

Notes of Statutory Payment Consultation Group Meeting 29 July

Present

Kav Dihillion (KD)-DWP

Linda Pullan (LP) – Payroll Alliance

Samantha Mann (SM) - CIPP

Norman Green (NG) –Logica

Debbi Jackson (DJ)-BIS

Prabha Mistry (PM) – DWP

Jane Edwards (JE)-DWP

Paul Maddison (PM) - HMRC

Graeme Young (GY)-HMRC

Apologies -Ken Voller ICAEW

1. Fit for Work (FfW)

1.1. KD updated the group on the latest developments. GP roll out is complete across England, Wales and Scotland. Employer roll out is due to begin in Scotland over the summer and it is due to begin in England and Wales in the autumn.

1.2. Referrals by GPs were increasing week by week. The GP referral form had been shortened as a result of feedback from GPs.

1.3 DWP are currently considering the option of amending regulations to bring parity between a Fit for Work Return to Work Plan and a fit note. This is to help avoid confusion as employers may be more inclined to request a fit note as it is written into regulations. The aim is to avoid situations where employers are asking for fit notes when there is already a Fit for Work Return to Work Plan available providing a statement for fitness for work.

1.4 NG didn't think changing the legislation would necessarily address the issue. He thought DWP should focus on strengthening the message which needed to get to HR departments and insurance companies in particular.

1.5 LP and SM both agreed that strengthening the message was the right way to go. LP thought that messages targeted at CIPD, FSB and IFA amongst others would be productive. LP also thought it would be a good idea to put an article in the Employer Bulletin as this was picked up by smaller employers in particular.

1.6 KD said this feedback was helpful and she would consider further communications to get the message across. Further updates were also being planned to the guidance.

1.7 NG asked whether the £500 tax free medical treatment was having any impact. KD responded that it was too early to say.

1.6 A discussion on wider policy options for Fit for Work took place. The discussion included self-referrals, self-employed, benefit claimants, early intervention for those struggling at work but not on sickness absence and mandating options.

2. Issue with SP calculators

2.1. DJ explained that following a PQ an issue had been identified in relation to the SP calculators in relation to Statutory Adoption Pay (SAP), Ordinary Statutory Paternity Pay (OSPP), Additional Statutory Paternity Pay (ASPP) and Statutory Shared Parental Pay (ShPP).

2.2 All the calculators calculated the 26 week continuous employment test leading up to the 'qualifying week' in the same way. However there was a minor difference in the legislation between how this test should be calculated between SMP and the other statutory payments mentioned. In a nutshell the legislation for SMP allowed part-weeks, specifically the first week, to be rounded up and treated as a whole week. For the remaining statutory payments mentioned the legislation did not contain such a provision allowing for a part worked week to be treated as a complete week.

2.3 The calculators did not recognise this nuance in the legislation and all calculated the 26 week test in the way the calculation should be carried out for SMP.

2.4 The result of this was that the SAP, OSPP, ASPP and ShPP calculators could, in a situation where an employee changed job in the first of the 26 continuous weeks, incorrectly advise that a statutory payment was due.

2.5 DJ stressed that the number of situations where such a situation arose was likely to be small. No employer who relied on the guidance and had, as a result, incorrectly paid a statutory payment would be pursued.

2.6 DJ explained that there were a number of options for addressing the issue. There was no policy reason for the difference between SMP and the remaining statutory payments. BIS were therefore exploring whether they could change the regs to bring all the statutory payments in line on this issue although ultimately this was a matter for Ministers.

2.7 SM, LP and NG all indicated that they would favour resolving the issue in the manner suggested.

2.8. DJ also explained that the new tool on Gov.uk aimed at employees could have advised the employee of the incorrect amount of statutory payments due. The earning aspect of the tool had been removed and they were now solely advised employees on whether they are entitled to maternity, paternity or shared paternity pay and leave.

