



REVIEW OF CONSULTATION RESPONSES

FAMILY LEAVE RIGHTS

JANUARY 2023



Contents

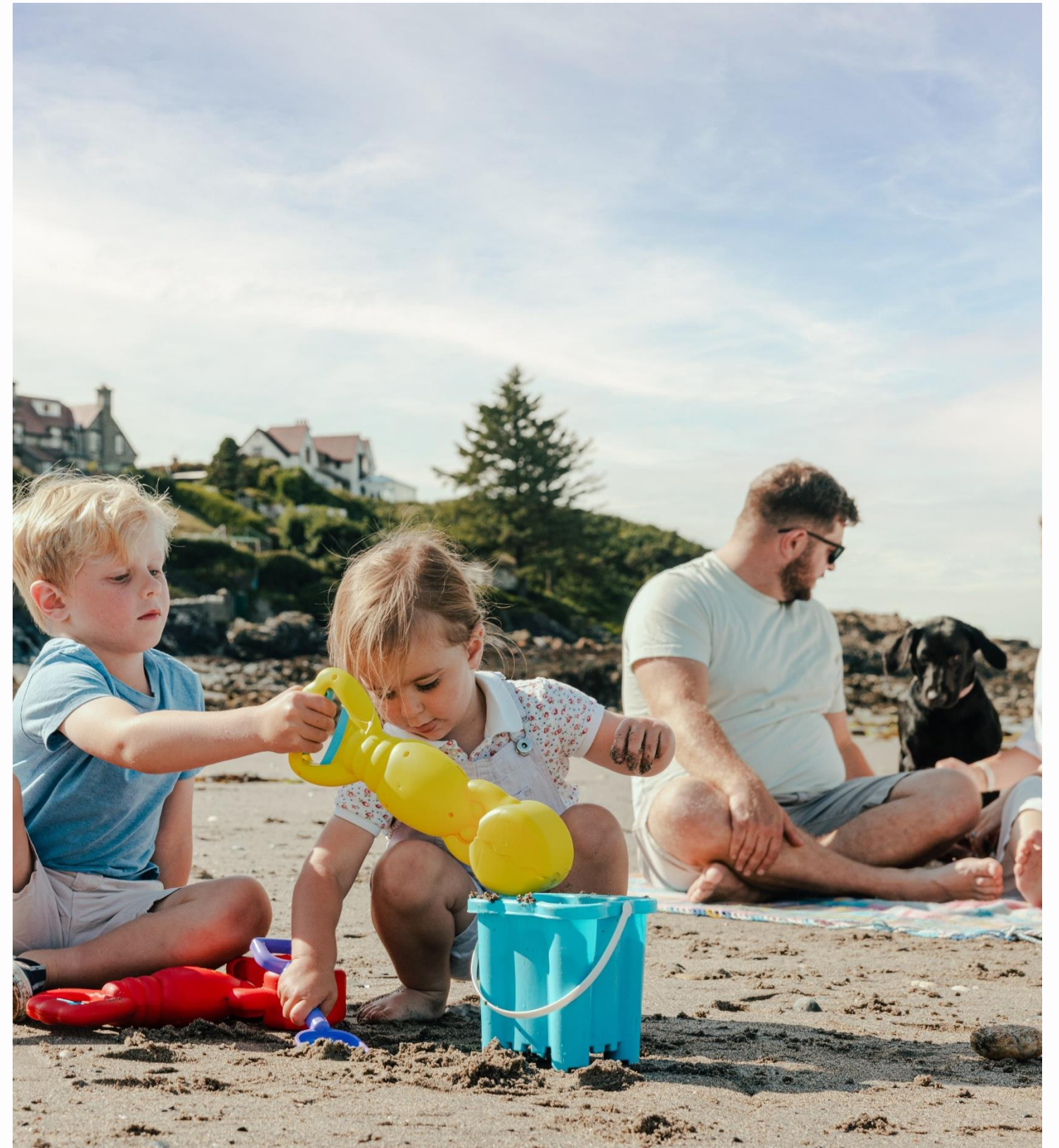
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Introduction

Over summer 2022 the Department for Enterprise undertook a consultation on the introduction of new employment rights relating to time off work and family leave. The consultation ran for eight weeks and 387 responses were received.

