

Time to Train

Consultation on a new right
to request time to train for
employees in Great Britain

**Summary of responses to the
consultations conducted by the
Department for Innovation, Universities
and Skills; the Welsh Assembly
Government (DCELLS) and the Scottish
Executive**

December 2008

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INTRODUCTION

Background

1. This document provides a summary of the responses to consultations in England, Wales and Scotland on proposals for the introduction of a new right for employees to request time to train. This document summarises the key messages from each of the three consultations and explains how the UK Government, in agreement with the Devolved Administrations in Scotland and Wales, plans to take forward the issues and proposals raised in the responses
2. A full breakdown of the responses to each of the consultations is contained in the annexes to this report

Consultation Process

3. On 18 June 2008 the Department for Innovation, Universities and Skills (DIUS) published a consultation paper seeking views on a proposed new right in the workplace; the right to request time to train (TtT) for employees in England. Similar consultations were also carried out by the Scottish Executive and the Welsh Assembly Government on whether this right should be extended to employees in Scotland and Wales.
4. The core of the TtT proposals is that employees should have a legal right to ask their employer to give them time away from their mainstream duties to undertake training.
5. The consultations sought views on the fundamental question of whether the new right would help skills development in the respondents' organisation. It also explored a range of policy questions including: to whom should the right apply; what sort of training should be covered; what sort of issues the employer should consider when reviewing requests; and whether the new right would change the behaviour of employers and their employees in respect of training.
6. In each country the consultation documents were made available on Government websites and copies were sent to a wide range of partners, stakeholders, interested organisations and individuals. These included business representatives, Sector Skills Councils, Regional Development Agencies, trade unions and training organisations, requesting that they encourage their members or wider stakeholders to respond.
7. England received 155 responses to their consultation, Scotland received 43 responses and the Welsh Assembly Government received 38 responses. The table below shows the breakdown of respondents using the categories within the consultations.

Category	Scotland	Wales	England
Employer	8	10	53
Employer	21	10	43
Trade Unions	8	7	23

Individual	0	2	21
Other	6	9	15
Total	43	38	155

A full list of respondents to the consultations can be found in annex 4

8. We would like to thank everyone who contributed their views to the consultations. This paper aims to reflect those views although inevitably, it is not possible to describe in detail all the responses received.

Copies of this report are available on line at www.dius.gov.uk/consultations

If you have a query relating to the information in this document you can contact DIUS on 01928 794193 or by email via timetotrain.consultation@dius.gsi.gov.uk

9. Copies of the full Scottish report are available at www.scotland.gov.uk . If you have a query relating to the information in this document please contact the Scottish Government on 0141 242 0215 or by e-mail to lynn.forsyth@scotland.gsi.gov.uk
10. Copies of the summary report of responses to the Welsh consultation are available on line at: <http://new.wales.gov.uk/consultations/closed/education/> . If you have a query relating to the information in this document please contact the Welsh Assembly Government on: 01686 620254 or by email via skillsthatworkforwales@wales.gsi.gov.uk

EXECUTIVE SUMMARY

This section summarises the key outcomes from each of the three consultations.

Overview

11. The overall response to the consultation was positive, acknowledging the potential of time to train to change the attitudes of those businesses that offer little or no training, and to empower employees to take responsibility for their own development.
12. Responses were received from a wide cross-section of employers, individuals and representative bodies, including CBI, TUC, Institute of Directors, British Chambers of Commerce, Regional Development Agencies, Investors in People Scotland and the Wales Employment and Skills Board.
13. On the key question of whether a right to request time to train could help skills development in their organisations, 67% of respondents in England, 87% in Scotland and 73% in Wales answered that it would.

Key Messages from the Consultation.

