

# **REGULATORY IMPACT ASSESSMENT OF A DUTY ON EMPLOYERS TO CONSIDER SERIOUSLY REQUESTS FOR FLEXIBLE WORKING FROM THE PARENTS OF YOUNG CHILDREN**

## **1. INTRODUCTION AND SUMMARY**

The government intends to introduce a duty on employers to consider seriously requests for flexible working from the parents of young children.

The proposals arise out of the report of the Work and Parents Task Force<sup>64</sup>. The Task Force was asked to consider how legislation in this area might work and the government has accepted its recommendations. The Task Force considered the impact of its proposals in its report and this impact assessment draws in part on that analysis.

The duty to consider will apply in respect of parents of children under the age of six where the parents are employees and have worked for the same employer for a minimum of six months. For the parents of disabled children, however, the limit will be 18 years of age.

Parents in this group will be able to request changes to their working patterns without fear of dismissal or other detriment. The employer will be under an obligation to consider such requests seriously, following basic minimum procedural standards. Where requests are not accepted, there is provision for an appeal stage and, ultimately, recourse to an external dispute resolution stage, which could be an Employment Tribunal.

Cost or other disruption to the business will be a valid reason for refusal.

At any time, just over 3.8 million employees will be entitled to submit requests to their employer.

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<sup>64</sup> Published as *About Time: Flexible Working*.

The quantified and unquantified benefit and costs of these proposals are summarised in the table below (where monetary values are given, these are at 2000/01 prices):

Benefits	Costs
<ul style="list-style-type: none"> <li>• 418,000 new requests for flexible working are accepted each year.</li> <li>• Improved work life balance for parents securing flexible working patterns.</li> <li>• Increase in labour supply of mothers = 55,000.</li> <li>• Reduction in recruitment costs from increased labour supply and because employees no longer have to change jobs = £113 million (recurring).</li> <li>• Increased skills retention.</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation costs = £38 million (one-off) plus £7 million (recurring).</li> <li>• Costs of handling requests = £113 million (recurring).</li> <li>• Costs of accommodating changes to working patterns = £165 million (recurring).</li> <li>• Total recurring cost to employers = £286 million.</li> </ul>

The costs to business have been quantified. The proposals also yield benefits to business. Some of these - recruitment savings - have been quantified. Others - including the economic benefits of improved skills retention and improved employment relations - have not been quantified but may be significant. An increase in the labour supply is likely to reduce family and child poverty and benefit the economy as a whole. Plus there are the benefits that parents and their children realise from flexible working. These cannot be valued in the same way but are probably substantial. For example, if each change in working patterns had a value through improved family life of £500, then the benefits would certainly exceed the costs.

The duty to consider will be new legislation that does not build upon existing law. It is therefore difficult to predict its impact. The estimates above are based on a central case that necessarily involves many assumptions, particularly on how many parents make requests to their employers and how many of these are accepted by employers. The premise behind this central case is that a considerable proportion of parents do seek new working patterns and that in most cases these are relatively cheap for employers to implement, so that a large majority (over 80%) are accepted. A sensitivity analysis explores the effect of alternative assumptions on take-up and cost.

## 2. PURPOSE AND INTENDED EFFECT

The intention of the proposed legislation is that employers give serious consideration to requests for flexible working arising from employees who are the parents of young children.

The duty to consider will thereby contribute to better decision-making within companies and encourage dialogue between employers and employees about how the demands of family life can be accommodated without damaging business performance.

### **3. RISKS**

The proposed legislation addresses three principal risks:

- Of mothers dropping out of the labour market at the end of maternity leave because they are not able to make the changes necessary to their working patterns that would have enabled them to remain in employment;
- Of employers dismissing requests for flexible working out of hand either because of cultural resistance to flexible working or because of lack of awareness of the practicalities and benefits;
- Of dissatisfied mothers and fathers leaving their jobs to find others that offer more suitable working patterns or, where this is not possible, of family life suffering because mothers and fathers are unable to find the working patterns that would suit their families best.

### **4. NUMBERS AFFECTED**

The entitlement to request flexible working will apply to all employees with 6 month's length of service with their employer who are parents of children under the age of 6. At spring 2001, there were just under 3.6 million employees in this group. Of these, nearly 2.1 million were men and just over 1.5 million were women.

In addition, there are estimated to be approximately 220,000 additional parents with disabled children aged between 6 and 17 who are employees and meet the length of service criteria, about 180,000 men and 45,000 women<sup>65</sup>. Thus the total number of beneficiaries is just over 3.8 million. It is assumed that this is the size of the eligible group when the legislation is introduced.