This report summarises the responses received by the Department and sets out the next steps the Department intends to take following the consultation.



Executive Summary

Overall 387 responses to the consultation were received.

22 responses were received on behalf of businesses, in addition to a response by the Isle of Man Chamber of Commerce. Three of the 387 were from public bodies, and one of the 387 was from a voluntary organisation.

It is clear from the responses that there was overwhelming support for the proposals, particularly from individuals. Among the businesses that responded there was some concern about the impact the proposals would have on their ability to run their businesses. Nevertheless the Isle of Man Chamber of Commerce generally supported all the proposals.

However a number of issues were identified. The most significant are as follows:

Rights to time off work for accompanying to antenatal appointments/adoption appointments and for dependents.

The proposals for the new rights to time off (for partners to attend antenatal appointments, for adoption appointments and for dependents) are based on existing provisions in the UK. These make specific provision relating to whether, in particular cases, the time off should be paid or unpaid; the number of occasions for which time off can be taken; and the maximum amount of time that may be taken on each occasion.

Many respondents questioned why there is a right only for unpaid time off in some cases but for paid time off in others. Similarly, many questioned why the number of occasions for time off differed in some cases, but not in others.

For example, there is currently in Manx law a right to paid time off for antenatal care for employees who are pregnant. This is not limited to a specific number of occasions. The proposed right to time off for a partner accompanying the pregnant mother to an antenatal appointment is however, unpaid and limited to two occasions of no more than six and a half hours.

The Department will consider further the comments on the specifics of the rights to time off. The Department intends that an Employment (Amendment) Bill will enable the details of the rights to time off to be specified in secondary legislation.



Level of maternity/paternity allowance/lack of statutory pay

A significant number of respondents stated that the current level of allowance for maternity and paternity is inadequate. A number of respondents also argued that statutory pay should be introduced for maternity leave and shared parental leave.

Levels of maternity/paternity allowance and the issue of statutory pay are the responsibility of the Treasury. However it should be noted that the Treasury is currently reviewing its social security benefits, including maternity and paternity allowance, as it does annually.

Though there are currently no plans to introduce statutory pay for maternity leave or other forms of family leave, the Department intends to include a power to enable the Department to introduce, through secondary legislation, statutory pay for the purposes of the Employment Act 2006. However any introduction of statutory pay would also require the Treasury to bring forward changes to social security and benefits legislation.

Shared parental leave

Though the Isle of Man Chamber of Commerce supported the introduction of shared parental leave, the Chamber highlighted that in a survey, many of its members raised a concern that a shared parental leave system might be complicated for businesses to administer. The Department will consider further the Chamber's feedback on how to best implement the system.

A summary of the proposals made in the consultation and the responses received is as follows.

Proposal 1: Do you agree with the proposal for a right to time off to accompany an expectant mother to an antenatal appointment?

Total responding to question	380	Percentage
Yes	361	95%
No	15	4%
Neither	4	1%

Proposal 2: Do you agree with the proposal for time off for adoption appointments?

Total responding to question	376	Percentage
Yes	364	97%
No	9	2%
Neither	3	1%

Proposal 3: Do you agree with the proposal for time off work for caring for dependants?

Total responding to question	375	Percentage
Yes	355	98%
No	1	0.3%
Neither	6	1.7%

Proposal 4: Do you support the proposal that shared parental leave be introduced?

Total responding to question	376	Percentage
Yes	355	94%
No	17	4.5%
Neither	4	1.5%

Proposal 5: Do you support the proposal to introduce provision for parental bereavement leave?

Total responding to question	375	Percentage
Yes	370	98.6%
No	3	0.9%
Neither	2	0.5%

Proposal 8: Do you support the proposal to introduce provision for keeping in touch days?