14. Support for the TtT proposals was particularly strong amongst employee respondents in England and Wales: 69% of employees in England and 62% of employees in Wales felt that a formal right to request time to train would make them more likely than they are now to approach their employer about their training needs. Support among employees in Scotland was lower, with only 43% answering yes to this question. In all three consultations, the main reason cited by employees who answered that the new right wouldn't change their behaviour was that their employers already encouraged them to develop their skills.
15. Employers indicated that the new right would be less likely to have a significant impact on their behaviour. 57% of employers in England felt that TtT would help skills development in their organisation, but only 28% said that the introduction of the new right would cause them to change their behaviour in terms of giving their employees time off to train. Scotland and Wales received similar responses, with only 25% of employers in Scotland and 35% in Wales answering that TtT would cause them to change their behaviour.
16. These relatively low figures are largely explained by organisations' existing positive attitude and commitment to training, rather than because of any particular reservations about the TtT proposals.
17. Key organisations such as CBI and the Federation of Small Businesses are supportive of the introduction of the right to request time off to train but stressed their opposition to any element of compulsion.
18. Trade unions welcomed the proposals, although some were disappointed that they did not go further and offer a statutory right to paid time off. Despite this, trade union respondents expressed unanimous support for the new right. A poll commissioned by the TUC about the TtT proposals showed that "71% of

working people support the introduction of a new right along these lines and 53% say they would be likely to use it”.

19. All three consultations revealed strong support for the proposal not to limit requests to nationally recognised and accredited training, but to encompass any training agreed by the individual and employer that would improve the productivity of the business and individual.
20. The majority of respondents also agreed that all employers should be included within the proposed right. Support for this proposal was strongest in Scotland, with 81% of respondents believing there should be no exemptions. In England and Wales, approximately 40% of respondents thought some employers should be exempt from time to train, particularly those with fewer than 25 staff.
21. Although the majority of respondents supported the TtT proposals, inevitably this support was not universal. A number of employers, particularly small businesses, were wary about the potential for increased costs and bureaucracy.
22. Some employers and employer organisations felt that legislation was not the right approach and sent out the wrong message to businesses, and thought that voluntary initiatives such as Investors in People would be more effective.
23. Several employers and employer organisations also pointed out that many businesses already encouraged staff development and this needed to be acknowledged. Many wanted reassurance that any new rights would not displace existing systems and processes that already worked well
24. These points were echoed by some representative organisations, notably the British Chamber of Commerce (BCC) and the Institute of Directors (IoD). These organisations expressed support for the Government’s overall aim of improving the skills base of the workforce but argued that further legislation is not the best way of achieving this. They suggest instead that Government should consider other, non-statutory options to encourage employers to invest in skills. We will continue to work with these organisations and other stakeholders as we take forward the TtT proposals.
25. Some respondents emphasised the need to set the Right in the context of current economic difficulties. Minimising the burden and offering support to enable businesses to utilise training to ensure their competitiveness and survival was seen as critical.
26. The Scottish Council for Voluntary Organisations and Volunteer Development Scotland both questioned the use of the word ‘volunteers’ and sought clarification on who the right would extend to in the third sector. DIUS has confirmed that the right will extend only to those volunteers who are employees and have a contract of employment.

THE GOVERNMENT'S POSITION

27. This section sets out the response to the consultation from the UK Government, which has been agreed where appropriate with the Scottish Executive and the Welsh Assembly Government (references to Government later in the document mean the UK Government, in liaison with the Scottish Executive and the Welsh Assembly Government).
28. Following a thorough analysis of the consultation responses, the UK Government intends to proceed with legislating for a right for employees to request time to train. As agreed with the Scottish Executive and the Welsh Assembly Government following consultations, the new right will be for employees throughout Great Britain. Northern Ireland is also considering the proposals and will introduce their own legislation if they decide to take forward the right.
29. We believe the support for TtT shown by the majority of consultation respondents gives us a clear mandate to go forward, and confirms our view that the new right will be a powerful driver of cultural change on skills in the workplace.
30. At the same time, we recognise the very real reservations some respondents have expressed about certain aspects of the proposals. In particular, we understand the concerns expressed by business, and especially small and medium enterprises (SMEs)¹, about the potential for increased costs and bureaucracy.
31. Government is committed to keeping the administrative burden on business to a minimum. That is why we have based the process for making a request for time to train on the existing model for the right to request flexible working. Employers are used to dealing with requests under these arrangements and are likely to have well developed and understood processes for managing the flow of requests. We envisage these processes could be easily adapted and extended to support a new right to request time to train.
32. In keeping with the flexible working arrangements we will also limit the number of requests an employee can make for time to train to one in any 12 month period.
33. During the passage of the legislation through Parliament we will work with partners and stakeholders to develop clear, accessible TtT guidance of the sort in use for flexible working requests. This may include standard forms, if business tells us this would help them to implement and action the new procedures with the minimum of disruption and cost.
34. The guidance will include information on the wide range of advice and financial support available to employers and learners. Whilst the creation of the right to request time to train is a matter for the UK Government, skills and training are generally devolved so the package of support in each country will be different and will be tailored to reflect the different skills systems across the UK. For example, in England employers will be encouraged to seek advice from a Train to Gain broker to help them invest in the skills of their employees.