Take-up of the new legislation is likely to differ between mothers and fathers and also by current working pattern. Those who already have 'flexible' working patterns (such as part-time work or flexi-time) may be more or less

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<sup>65</sup> This is an approximate estimate as the available data on disability of children is now quite dated (the best being an OPCS survey dating from the mid 1980s). Of the 380,000 disabled children in Great Britain under 18, about 275,000 are living in private households and are aged 6-17. In total, there are estimated to be 308,000 employed fathers of disabled children and 76,000 employed mothers (12,000 full-time, 64,000 part-time). These estimates of employed parents are multiplied by [275/380] to exclude children under 6 (already captured in the LFS data) and then by 0.8 (to exclude the self-employed and employees with less than 6 months' service). This produces an estimate of 178,000 fathers (all assumed to be working full-time), 7,000 mothers working full-time and 37,000 mothers working part-time. These figures are highly uncertain but will suffice as a qualitative guide to the impact.

likely to request a change to working patterns than people with what appear to be 'non-flexible' working patterns<sup>66</sup>. For this reason, the assumptions used to construct estimates of take-up are disaggregated by sex, full-time/part-time status and by whether the employed parent has some other identifiable 'flexible' working pattern<sup>67</sup>.

The detail of the analysis is set out in the Appendix.

Take-up is also highly uncertain. For this reason, the Appendix sets out high and low take-up scenarios in addition to a central case.

### **Deadweight**

It makes sense to analyse costs and benefits primarily in terms of flows of requests for flexible working. The costs, in particular, are likely to be incurred soon after a request is made whether it is accepted or not.

It is important to remember that many parents of young children already work flexibly and some of these will have obtained this flexibility through a process of dialogue with their employer. With the new legislation, it is likely that some employers and employees will in future channel what happens now through the duty to consider. Employers may decide as a matter of policy to handle all requests using the model procedure rather than informally. Some employees will make a formal request whereas otherwise they may have had an informal discussion with their line manager.

This deadweight element to the policy has to be estimated because - to the extent this happens - it results in requests being made without any change to substantive outcomes. There may be cost implications if using the formal process is more expensive than whatever process is used at present.

It is not straightforward to estimate the deadweight effect. The Appendix presents some illustrative estimates that suggest there might be 289,000 deadweight requests each year.

### **Number of additional requests for flexible working**

Discounting deadweight, take-up of new requests for flexible working is uncertain. It is likely to be higher for mothers than for fathers. It is also likely to be highest in the first year or so of the child's life, although additional times when requests are likely to be made are when children start to attend early education around age 3 or 4 and when children start primary school.

The Appendix sets out a central case under which there are just over 500,000 additional requests for flexible working each year (i.e. about one eighth of

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<sup>66</sup> This is 'flexible/non-flexible' in as far as these concepts can be measured in surveys. Many jobs without an identifiable 'flexibility' might be tailored in just the way that parents need in order for them to combine work and domestic responsibilities.

<sup>67</sup> For the parents of older disabled children, a simpler disaggregation into men, women working full-time and women working part-time has been applied.

eligible parents make a request in a year). High and low take-up scenarios are also developed with just under 950,000 and about 280,000 requests respectively. These reflect the considerable uncertainty involved. They might also represent scenarios of how take-up develops over time, i.e. that take-up increases over time as parents and employers get used to the new legislation.

### **Number of requests accepted**

Most new requests for flexible working are likely to be accepted by employers. The evidence based on current practice suggests that most employers experience little or no cost in implementing flexible working patterns, or that the costs are balanced or exceeded by the benefits<sup>68</sup>. There is clearly some uncertainty in extrapolating to new requests. However, barriers to flexible working can be as much about information as practicality or cost and the support and guidance given to employers should help them realise cost-effective options wherever possible.

It is assumed that 80% of requests are accepted at the first stage (or an acceptable compromise arrangement is reached). This leaves 20% of cases where the request is not accepted and no compromise can be reached. It is likely that many requests are not pursued further because the employer has given clear reasons that are accepted by the employee (assumed to be 50% of relevant requests). At the appeal or internal grievance stage, if employers have conducted their initial consideration thoroughly, most management decisions will be upheld (assumed to be 80%).

