

### **Summary of recommendations**

1. Reserving a long period of leave for mothers does not necessarily promote maternal health. Families require more flexibility, along with higher levels of pay.
2. Challenging the gender pay gap requires challenging women's longstanding association with childcare. The proven way to achieve this is introducing an individual right for parents to a period of non-transferable leave.
3. The long period of maternity leave does not promote children's welfare. The lack of flexibility puts too much pressure on mothers, which may make them less able to meet their children's needs. Furthermore, it restricts other parents' and family members' ability to build a strong attachment with any child. Increasing fathers', other parents', and potentially other family members' access to leave would better promote children's best interests.
4. The deficiencies of shared parental leave (SPL) means that parents lack the flexibility required to make balanced childcare choices. The maternal transfer model, which underpins SPL, should be replaced with non-transferable, individual rights to leave, such as those available in Sweden.

### **Author of the submission**

5. [Dr. Gemma Mitchell](#) (Associate Professor in Law at the University of East Anglia) is a researcher focusing on legal approaches to the reconciliation of paid work and care. She has a particular expertise on the SPL legislation. In addition, after welcoming a baby in 2023, her family has used SPL, giving her both a practical and academic insight into the legislation. Her published work, referred to throughout, includes:
  - G. Mitchell "[Can transferable maternity leave ever encourage fathers to care?](#)" (2023) 52 *Industrial Law Journal* 149–178.
  - C. Bendall and G. Mitchell "[The shared parental leave framework: Failing to fit working-class families?](#)" (2023) 23 *International Journal of Discrimination and the Law* 299-320.

- G. Mitchell “[Shared parental leave and the sexual family: the importance of encouraging men to care](#)” (2019) 41 *Journal of Social Welfare and Family Law* 406-424.
6. Dr Mitchell submitted written evidence, available [here](#) and [here](#), and gave oral evidence in February 2025 to the Women and Equalities Committee’s inquiry, ‘Equality at work: paternity and shared parental leave.’ She was subsequently cited extensively in their June report, available [here](#).

**Question 1: Please tell us in what capacity you are primarily responding:**

As an academic, or on behalf of an academic or research organisation

**Question 2: If you are responding on behalf of an employer or another organisation, what is its name?**

N/A.

**Question 3: What is your sex? (If responding as an individual)**

Female

**Question 4: What is your employment status? (If responding as an individual)**

Employee

**Question 5a: Do you think that the current parental leave and pay entitlements supports these objectives (Yes or No):**

- (i) Providing sufficient time off work with adequate pay to support maternal health

No.

- (ii) Supporting economic growth through labour market participation by enabling more parents to stay in work and advance in their careers, including reducing the gender pay gap

No.

- (iii) Ensuring adequate resources and leave for parents to facilitate the best start in life by supporting the healthy development of young children

No.

**(iv) Providing parents the flexibility to make balanced childcare choices, including co-parenting**

No.

**Question 5b: For each objective, briefly explain the reasons for your selection above. Please provide any evidence (including links) to support your view.**

**(i) Providing sufficient time off work with adequate pay to support maternal health.**

7. Although the length of maternity leave is generous, the lack of pay undermines efforts to support maternal health. This is because few mothers are able to access a long period of leave in practice, because they cannot afford it. This particularly undermines the maternal health of working-class mothers and single mothers (see my other submission with Dr Charlotte Bendall).
8. Alongside the lack of pay, maternal health is undermined by the lack of flexibility within the current parental leave system. The default remains that mothers will take a long period of leave, with fathers or partners taking only a few weeks when a child is born or adopted. This assumes that mothers remain the most able to provide this care. Yet, these gendered assumptions do not work for all families. For example, in the leading case on enhanced shared parental pay (*Capita Customer Management Ltd v Ali (Working Families intervening)* [2019] EWCA Civ 900, [2020] ICR 87), a mother was encouraged to return to work for her own wellbeing because she was suffering with postnatal depression (see [Mitchell, 2023](#)).
9. Although some fathers and other parents in this situation would be able to take SPL, this possibility is limited for three reasons. First, the eligibility requirements of SPL needlessly restrict access, which means many parents simply cannot access it. Secondly, the unnecessarily complex and rigid notice requirements mean that parents cannot quickly swap leave when needed. Finally, the lack of pay available for SPL limits men's access in most families, especially since in *Capita* it was determined that enhancing maternity pay whilst paying the low, flat-rate of SPL pay, is not discrimination. This is due to the continued reliance on men's wages in heterosexual relationships, as they