¹ SMEs – businesses with up to 250 employees

35. We will also ensure that employees are able to make the best use of their right to request time for training. Again, each country will develop its own offer. In England, a new, universal adult advancement and careers service (aacs) and a national system of Skills Accounts will be available nationally from 2010. These initiatives will offer focussed support and information to enable learners to make informed decisions about their training and development needs.
36. In Wales, businesses and employees will – subject to the usual eligibility criteria - be able to access support to identify training needs through Human Resources Development Advisors, and funding from the Workforce Development Programme, which acts as a gateway to mainstream programmes such as Apprenticeships, as well as Discretionary Funding tailored to company's specific needs.. The Scottish Executive is considering the support they will offer to help employers and their employees to make the most of the new right.
37. In Scotland advice on what support is available to small businesses in relation to the new right for employees to request time off to train will be provided by Skills Development Scotland, who will establish a dedicated helpline based around the inherited expertise of the lds4business service. Individuals will continue to have access to high quality information, advice and guidance via Skills Development Scotland.
38. Finally, the consultation has revealed a need for Government to make it clear through guidance where and how we expect the new right to be used. We recognise that many businesses already have effective training and development systems in place. TtT is not intended to replace these systems and, in businesses where both employers and employees are content, we would expect these systems to continue. But in cases where employees do not have ready access to training, TtT will offer a clearly defined route for employees to discuss their development needs with their employer.

RESPONSE TO POLICY PROPOSALS PUT FORWARD IN THE CONSULTATIONS

What type of training should be covered by the new right?

39. A clear majority of respondents felt that TtT should cover any training agreed between the individual and the employer. The Government supports this view. We also believe that decisions on how much time off should be given, and whether the time will be paid or unpaid, are best left to the employee and employer to agree between them.
40. We note the comments made in responses about the quality and flexibility of training provision. The UK Vocational Qualifications Reform Programme, which covers the four UK nations, is introducing significant changes to the vocational qualifications system across the UK. Work is ongoing in each of the nations to take forward work on ensuring vocational qualifications are more flexible and responsive to employer needs.

Eligibility criteria for making a request for time to train

41. Some unions argued for the right to be applicable to employees from the first day of employment, or from 13 weeks. Conversely, some employer organisations felt that employees should not be eligible to make a request until they had been employed for at least 12 months.
42. We have considered both sets of views and, on balance, we believe the 26 week qualifying period proposed in the consultation is right. This will retain the alignment with the flexible working processes, with which most employers are already familiar.