This leaves a small proportion of requests (just 8% of the original number of requests) that are turned down at the appeal or internal grievance stage. These requests have been considered twice by management - sometimes by two different layers of management - and reasons will have given why they have been turned down. If this process of dialogue has taken place, few should be taken to an external dispute resolution stage. It is estimated that, at present, between 15 and 25% of disputes between employees and their employers are taken to an Employment Tribunal. The proportion of requests for flexible working that are taken to an external stage is likely to be less because there has already been dialogue - assumed here to be 10%. The likelihood of requests being taken beyond the firm may to some extent depend on the external dispute resolution mechanisms available. The 10% assumption is based on the main recourse being to an Employment Tribunal. Should there be a variety of alternative external dispute resolution mechanisms on offer (e.g. arbitration), the percentage using one of them may be higher.

It is assumed that, where requests are taken to an external form of dispute resolution, there is a 'success' in 20% of cases. 'Success' here means the employee getting the flexible working arrangement they want, or an acceptable compromise.

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<sup>68</sup> See Chapter 6 of *About Time: Flexible Working*.

Table A6 of the Appendix works through these assumptions for the central case. In total, 418,000 requests for flexible working - 82% of the new applications made - are accepted in one form or another, the vast majority at the initial stage. Just over 4,000 requests are taken all the way to external dispute resolution.

**Business sectors affected**

The table below presents a disaggregation of the 3.6 million eligible employees with children under the age of 6 by broad industry sector.

Industry sector	Fathers ('000s)	Mothers ('000s)
Agriculture & fishing	19	*
Energy & water	43	*
Manufacturing	527	124
Construction	192	20
Distribution, hotels & restaurants	314	335
Transport & communication	209	76
Banking, finance & insurance etc	334	256
Public admin, education & health	355	616
Other services	80	82
Total	2,073	1,522

\* = less than 10,000.

Source: Labour Force Survey, spring 2001.

There are sectoral differences. In particular, the public administration, education and health sector employs a disproportionately high number of eligible mothers. Since take-up is also likely to be higher for mothers than fathers, this sector could be responsible for a large proportion of new requests.

**5. BENEFITS**

**More flexible working and a better family life**

Using the central case, 418,000 new requests - over 10% of the number of eligible parents - are accepted for flexible working each year. This is a flow estimate. The impact on the stock of parents of young children with flexible working arrangements will depend on job turnover and the average number of requests made per parent. Nevertheless, there is clear potential for a substantial impact.

Parents request flexible working in order to improve their work life balance. Thus the increase in the spread of flexible working will bring direct benefits in terms of improved family life.

## **Better employment prospects for parents**

Greater opportunities for flexible working will enable some parents who would otherwise leave the labour market to remain in employment, with mothers being the main beneficiaries<sup>69</sup>.

About a third of mothers fail to return to employment after maternity leave (around 100,000 mothers each year) and others drop out of employment when their child is older, or following the birth of a second child. Survey evidence suggests that this is often down to personal and family choice - mothers want to look after their children themselves when they are young<sup>70</sup>. However, most mothers who did not return to work after maternity leave also said they intended to return to employment at some stage. A survey of parents carried out in 2000 found that 10% of non-employed mothers with dependent children under 16 said that lack of flexible working opportunities was the main barrier to them finding employment<sup>71</sup>. In 1996, 10% of mothers who failed to return to work after maternity leave cited a failure to find a job with the right hours as the main reason for not returning to work<sup>72</sup>.

At spring 2001, there were 1.1 million mothers with dependent children under 6 who were economically inactive and gave as their reason 'looking after home or family' (source: Labour Force Survey spring 2001). The duty to consider may be sufficient incentive for some of these women to re-enter the labour market. If the legislation were to change the labour market participation decisions of just 5% of this group, that would increase the aggregate labour supply by 55,000<sup>73</sup>. This would have benefits both for employers (see below) and the economy more generally. Families and children would also benefit from higher incomes.

## **Reduced vacancy costs and increased skill retention**

Where the legislation induces parents to remain in the labour market, this will have benefits in terms of reduced turnover costs and increased skills retention. It is estimated that it costs an employer £3,900 on average to fill a vacancy<sup>74</sup>. Thus the labour supply benefits set out above might realise a direct benefit of £39 million a year to employers through savings in recruitment costs<sup>75</sup>.

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<sup>69</sup> In principle, the duty to consider also affects the employment prospects of fathers. However, there is little evidence that the presence of a young child has an effect on the likelihood of a father in a couple family being in employment (although it might affect the type of job they do) and there are very few lone fathers with children aged under 6.

<sup>70</sup> See Callendar *et al.*, 1997.

