

## **“More caring Dads”: Additional paternity leave**

### **The issue**

The new right to additional paternity leave (“APL”) is available to parents of babies born (and adoptive parents notified of a match) on or after 3 April 2011, and is in addition to the right to Ordinary Paternity Leave (“OPL”).

Such eligible employees (usually fathers) have the right of to up to six months’ leave to care for a child, if the child’s mother or (in the case of adoptions) the primary adopter returns to work without exercising their full entitlement to maternity leave.

APL applies to an employee who, in relation to the birth of a child, is the child’s biological father or the spouse or partner (of either sex) of the child’s mother. For adopters, the right applies to an employee who is the spouse or partner (of either sex) of the person who, having been matched for adoption, has elected to take adoption leave.

To be eligible to take APL, the employee must:

- have 26 weeks’ continuous employment with the employer, and remain in that continuous employment until the week before the first week of APL;
- have the required relationship with the child and its mother or adopter; and
- satisfy the notice and evidential requirements, including declarations both from themselves and the mother adopter.

### **The consequences**

- APL can only be taken once the mother of the child has returned to work so that a mother and father will not be able to take maternity leave and APL at the same time.
- an employee who is eligible for APL may also be eligible for additional statutory paternity pay.
- during APL employees will be entitled to all their employment terms except those about remuneration.

### **The solution**

Businesses should:

- review their paternity and adoption leave policies and ensure that they now include APL terms;
- update any notification or declaration forms and process requirements;
- establish practices to manage verifying both the self certification that a father or mother’s partner is taking time off to care for their child and that the mother is now returning to work;
- be aware that employees are protected from detrimental treatment and dismissal for reasons connected with their rights to both OPL and APL; and
- consider if it will offer enhanced paternity leave and/or enhanced paternity pay to eligible employees since the new APL rights are the minimum default position.