Employer reasons for rejecting a request for time to train

43. Government believes that it is important that any training applied for under the new right is relevant to the business. We welcome the majority support for this position.
44. Several people raised the issue of training for personal development. Whilst we agree that it is important that individuals pursue this type of training we do not propose making specific provision for this in the TtT legislation. Where an employer is allowing time for an employee to undertake training, and may in some cases be paying for the training, we believe that it is right that there is some demonstrable benefit to the business. It will therefore be for the individual to explain how any training, including personal development, will meet this key criterion.
45. We have given careful consideration to suggestions from CBI and TUC to amend the list of acceptable reasons for refusing a request for time to train. On reflection, we have decided to retain the original list, which is based on the one used for flexible working requests. Most employers are already familiar with this list and we felt that any changes could lead to confusion.
46. We note the comments from a number of respondents about the importance of making the criteria for rejecting requests as clear as possible. We will provide further detailed guidance on this point, including the use of case studies where appropriate, to help clarify the decision making process.
47. On the question of ensuring that employers deal fairly with all TtT requests, we believe the safeguards already built into the application process ie. employers will have to notify the employee in writing of their reason(s) for rejecting a request, and employees will have a right of appeal if they believe the employer's decision is based on incorrect facts – will be sufficient to ensure this is the case.
48. Finally, we also agree that the impact of TtT will need to be monitored but we are mindful of the importance of not adding unduly to the administrative burden on employers. Our intention, therefore, is to monitor the impact through existing workforce surveys. For the same reason, we want to ensure that any requirements on employers to record details about TtT requests are light-touch.

We will work with business to ensure any monitoring process is not overly burdensome.

Withdrawal of support for time to train

49. An overwhelming majority of respondents to this question favoured giving employers the option to withdraw their support for time to train in certain circumstances, although several respondents attached the caveat that the right to withdraw support should be limited, and protected by the right to raise a grievance.
50. In line with the majority view, we want to ensure that employers are able to withdraw their support in certain circumstances, for example, if the employee is not attending the agreed training. But we believe withdrawal of consent should be a matter for discussion and agreement between the employer and employee, and we therefore do not propose making specific provision for this in legislation.
51. Instead we will provide guidance recommending that the employer and employee should jointly agree, at the time the request is granted, whether there are any circumstances under which the support can be withdrawn.
52. We will also include in the legislation a requirement that employees must notify their employer if they fail to start the training that has been agreed to, or cease to attend the training before the agreed completion date, or vary the training being undertaken e.g. by switching to a different course without the employer's permission.

Employer exemptions from the right to request time to train.

53. We have given serious and careful consideration to suggestions that we should exempt some small businesses from the legislation, but we don't believe that this would be right. Any exemption would run the risk of impacting unfairly on the employees in the exempted firms.
54. Evidence shows that employees in small businesses are less likely to receive training than those in larger firms. The 2007 National Employer Skills Survey showed that the likelihood of providing training increased with establishment size, from 55% of those with 2-4 employees to 95% of those with 500+ employees. We also know that businesses that don't invest in talent are two and a half times more likely to fail compared to those that do².
55. We believe these are compelling arguments for including every business, regardless of size, in the TtT provisions. But at the same time, we will ensure that advice and support is readily available to enable all businesses to make TtT work for them.

² Training and Establishment Survival, SSDA, March 2007, found that more than one in four non-training establishments (27%) closed for business over the 1998-2004 period, while only about one in nine training establishments (11%) closed down.

56. In response to the Federation of Small Business's (FSB) request that firms with fewer than 20 staff should be exempt from the requirement to allow an employee to be accompanied at a TtT meeting, we believe the proposal set out in the consultation is the right one. This allows the employee to decide who, if anyone, they wish to accompany them to a meeting. This may be a Union Learning Representative, but could equally be a line manager or a colleague. We will continue to work with FSB, and will call on their expertise to help us develop TtT guidance as we take forward the legislation

Time to train application process

57. Several respondents, including TUC, questioned the amount of detail employees would be required to provide when making a formal request for TtT. They suggested this could deter employees from making an application, particularly those seeking literacy or English for Speakers of Other Languages training.
58. We acknowledge these points but feel it is important that employees provide sufficient detail about the proposed training to allow the employer can make a considered decision about the application. Employees will be able to get help with their application from a variety of sources, for example a work colleague, a Union Learning Representative where one is available, or through careers services. The legislation will also make provision for the application to be prepared by another person if the employee is unable to complete it themselves.
59. We also agree that it is important that employees are aware of the new right to help them maximise the benefit of TtT for them. We will ensure that information about TtT is readily available through a variety of sources.