<sup>71</sup> Women and Equality Unit, forthcoming.

<sup>72</sup> Callendar *et al.*, 1997.

<sup>73</sup> This could be achieved, for example, if an additional 10,000 mothers each year chose to remain in employment after maternity leave, rather than giving up paid work. This group, by definition, have the required continuity of service to make a request before they return from maternity leave.

<sup>74</sup> CIPD labour turnover survey, 2001.

<sup>75</sup> Calculated as 10,000 mothers not giving up work after maternity leave at a saving of £3,900 per mother.

There may also be broader savings to employers through reduced turnover among the parents of young children. At present, many working parents already have some form of flexible working pattern (see Table A1 in the Appendix). However, some will have had to change their job in order to find paid work that fits their family commitments.

With the right to request flexible working, some parents will no longer need to change employers to improve their work life balance. This has benefits for the parent - in terms of continuity of employment - and their employer.

Quantifying this effect is uncertain. However, there is some relevant evidence. In 1996, about 15% of mothers who returned to employment following maternity leave went back to a different employer. Just over half of these said that obtaining part-time hours was one of the reasons why they changed employer<sup>76</sup>. The corresponding survey of fathers found that 4% said they had changed jobs or employers because of the birth of their child - usually in order to find more convenient working hours<sup>77</sup>.

Thus a conservative estimate might be that the legislation would prevent a change of employer for 5% of mothers returning to work after maternity leave (approximately 11,000 mothers per year) and 2% of employed fathers in the year following birth (about 8,000 fathers per year). This would yield annual recruitment savings to employers of £74 million per year<sup>78</sup>. This excludes any further benefits from skills retention or from job changes that might occur when the child is older.

## 6. COSTS

The principal costs of the proposals fall under three headings:

- Implementation costs of the new legislation;
- Procedural costs arising from exercise of the right to request flexible working; and
- The costs of accommodating such requests (when they are accepted).

These are considered in turn.

### **Implementation costs**

The proposals affect businesses of all sizes. At any time, about an eighth of all employees are entitled to make a request. Thus, over time, most businesses are likely to be potentially affected by the proposal.

Businesses will incur one-off costs in familiarising themselves with the legislation, considering whether existing procedures need to be changed, and

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<sup>76</sup> Callendar *et al.*, 1997.

<sup>77</sup> Forth *et al.*, 1997.

<sup>78</sup> Calculated as 19,000 job changes per year at a saving of £3,900 per vacancy.

possibly communicating these changes to employees through changes to staff handbooks or statements of terms and conditions or through other routes (e.g. company web sites). This does not allow for the costs of the procedure itself (see below).

The cost will primarily be in management time and is likely to be greater for large employers. The relevant assumptions are set out in the table below. The average cost is assumed to be greater for a large firm than for a small firm. In large firms, more than one manager may be involved in implementing the new procedures. There are likely to be more detailed written procedures and guidance that need to be changed. There may also be costs in communicating changes to the workforce, e.g. through briefing meetings.

Number of employees	Number of firms	Average management cost (hours)	Average cost per business (£)	Total cost (£ million)
1-4	964,000	1	26	25
5-9	202,000	1	26	5
10-19	109,000	1	26	3
20-49	47,000	2	52	2
50-99	14,000	2	52	1
100-199	8,000	2	52	<1
200-249	2,000	2	52	<1
250-499	3,000	4	104	<1
500+	4,000	8	208	1

Note: management time is valued at £26 per hour (source: New Earnings Survey, 2000). Source of data on distribution of firms by employee size are the Small Business Service statistics for 2000.

Initial implementation costs are thus estimated to be £38 million. These are one-off costs. The vast majority of these costs will be incurred in the period around when the legislation comes into force although in some cases, likely to be smaller firms where there is no eligible employee at the time of implementation, the cost may not occur straight away.

In addition, the requirement to understand the duty to consider might have a marginal effect on the time that new businesses spend familiarising themselves with employment legislation.

The number of firms that become employers for the first time in a year is uncertain, although 250,000 might be a reasonable estimate<sup>79</sup>. These will almost all be very small businesses. Hence it is assumed that the average

<sup>79</sup> There are estimated to be about half a million business start-ups each year, but many of these will be sole traders or other firms without employees. In 1999, there were 178,000 VAT registrations. This is likely to under-estimate the number of employers because some very small firms will have a turnover below the registration threshold.

familiarisation cost will be one hour of management time. This implies a cost of £6.5 million per year<sup>80</sup>.