tend to be the main earner as a result of the persistent gender pay gap (see [Mitchell, 2023](#)).

10. Therefore, a long period of leave does not necessarily promote maternal health. Whilst it is important that people who have given birth are able to recover, this does not necessitate such a long length of leave being reserved solely for the mother. The reality is that most of the 52 weeks of maternity leave, is spent providing childcare. Leave for childcare does not need to be reserved for mothers. Indeed, doing so can actively undermine maternal health, as can be seen above.
11. Promoting maternal health would necessitate that parents are given more flexibility in how they divide and share parental leave. An easy way to achieve this would be to make the long period of leave a gender-neutral parental leave, so either parent could take it. Individual, non-transferable periods of leave could supplement this, as seen in Sweden, to ensure that mothers are able to take leave after having a child and as a way of encouraging fathers' caring role (see answer 5b(iv)).

**(ii) Supporting economic growth through labour market participation by enabling more parents to stay in work and advance in their careers, including reducing the gender pay gap.**

12. The UK's large gender pay gap shows that the current parental leave system has not adequately challenged gender inequality in the workplace. This is primarily because the default model for leave is for mothers to take a long period of maternity leave, whilst fathers and other parents take only a few weeks when they become a parent. The current system therefore reinforces gendered parenting assumptions, that women provide care and men perform paid work.
13. These assumptions, particularly women's continued association with caring work, means that the parental leave model has reinforced, rather than challenged, workplace discrimination against women. This helps to explain why pregnancy discrimination remains rife, despite enhanced protections against this. Many employers will remain hesitant to hire women of childbearing age, as they fear they will be 'let down' when they take maternity leave (see [Mitchell, 2019](#)).

14. Introducing a non-transferable, individual right to leave, as available in Sweden and other Scandinavian countries, is the first realistic step towards challenging these gendered assumptions and the resulting gender inequality. As I have argued:

“For women to participate equally in paid work men must provide care. This would challenge women’s longstanding association with [caring]. Consequently, employers would have no reason to discriminate against women, as men would be considered equally likely to provide care. This would incentivise employers to modify workplaces to better accommodate carers. This would mean that women would no longer be forced into lower paid jobs. Furthermore, men providing caring labour would highlight how gendered expectations are socially constructed. After all, it is not that men cannot care, merely that they are treated differently when they do” ([Mitchell, 2019](#)).

**(iii) Ensuring adequate resources and leave for parents to facilitate the best start in life by supporting the healthy development of young children.**

15. We know that it is in a child’s best interest to form a secure attachment with their main caregivers (Bowlby, 1997). However, the UK parental leave system makes it harder for those ineligible for maternity or adoption leave to create this attachment. This is because they do not have a standalone right to a considerable period of leave.
16. This is problematic, in terms of child’s welfare, for two reasons. First, this increases pressure on the primary carer, which may make them less able to meet the child’s needs. After all, the welfare of the child and their mother, or primary carer, are intrinsically linked. A focus on facilitating that each child has the best start in life must therefore, necessarily, include a focus on maternal health and wellbeing. As noted in my answer to 5b(i), the long period of lowly paid leave, reserved for mothers alone, is not necessarily conducive to this.
17. Secondly, other parents might, in effect, be excluded from creating a secure attachment with their child. Prioritising children’s welfare would necessitate enabling fathers and other parents to better bond with their child. This must include increasing the length and rate of pay for paternity leave, so they can

access more leave. This would not only promote children's welfare but also improve both parents' health.