3. Customer Insight

3.1 PM advised that GY had always been keen to look at the Statutory Payments processes however, delivering SAP and ShPP in recent years meant this could not be achieved. However, the Statutory Payments Team could now pursue this and were keen to gain customer insight into Statutory Payment processes. In order to gain this understanding the team has initially looked at Statutory Maternity Pay. This is the next largest Statutory Payment to Statutory Sick Pay and the team felt, with the recent changes to Statutory Sick Pay, this should be excluded from any data gathering. To date the team have:

Reviewed a sample of Statutory Maternity Pay Disputes Cases to identify any common issues

Reviewed a sample of Statutory Maternity Pay emails to identify any common issues

Collected Statutory Maternity Pay data from the Employer Helpline at East Kilbride and Customer Contact Centre in Longbenton in order to identify common employer / individual issues

Reviewed all Legislation making comparisons between qualifying conditions, leave and pay etc.

Mapped employer / employee journeys completing a full journey for Statutory Maternity Pay

Collected data from a Statutory Maternity Pay webinar that the team attended

3.2 PM advised the team had also approached the Taxpayer Data Standards Forum (TDSF) via HMRCs Customer and Stakeholder Team seeking initial views on the Statutory Maternity Pay customer journey and how employers administer this with a view to:

Identifying any areas for improving this process.

Gain insight into any areas that were problematic or where the process was trouble free.

To assist with this a questionnaire was issued at the TDSF meeting in June. The results from the 12 attendees were analysed and these highlighted that broadly the process was easy to administer. (PM handed out a copy of the questionnaire).

3.3 PM advised the team were also looking to issue the Statutory Maternity Pay questionnaire to a wider audience to gain a broader understanding of any issues associated with Statutory Maternity Pay to complement the TDSF results. LP and SM advised they would be happy to assist. PM has subsequently forwarded an electronic copy to LP and SM with a view to issuing the questionnaire via 'survey monkey' with replies to be back by 21 September 2015.

3.4 PM then advised that next steps would be to analyse the results of this wider survey, complete remaining SP customer journeys and review all internal data along with external findings to inform an opinion on any potential areas for improvement.

4. Feedback from recent changes

4.1. GY said he was interested in receiving feedback on whether there were any ongoing issues from the recent statutory payment changes most notably the introduction of Statutory Shared Parental Pay (ShPP), the six weeks earnings related element of Statutory Adoption Pay and the abolition of the Percentage Threshold Scheme (PTS).

4.2 NG commented that the abolition of PTS hadn't proved too noticeable among small employers partly because in many cases software providers submitted claims on their behalf. Also the introduction of Employment Allowance had mitigated some of the pain of losing PTS entitlement.

4.3 LP agreed with NG's comments around PTS but added that the one area where the loss of PTS had been acutely noticed was amongst very small employers with only one or two staff such as carers and nannies.

4.4. JE stated that the number of PTS claims was dying away –employers had until 5 April 2016 to make any final claims for periods arising before 5 April 2014.

4.5. SM thought that the message around SAP could have been stronger-LP agreed that a further Employer Bulletin article might be helpful.

4.6 NG said that smaller employers would rarely receive ShPP claims and would need to check the guidance as and when they did. LP said that their helpline was not receiving calls on any specific issues with regards to ShPP often they were simply to check that the employer had understood the provisions correctly-LP added that she thought the whole system was overly complicated.

4.7 LP stated that the fact that paternity leave could continue on passed the maternity pay leave period was not particularly prominent in the guidance (page 26). DJ responded that they would be updating the guidance so would take this feedback on board.

4.8 SM agreed with LP that ShPP was complex and asked whether it might be possible to include in the guidance a list of common errors and top ten queries.

5. AOB

5.1 DJ pointed out that there was a Conservative Party Manifesto commitment that larger employers would be required to provide 3 days paid voluntary leave to employees.

5.2 DJ referred to a recent PQ around extending ShPP to grandparents. The PM had responded that this was something which would be considered. DJ continued that they were currently assessing the impact of extending ShPP to wider group of claimants.

5.3 SM asked about the possibility of introducing carers leave. DJ said that this issue had been suggested before but wasn't actively being considered at the current time. The main challenge was around costs given that there were around 5.5 million carers in the country.

5.4 GY asked whether the external members found the group of benefit. There was a consensus that the group was of real value. GY suggested that they pencil in the next meeting for say 6 months given that no major changes to statutory payments had been announced in the recent Budget. If there were any significant changes in the intervening period they could bring the meeting forward.

Graeme W Young