### **Procedural costs of handling requests for flexible working**

The costs of handling requests for flexible working will of course depend upon the number of requests. The section below considers the central take-up case only. The cost implications of alternative assumptions are considered in the sensitivity analysis (section 7).

#### **Average cost of handling the initial request**

Essentially, the first stage encompasses a written request from the employee, deliberation by the employer both before and after a meeting with the employee, and then preparation of a decision. The principal cost will be the time of both management and employees (it is assumed that employees prepare requests during work rather than in their own time).

Clearly, there will be considerable variation in the time this process takes depending upon the nature of the request (whether it is straightforward or complicated to prepare a request), the way the request is then handled by the employer (the level of management permitted to decide on requests, the degree of written protocol), whether an employee is accompanied at the meeting with management, and whether or not a decision is straightforward to make (e.g. whether other employees have to be consulted).

However, in most cases, it should be possible to run through these stages in half a day of management time and half a day of employee time. This works out at approximately £150 per request<sup>81</sup>. It is likely in practice that many cases - where the issue is easy to resolve and management can accept the request - will be completed in less time. But there may well be a tail where the process is more protracted.

With 'deadweight' requests, i.e. those where employees are already allowed to work flexibly, the average procedural cost is likely to be much less. First, because, by definition, these are all cases where flexible working is permitted. Second, because the cost of any existing procedure for changing working patterns - however informal - must be subtracted. A notional cost of £50 is assumed for each deadweight request.

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<sup>80</sup> Calculated as 250,000 firms x £26.

<sup>81</sup> With management time costing £26 per hour and employee time costing £12 per hour (source: New Earnings Survey, 2000), 4 hours of each costs £152 in total.

### Average cost of appeal or internal grievance stage

The appeal stage - which may be part of a firm's internal grievance procedure - will involve a written statement of appeal by the employee, a meeting (where the employee may be represented) and a written response by the employer.

Where requests reach this stage, it is likely that both employees and managers take more care and attention over their written communications. The meeting may also be longer and more wide-ranging. It is therefore assumed that the average cost is double that of the first stage, namely £300 per request.

### Average cost of external dispute resolution stage

The average cost to an employer of an application to an Employment Tribunal - £2,000 - is used as a benchmark figure. The cost to the employer excludes any financial or non-financial costs borne by the employee at this stage.

Other sources of dispute resolution, e.g. the ACAS arbitration scheme, may be cheaper for both parties.

### Total procedural costs

Total procedural costs are calculated by applying these average cost assumptions to the estimates of numbers using the various stages in the procedure that are presented in Table A6 of the Appendix. The total annual cost is £113 million, made up of:

- £14 million for handling 'deadweight' requests;
- £76 million for handling the first stage of requests;
- £15 million for the costs of handling appeals; and
- £8 million for the costs of handling cases that reach the external dispute resolution stage.

### **Costs of accommodating requests for flexible working**

Employers may also face costs in accommodating a request for flexible working. Examples might include re-organising work schedules or adjustments to IT systems (e.g. to permit flexible rostering). In some cases, the potential costs could be more substantial (e.g. if another employee had to be recruited to cover for an employee reducing their working hours).

Section 4 suggested that employers would accept most requests. This is in line with evidence suggesting that most current 'flexible' working arrangements and practices impose little or no additional cost.

Employers will be able to reject requests on the grounds of cost burden but this does not imply that the additional costs of accommodating requests are zero. Employers will accept cases where some additional cost is involved.

The Work and Parents Taskforce considered this issue. It reached the view that recruitment of a new employee to accommodate a request - which can cost 10% of annual labour cost - was unlikely to be an acceptable burden unless there were significant offsetting benefits (e.g. if this was the only way to retain a valued employee)<sup>82</sup>. In most cases, costs were likely to be far less.

On average, therefore, the costs of accommodating requests for flexible working might be a week's wages (some 2% of annual labour costs). Using average earnings figures from the New Earnings Survey 2000 and allowing for non-wage labour costs, this produces costs of £588 for male full-time employees, £438 for female full-time employees, £183 for male part-time employees and £169 for female part-time employees<sup>83</sup>.

It is likely that requests that are accommodated at the appeal stage, or at the external dispute resolution stage, will be more finely balanced and therefore, on average, more costly to implement. The estimates above are, therefore, multiplied by factors of 1.5 and 2 respectively for the (small) number of requests that are successful at the appeal or external dispute resolution stage.