Total responding to question	370	Percentage
Yes	357	96.5%
No	12	3.24%
Neither	1	0.26%

Proposal 1 Responses

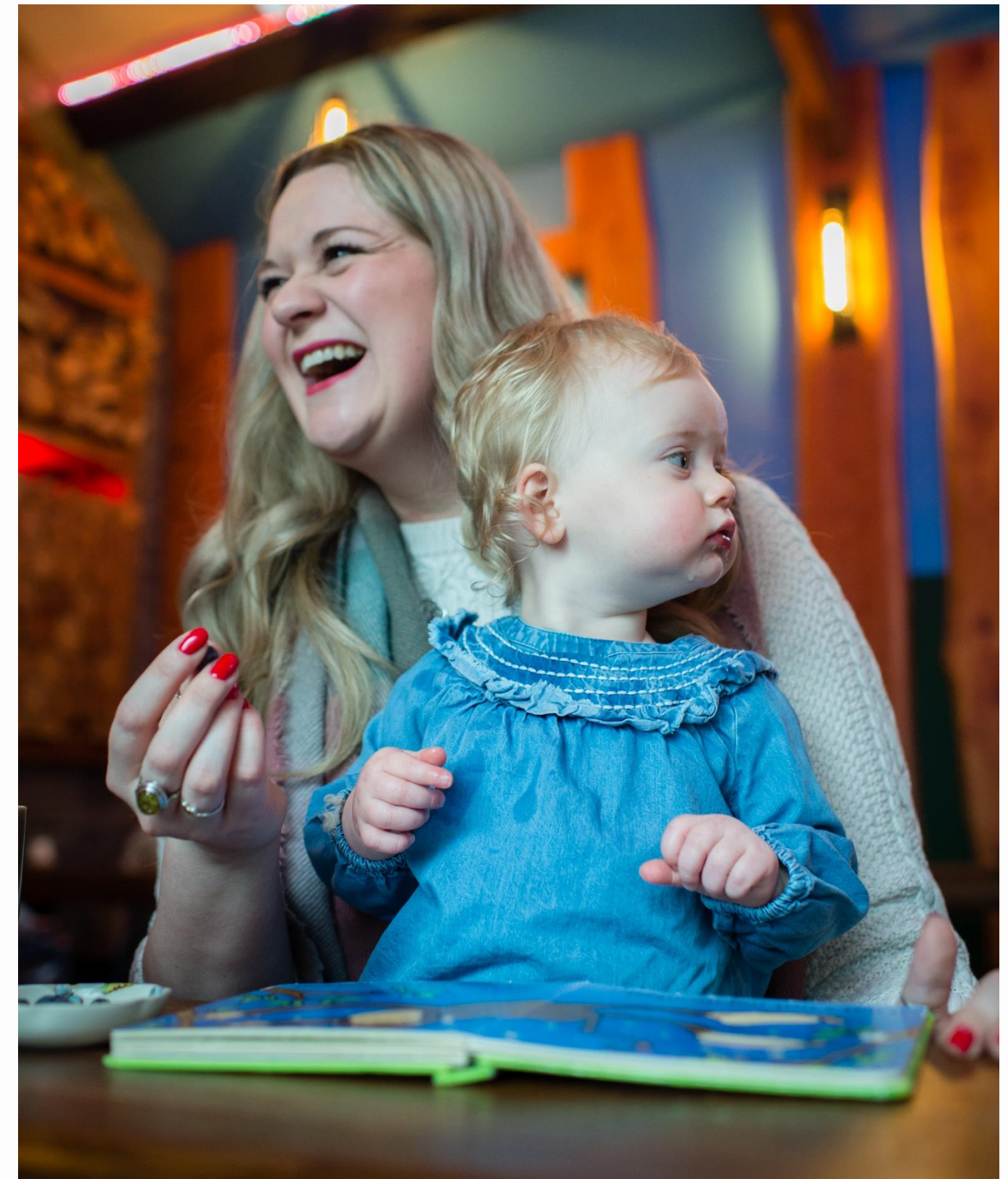
Question 1: Do you agree with the proposal for a right to time off to accompany an expectant mother to an antenatal appointment?