18. In addition, SPL must be amended so fathers and other parents can access longer periods of leave. Introducing an individual, non-transferable right to leave would give other parents a genuine chance to bond with their child. More detail on this can be found in my answer to 5b(iv).
19. Finally, if children's welfare is to be an important policy ambition, and I argue it must be, the two-parent, nuclear family model which underpins both paternity leave and SPL, should be reconsidered. Please see my joint submission with Dr Charlotte Bendall for more information.

**(iv) Providing parents the flexibility to make balanced childcare choices, including co-parenting.**

20. The parental leave system does not give parents enough flexibility. After welcoming a child, the default remains that mothers take a long period of leave, whilst fathers and other parents take two weeks of paternity leave. This is because of the low take-up of SPL.
21. SPL enables some parents to transfer their maternity leave to a partner or parent. It is, therefore, the only legislative tool which gives parents any flexibility in their co-parenting. For the few who have benefitted from SPL (including me), this has been vitally important.
22. Yet SPL has not given most parents the flexibility they require. Employers obviously require some notice, but the complex and confusing notice requirements are onerous and are incompatible with the reality of parenting (James, 2016). Other legislative changes, such as making leave available in blocks or concurrently, have also failed to give parents flexibility. Whilst "the needs of employers are obviously important...the legislation unduly prioritises employers, at the cost of parents' needs" ([Mitchell, 2023](#)).
23. More fundamentally, the maternal transfer model has not challenged gendered parenting expectations and the default of mothers taking long periods of leave. Indeed, I have argued that it reinforces these gendered expectations:

"Mothers' caring roles will always be prioritised [in the maternal transfer model], as they are the only ones entitled to leave. Fathers' and eligible

co-parents' rights are dependent not only upon the mother's eligibility for maternity leave, but also her consent to transfer the leave" ([Mitchell, 2023](#)).

24. Furthermore, transferring leave to another parent, as required under the maternal transfer model, requires positive action, as it is not the default. This has both psychological and time costs which makes accessing this leave less likely ([Mitchell, 2019](#)). Indeed, many women are unable or unwilling to transfer their leave because of gendered expectations, workplace discrimination and the gender pay gap ([Mitchell, 2023](#)).
25. Likewise, men might not want leave transferred to them as they value providing financially. Therefore, many will consider transferring maternity leave to be depriving "each parent of carrying out their 'natural' role" ([Bendall and Mitchell, 2023](#)).
26. Accordingly, "the premise underpinning transferable maternity leave, that simply making leave available to both parents will encourage fathers to take leave, is flawed" ([Mitchell, 2023](#)).
27. To enjoy genuine flexibility, all parents must be able to take extended leave. The maternal transfer model must be replaced with a standalone, non-transferable right to leave for both parents, as available in Sweden (but note my answer to question 5b(iii) in my joint submission with Dr Charlotte Bendall). This must be well-paid and available part-time.

**Question 6: Are there further or other objectives that you would like to see included as part of the parental leave and pay review?**

No.

**Question 6b: Please list and briefly explain each one, including providing links to any relevant evidence.**

N/A.

**Question 7: Please prioritise the objectives, including any additional objectives, in order of importance (for example with 1 being most important).**

All these objectives are very important, and as this submission has shown, interlinked.

- Providing sufficient time off work with adequate pay to support maternal health
- Ensuring adequate resources and leave for parents to facilitate the best start in life by supporting the healthy development of young children
- Supporting economic growth through labour market participation by enabling more parents to stay in work and advance in their careers, including reducing the gender pay gap
- Providing parents the flexibility to make balanced childcare choices, including co-parenting

**Question 8: If you have any additional comments, evidence or suggestions that you have not had the opportunity to provide elsewhere, please do so here.**

N/A

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