Table A6 of the Appendix indicates how many requests are accepted at each stage. On this basis, the total costs of accommodating requests for flexible working are £165 million, made up of:

- £158 million for accommodating requests accepted at the first stage in the process;
- £6 million for accommodating requests accepted at the appeal or internal grievance procedure stage; and
- £1 million for accommodating requests that are accepted following recourse to an external dispute resolution procedure.

These are annual recurring costs.

On this basis, the one-off implementation costs to employers are £38 million and, under the central case on take-up, £286 million per year for on-going implementation, handling the procedures and accommodating requests for flexible working.

## 7. SENSITIVITY ANALYSIS

The estimates of costs and benefits presented above are necessarily based upon many assumptions. The table below provides a quantitative and qualitative assessment of how changes in some of these assumptions might affect the cost-benefit analysis.

Change in assumption:	Effect on analysis of benefits and costs (change
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<sup>82</sup> See the discussion in chapter 6 of *About Time: Flexible Working*.

<sup>83</sup> Note that the New Earnings Survey sample is not entirely representative of part-time employees. In practice, these estimates might slightly over-estimate average weekly earnings of part-time employees.

	from central case):
High take-up scenario	Increases number of requests by 433,000 per year. Increases number of new flexible working arrangements by 355,000 per year. Likely to see (modest) increase in labour supply benefits. Increases annual costs by £249 million.
Low take-up scenario	Reduces number of requests by 230,000 per year. Reduces number of new flexible working arrangements by 195,000 per year. Likely to reduce labour supply benefits. Reduces annual costs by £124 million.
Procedure more time-consuming (double all estimates of procedural cost except final stage)	Increases annual costs by £93 million.
Costs of accommodating requests smaller (half a week's wages)	Reduces annual costs by £82 million. Likely to lead to a higher proportion of requests accepted.

These possibilities can, of course, inter-act. For example, high take-up could be combined with procedures turning out to be more expensive to apply than anticipated. Equally, high take-up could be consistent with very low costs of accommodating requests (as employers get used to implementing flexible working).

## 8. SECURING COMPLIANCE

Employees trigger the duty to consider by making a request for flexible working. This is considered by their employer. If the employer rejects the request and the employee is not satisfied with the explanation, they can appeal to the employer or have the case taken through an internal grievance procedure.

If the employee still does not think the employer has given the matter serious consideration, they can seek resolution through an external dispute resolution mechanism and ultimately through an Employment Tribunal. In the central case, approximately 4,000 disputes per year are expected to reach the external dispute resolution stage.

## 9. IMPACT ON SMALL BUSINESS

The duty to consider will affect businesses of all sizes. About one eighth of employees will be eligible to make requests at any time. This means that, in the short term, some small businesses may not be directly affected by the duty. However, it is likely that most businesses except the very smallest will eventually employ an eligible parent.

The Work and Parents Taskforce designed the duty to consider with the small firm in mind. Thus the model procedures and how they should be interpreted should be straightforward for small firms without a specialist personnel management capacity.

Survey evidence suggests that small firms are less likely to use 'flexible' working practices. However, this may in part be a reflection of how data are collected. Small firms are less likely to use formal policies and practices than larger firms and surveys often tend to focus on the formal rather than the informal. Case study work suggests that outwardly 'non-flexible' firms do in fact make flexible working practices available to at least some of their employees.

Small firms may find it more difficult to accommodate some types of request than larger firms in similar lines of work. For example, there may be less scope to re-allocate duties. However, where this is in practice a significant problem, these will be valid grounds for a refusal.

## **10. MONITORING AND EVALUATION**

The duty to consider is a significant step forwards in enabling parents to balance work and family life. Its impact on employers could be significant.

The Work and Parents Taskforce recognised the importance of effective monitoring and rigorous evaluation. The government has accepted its recommendations. Extensive surveys of employers and employees will be carried out before the duty to consider is implemented to provide a baseline against which to judge changes. The surveys will establish the extent of a variety of flexible working practices and look at attitudes to flexible working. The surveys will be repeated some two years or so after implementation to measure changes in the availability of flexible working opportunities. The surveys will ask individuals whether they have made any requests, if so what happened and whether they think the request was treated seriously, whether they appealed etc. Similarly employers will be asked whether they have received any requests, if so how many, what they did with them, their perceptions of the process etc. Employers will also be asked whether they have voluntarily extended the process to other groups such as parents of older children.

The following are considered important success measures:

- Increased incidence of flexible working practices;
- Increased employment rate for parents of young children;
- Increased satisfaction with work-life balance and personal choice.