Total responding to question	380	Percentage
Yes	361	95%
No	15	4%
Neither	4	1%

There was clearly strong support for this proposal.

However a significant number of those who supported the proposal considered that the right to time off should be paid rather than unpaid.

Those that disagreed with the proposal that there should be a right to time off for an individual to accompany the mother did so on the grounds that it was unnecessary, or that providing such a right would be damaging to small businesses that would have to arrange for cover, particularly at a time when businesses are already finding it difficult to find staff.



Proposal 2 Responses

Question 2: Do you agree with the proposal for time off for adoption appointments?

Total responding to question	376	Percentage
Yes	364	97%
No	9	2%
Neither	3	1%

Question two sought views on the proposal that there should be a right for those who are looking to adopt a child to time off work for appointments relating to this process. Again there was overwhelming support for the proposal.

Of those that disagreed, two represented businesses, while six were responding as individuals.

The proposal was that, as in the UK, the right would provide that one partner may take paid time off and another partner may take unpaid time off. A number of respondents raised the issue of how it would be determined which partner should be entitled to paid time off and which entitled to unpaid time off.



Proposal 3

Responses

Question 3: Do you agree with the proposal for time off work for caring for dependants?

Total responding to question	375	Percentage
Yes	368	98%
No	1	0.3%
Neither	6	1.7%

The proposal for a right to time off for caring for dependents is based on the existing right in the UK which provides for “a reasonable amount of time off” to take action relating to a number of unforeseen circumstances such as a dependant falling ill, giving birth or being injured or assaulted. A dependant can be a spouse or civil partner, a child, a parent or someone else who lives in the same household as the employee.

Once again there was overwhelming support for this proposal.

However, there were a number of comments which noted that “reasonable” might be a matter of opinion and suggested that the amount of time off should be more specifically defined.



Proposal 4

Responses

Question 4: Do you support the proposal that the Employment Act 2006 be amended to enable shared parental leave to be introduced?

Total responding to question	376	Percentage	
Yes	355	94%	
No	17	4.5%	
Neither	4	1.5%	

Many of the respondents see this as an overdue step to enable fathers to take a more active role in caring for young children. For example one comment says: *"This is a really important proposal that should be a given in this day and age...For me, shared parental leave will be really important for us as I own my own business and am the only employee so I need to share the leave when we do eventually have a child as there will be no one to run the business for me."*

Another stated: *"Yes I absolutely agree to this model being introduced. Having lived in Sweden for a number of months where this is the norm, this allows fathers to have stronger bonds with their children and support mothers in a huge period of change. Myself and my partner would have welcomed this opportunity with both our children as I only took around 32 weeks off, so this would have left 20 weeks for my partner."*

Though there is overwhelming support for the introduction of shared parental leave, many of the responses identify a number of associated issues.

For example a significant number of responses comment that the current situation relating to allowances and pay for those on maternity, paternity and adoption leave is inadequate.

Another issue identified by a number of respondents is whether the provision for shared parental leave will apply to same sex parents.

Question 5: Do you have any comments on the way in which shared parental leave should work in practice?

A variety of suggestions were made in response. The following are a number of suggestions that were made:

- Any system of leave should be as flexible as possible in order to cater fully to the individual circumstances of families;
- The Isle of Man should mirror the system in place in the UK;
- There should be a "use it or lose it" system in place for leave which encourages fathers to take the leave (for instance, one comment says: *"To truly facilitate, or not even disincentivise, fathers to spend more time on paternity leave there should be an equal right to parental leave for both which doesn't require them to "take" leave from the other party. This could be achieved by either largely increasing the duration of parental leave (i.e. 480 days in Sweden), or more desirably ensure that both parties are entitled to 40-50 weeks each"*);
- The leave should be taken in blocks in order for it to be easier to administer for employers.