SUMMARY OF RESPONSES TO THE CONSULTATION IN ENGLAND

Q1. Were you aware that existing legislation gives certain employees with caring responsibilities the right to request flexible working arrangements?

TABLE 1 There were 127 responses to this question

	A = Employer	B = Employer Org/ Rep Body	C = Trade Union	D = Individual	E = Other	Total	
							%
Yes	52	24	20	18	9	123	97
No	1			3		4	3

1. The working model for TtT is designed to closely follow the model already in place for the right to request flexible working, making it easier for employers to work with the new right using the procedures they already have in place to manage flexible working requests.
2. The consultation results revealed an almost universal awareness amongst employers and individuals of the right to request flexible working. Several respondents, including CBI, commented that they welcomed the decision to model the TtT procedures on the flexible working arrangements as it will help business to implement the new right.

Q2. Could a request for time to train help skills development in your organisation?

TABLE 2 There were 133 responses to this question

	A = Employer	B = Employer Org/ Rep Body	C = Trade Union	D = Individual	E = Other	Total	
							%
Yes	30	21	18	13	7	89	67
No	23	11	1	7	2	44	33

Breakdown of Employer Responses

TABLE 3

Size of Businesses	Yes	No
Less than 10	2	3
10 - 20	6	4
21 – 49	5	3
50 – 249	5	4
250 - 999	4	1
1000-4999	5	3
5000+	3	5

Analysis of Responses

3. Overall, two thirds of respondents thought that TtT could help skills development in their organisation. The strongest support came from trade unions, with 95% of respondents believing that TtT would help with skills development. 57% of employers and 54% of employees also gave positive responses to this question.
4. The main reasons given for positive responses were that the new right would encourage more employees to seek training, particularly those with lower skills, and would lead to "*happier, more motivated staff*". There was also a feeling that TtT would focus the employer's attention on the training needs of their employees and would help establish a "learning habit" in individuals. One respondent commented that making this a formal right would remove the guilt of asking for time for training.
5. This view was supported by a survey conducted by the Chartered Management Institute (CMI). In the survey, 64% of employers agreed that the new right would increase training levels, with nearly 60% agreeing that it would improve employee motivation.
6. 44 respondents (33%) felt that TtT would not help skills development in their organisation. The most common reason for this, cited by 23 respondents, was that training was already offered to staff and /or well-established performance review & development procedures were already in place. A number of employers were worried that they would have to dispense with these well-established procedures and adopt the new TtT mechanisms.
7. Concern about increasing the administrative burden on employers was a strong theme in the responses (cited by 21 respondents). This concern was echoed in the CMI survey, which showed that 61% of managers felt that the new right would create additional bureaucracy for employers, with this figure rising to 67% for small and medium sized organisations.
8. CBI cautioned that the impact of TtT on employers would have to be carefully monitored given the large number of employees who will be eligible to submit requests.
9. 17 respondents raised the issue of lack of funding for training. Several made the point that there is a need for a greater awareness and understanding of the financial support available to employers

[Employers, particularly SMEs] ... need a greater awareness and clearer understanding of the financial support/subsidies available to employers – through Train to Gain, for example.
RDA Network

10. 9 employers stressed the importance of Government providing clear, accessible guidance on TtT to help businesses to correctly implement and apply the new right

Q3. Do you think the right to request time to train should cover:

TABLE 4 There were 135 responses to this question

	A	B	C	D	E	Total %	
Any training that the individual and the employer agree	41	27	18	13	8	107	79
Only training that is nationally recognised and accredited	8	6	1	5	2	22	16
None of the above	4	1		1		6	5

Analysis of Responses

11. A clear majority of respondents felt that TtT should cover any training agreed between the individual and the employer. Some respondents specifically welcomed the inclusion of non-accredited training, saying that short, informal courses are easier for an employer to accommodate. A couple of respondents also pointed out that some groups of employees, for example those covered by the Disability Discrimination Act, might need specialised training that isn't nationally recognised and accredited.
12. Under the proposals employers can reject TtT requests where the proposed training isn't relevant to the business. Several respondents felt that all types of training and development should be included, regardless of relevance. One person suggested that where training isn't work-specific, support might still be granted but the training might perhaps attract less time off or be unpaid.
13. Eight respondents raised concerns about the quality and flexibility of current training provision and highlighted the importance of Government working with training suppliers to ensure they can meet the increased demand that TtT will create.

