paternity retention rates: The period of monitoring should begin when parents announce a pregnancy for up to two years
- Subsidised, affordable childcare from as soon as maternity and paternity paid leave finishes: Lowering the age at which subsidised childcare begins to two years would enable parents to continue working and mean mums don't continue to have to make that choice between having a family and a career.
- Enhanced levels of government funding for local authorities to provide nurseries and childcare
- A greater role for employers in funding childcare. Either through direct subsidy to employees or the provision of on-site childcare facilities.

- Increase the childcare support provided by tax credits and Universal Credit. Including by reversing cuts to the UC work allowance, scrapping the unfair 'two child' policy and lifting the cap on benefit uprating.

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