Proposal 5 Responses

Question 6: Do you support the proposal that the Employment Act 2006 is amended to include provision for parental bereavement leave?

Total responding to question	375	Percentage
Yes	370	98.6%
No	3	0.9%
Neither	2	0.5%

Question 7: Do you have any comments on the way in which parental bereavement leave should work in the Isle of Man?

A number of those responding commented that two weeks' leave would not be long enough. For example, one individual stated:

"Leave for a death of a child should be a lot longer than 2 weeks and also professional emotional support should be offered to families."

Proposal 6 Responses

Question 8: Do you support the proposal to introduce provision for keeping in touch days?

"Keeping in touch" days are a number of days on which a mother on maternity leave may go to work, for instance for training purposes, or for meetings etc., without stopping the maternity leave period. In the UK an individual on maternity leave may go into work for up to 10 days over the maternity leave period. This allows for mothers to keep in touch with their employer and for a limited amount of work to be done while the mother is still on maternity leave.

The breakdown of responses to the question is as follows:

Total responding to question	370	Percentage
Yes	357	96.5%
No	12	3.24%
Neither	1	0.26%

Other Issues

Question 9: Do you have any other comments on family leave rights in the Isle of Man?

The comments elicited mainly reflected responses similar to those already addressed by previous questions. For example, a number of responses focussed on the potential burden to businesses:

"Private business is struggling and these proposals will make it sink. Fine for civil servants with total job security - you will still be paid no matter what. Easy to have fine ideals if you don't have to earn the money to pay for them."

"Most employers treat employees well. Gov should stay in its lane."

A significant number of responses commented that the allowance for maternity, paternity and adoption leave was inadequate.

Two respondents commented that there should be special provision for parents of children that spend time in the intensive care unit. For example:

"Neonatal leave should be introduced where babies have to spend time in the hospital following birth. This should be in addition to parental leave. If a baby spends three months in NICU [Neonatal Intensive Care Unit]/SCBU [Special Care Baby Unit] then that lessens the time which parents can spend with the baby once they can go home. The adjusted age for the newborn means the parents need the support for longer off in order to bond and help care for their baby. Please see the charity Bliss for more info about this."



The graphic features three overlapping, curved arrows in shades of grey, arranged in a circular pattern. The text 'Next Steps' is written in a large, bold, red sans-serif font, positioned to the right of the arrows.

Next Steps

It is clear that the proposals set out in the consultation gained overwhelming support from the public.

Though some businesses have raised concerns about the impact of the proposed new employment rights, the IOM Chamber of Commerce generally supported the proposals.

All the proposals require new legislation to introduce. The Department will therefore introduce a Bill for the following measures:

The Department proposes that a Bill be drafted which will amend the Employment Act 2006 to introduce:

- Right to time off work to accompany a partner to antenatal appointments, including enabling powers to specify in secondary legislation whether the time off is paid or unpaid, the number of occasions of time off can be taken and the maximum duration of each occasion;
- Right to time off work to attend adoption appointments (for single adopters and for couples), including powers to specify in secondary legislation whether right to time off is paid or unpaid, maximum number of occasions and maximum time for each occasion;

- Right to unpaid time off work for dependants (e.g. child, spouse, parents) in order to deal with unforeseen incidents, including powers to specify in secondary legislation maximum length of time;
- Right to shared parental leave (including shared adoption leave), including powers to specify in secondary legislation conditions regarding duration, entitlement etc.;
- Right to parental bereavement leave, including powers to specify in secondary legislation conditions regarding duration, entitlement etc.; and
- Keeping in touch days for maternity leave.

Though there is no intention to introduce statutory pay at present, the Department also intends to include in the Bill a power which will enable the introduction of statutory pay, for the purposes of the Employment Act 2006, through secondary legislation.

Subject to the Bill completing its passage through the Legislative Branches and receiving Royal Assent, secondary legislation implementing the rights to time off, shared parental and bereavement leave and keeping in touch days, will be brought forward. It should be noted that the secondary legislation will require the approval of Tynwald.

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