These questions will enable the Government to consider whether the serious consideration test is working to increase flexible working opportunities or whether it needs to be strengthened.

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## APPENDIX: ANALYSIS OF TAKE-UP AND EMPLOYER RESPONSE

The impact of a duty to consider will depend upon a number of factors. The key cost-benefit drivers, however, will be take-up of the right to request, i.e. how many parents make a request for flexible working, and how employers respond to those requests.

It is likely that take-up will vary by sex and by whether or not parents already have any identifiable 'flexible' working pattern.

Table A1 disaggregates the eligible group of parents by sex, age of youngest child, full-time/part-time status and whether or not they said they had one of a number of identifiable 'flexible' working patterns.

**Table A1: Disaggregation of eligible parents ('000s)**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	99	35	109	37	347	66	*	*
1 to 2	70	21	148	52	351	75	12	*
2 to 3	59	20	133	47	312	52	*	*
3 to 4	60	22	120	41	252	57	*	*
4 to 5	51	19	108	53	234	48	*	*
5 to 6	52	21	108	40	186	35	*	*
Total	391	139	726	270	1682	332	44	13

Notes: FT/PT = Full-time/Part-time. 'flex' = any of flexi-time, term-time working, job shares, annualised hours, nine-day fortnights and four and a half day weeks. \* = less than 10,000.  
Source: Labour Force Survey, spring 2001.

### Deadweight

Table A2 sets out some illustrative estimates of deadweight requests.

**Table A2: Illustrative deadweight assumptions**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	0.05	0.3	0.5	0.5	0.05	0.1	0.3	0.3
1 to 2	0.05	0.2	0.1	0.1	0.05	0.05	0.05	0.05
2 to 3	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
3 to 4	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
4 to 5	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
5 to 6	0.03	0.2	0.05	0.05	0.03	0.05	0.05	0.05

Deadweight is expressed as a proportion, i.e. 5% of mothers (and fathers) with children under the age of one working full-time without any identifiable

'flexible' working pattern are assumed to already make a request for flexible working<sup>84</sup>.

The following principles have been used in deriving these assumptions:

- It has been assumed that the most likely time to seek a change to working patterns is in the year after birth of a child, especially the option to work reduced hours (half of women in full-time jobs before taking maternity leave return on a part-time basis<sup>85</sup>).
- Deadweight is not zero among full-time 'non-flexible' employees because some may obtain flexibilities not captured in surveys (e.g. changing starting and finishing times that do not fit into a formal flexi-time scheme).
- Nor is deadweight 100% for those with part-time or other 'flexible' working options. Many parents will have changed jobs to secure these types of working (and thus made their 'request' via the jobs market rather than internally). In other cases, the 'flexibility' might be an incidental feature of a job they had taken for other reasons and thus no request for change had been made.
- For mothers working full-time, there is an increased proportion seeking flexible working options when their children start school (i.e. in the 5-6 age group).

Multiplying these assumptions by the numbers of parents in Table A1 and adding in the parents of disabled children aged 6-17 suggests that there might be 289,000 requests made under the new legislation that would be made in any case (181,000 by mothers, 108,000 by fathers).

### **Take-up scenarios**

Table A3 sets out a central case for additional take-up of requests for flexible working.

**Table A3: Central estimate of take-up of additional requests for flexible working**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	0.55	0.4	0.25	0.25	0.15	0.2	0.2	0.2
1 to 2	0.25	0.1	0.15	0.15	0.05	0.15	0.05	0.1
2 to 3	0.17	0.1	0.15	0.15	0.05	0.05	0.05	0.1
3 to 4	0.22	0.15	0.2	0.2	0.05	0.05	0.05	0.1
4 to 5	0.17	0.1	0.15	0.15	0.05	0.05	0.05	0.1
5 to 6	0.22	0.05	0.2	0.2	0.07	0.1	0.05	0.1

<sup>84</sup> For disabled children aged 6-17, the equivalent assumptions are 0.2 for mothers working full-time, 0.4 for mothers working part-time and 0.1 for fathers.

<sup>85</sup> Callendar *et al.*, 1997.

Corresponding assumptions for the parents of older disabled children are that 20% of mothers and 10% of fathers make a request per year.

These estimates have been constructed on the following principles:

- Survey evidence suggests that many women working full-time before maternity leave return to work on a reduced hours basis, and those that remain in full-time work would value the option of part-time or other flexible forms of working<sup>86</sup>.
- Among this group (mothers currently working full-time but without any apparent 'flexible' working pattern) demand for flexible working remains strong throughout the early years. Women might make more than one request in order to accommodate changing childcare needs.
- Legislation might encourage demand for flexible working from fathers, especially in seeking changes to working hours following the birth of their child or when the mothers ends maternity leave.
- Some allowance is made for an increase in demand when the child reaches school age (and the cut-off point for eligibility approaches).

Low and high take-up scenarios are presented in Tables A4 and A5. The main variations here are:

- The low take-up scenario assumes much less interest from fathers.
- The high take-up scenario has both higher take-up from fathers and greater use by mothers throughout the early years.

**Table A4: High take-up scenario assumptions**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	0.75	0.5	0.3	0.3	0.35	0.2	0.4	0.4
1 to 2	0.35	0.2	0.3	0.3	0.15	0.15	0.15	0.15
2 to 3	0.27	0.2	0.25	0.25	0.17	0.15	0.15	0.15
3 to 4	0.27	0.2	0.25	0.25	0.17	0.15	0.15	0.15
4 to 5	0.27	0.2	0.25	0.25	0.17	0.15	0.15	0.15
5 to 6	0.37	0.2	0.35	0.35	0.17	0.15	0.15	0.15

<sup>86</sup> A recent survey of working parents found that 25% of mothers who returned to work on a full-time basis would have liked the option of flexible working (WEU survey, forthcoming).

**Table A5: Low take-up scenario assumptions**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	0.35	0.2	0.1	0.1	0.05	0.1	0.1	0.1
1 to 2	0.15	0.1	0.1	0.1	0.03	0.05	0.05	0.05
2 to 3	0.12	0.1	0.1	0.1	0.02	0.05	0.05	0.05
3 to 4	0.12	0.05	0.1	0.1	0.02	0.05	0.05	0.05
4 to 5	0.12	0.05	0.1	0.1	0.02	0.05	0.05	0.05
5 to 6	0.17	0	0.15	0.15	0.02	0.05	0.05	0.05

Corresponding assumptions for the parents of older disabled children are 40% additional take-up among mothers and 20% among fathers (high take-up scenario) and 10% of mothers and 5% of fathers (low take-up scenario) respectively.

Multiplying the take-up estimates by the numbers of eligible parents in Table A1 gives the number of additional requests per year. Adding in the parents of older disabled children, under the central case, there are 509,000 additional requests per year (328,000 from mothers, 181,000 from fathers). Numbers under the high and low take-up scenarios are 942,000 requests (501,000 from mothers, 441,000 from fathers) and 279,000 requests (200,000 from mothers, 79,000 from fathers) respectively.

### **Numbers of requests accepted by employers**

Requests can be accepted by employers at a number of stages: when a request is first made; at the appeal or internal grievance stage; and following recourse to external dispute resolution (either an Employment Tribunal or another form of dispute resolution). It is therefore necessary to map the progress of requests through these various stages. This is done in Table A6.

**Table A6: Progress of requests through the various stages in the process: central case**

		Comment
1) No. of additional requests	509,000	See above.
2) Proportion accepted at first stage	80%	Most requests expected to be accepted.
3) No. of requests accepted at first stage = 1 x 2	407,000	
4) Proportion of requests taken to second stage	50%	Some requests will be turned down for very good business reasons that will be accepted by the employee.
5) No. of second stage requests = [1 - 3] x 4	51,000	
6) Proportion accepted at second stage	20%	If employers have handled initial request thoroughly, most appeals should be supported.
7) No. of requests accepted at second stage = 5 x 7	10,000	
8) No. of requests turned down by employer = 5 - 7	41,000	
9) Proportion referred to external dispute resolution	10%	At present, estimated that 15-25% of disputes between employees and employers go to an Employment Tribunal. Proportion should be lower because of process of dialogue.
10) No. of additional external dispute resolution cases = 8 x 9	4,050	
11) Proportion successful at external dispute resolution stage	20%	'Success' here may include settlements and conciliations where an employee obtains their requested working pattern or where a compromise is reached.
12) No. of requests accepted at external stage = 10 x 11	800	
13) No. of requests unsuccessful at external stage = 10-12	3,250	
14) Total no. of requests accepted = 3 + 7 + 12	418,000	

In total, 418,000 requests are accepted (or an acceptable compromise is reached). This is just over 82% of all new requests made. The acceptance rate - and the propensity for an application to be taken through the various stages in the process - are assumed to be the same for mothers and fathers and are assumed not to vary by full-time/part-time status.