Q4. For which of the following reasons do you think an employer should be able to reject a request for time to train?

TABLE 5

There were 146 responses to this question. This table shows the level of support for each reason

	A	B	C	D	E	Total
1. Relevance of training to business productivity and performance	53	21	4	13	7	98
2. Suitable training is not available	17	13	1		3	34
3. Burden of additional costs	42	20	3	9	6	80
4. Detrimental effect on ability to meet customer demand	45	16		10	6	77
5. Inability to reorganise work among existing staff	45	16		8	5	74
6. Inability to recruit additional staff	26	16		3	4	49
7. Detrimental impact on quality	33	14		8	5	61
8. Detrimental impact on the performance	36	14		9	3	62
9. Insufficiency of work during the periods the employee proposes to	26	15	1	8	4	54

work						
10. Planned structural changes	16	14	1	4	4	39
11. None of the above	1	2	11	4	1	21

Analysis of Responses

14. Overall, 86% of respondents believed that an employer should be able to reject a request for TtT for one or more of the above reasons.
15. The requirement that training should be relevant to the business received 100% support from employers and was also supported by 62% of individual respondents.
16. 49% of TU respondents felt that employers should not be able to use any of the proposed reasons to reject a request for TtT
17. Some respondents, including TUC and CBI, submitted alternative lists, primarily suggesting simplifications and/or reductions to the proposed reasons.
18. Seven respondents argued that training for personal development should not be excluded on the grounds of relevance, and four respondents thought that there should be no restrictions on the type of training undertaken. Conversely, some employers felt that TtT would encourage requests for non-work related training which they would not be able to grant. They feared that this could lead to disagreements between the employer and employee.
19. Several respondents asked for a more detailed explanation of each of the reasons for rejecting requests, arguing that some were ambiguous and open to interpretation. The Employers Forum on Disability raised concerns that this ambiguity could be used by employers to disproportionately refuse requests from disabled employees.
20. A number of respondents further suggested that, where a request was rejected, it was important that the employer clearly evidenced the reason for their decision. It was felt that this clarity was necessary to avoid possible problems with subsequent appeals. Some respondents, including UNITE, thought that the reasons cited by employers for refusing requests should also be closely monitored to ensure that requests were being dealt with fairly.
21. NIACE suggested that take up of TtT should be monitored to assess the impact of the new right in the lead up to the UK Commission for Employment and Skills 2015 consideration of whether employees should have a legal right to workforce training where they lack at least a level 2 qualification.

Q5. Are there any other reasons you think employers should be able to cite in rejecting a request for time to train?

TABLE 6. There were 116 responses to this question

	A	B	C	D	E	Total %	
Yes	30	7	6	8	6	57	49
No	21	15	12	8	3	59	51

Analysis of Responses

22. 51% of respondents felt that the list was sufficiently comprehensive and should not be added to. A small number went further and argued that the list was too long and should be reduced.
23. 49% of respondents believed that the list of acceptable reasons should be expanded but there was no real consensus about what should be added. Suggestions included: consideration of employees overall aptitude & performance (16 responses); several employees asking for time off simultaneously (7 responses); temporary staff with an agreed end date on their contracts (2 responses) ; employee already competent and/or employer has enough staff trained in particular skill (4 responses).
24. Several respondents made the point that, while they were content with the original list, clear guidance would be needed by employers to help them apply the criteria, particularly on the question of how to prioritise simultaneous requests when the employer is unable to grant them all.

Q6. Are there any circumstances in which an employer should be able to withdraw their support for an individual's time to train where they had previously granted a request?

TABLE 7 There were 133 responses to this question

	A	B	C	D	E	Total %	
Yes	52	30	8	13	9	112	84
No	1	2	9	7	2	21	16

Analysis of Responses

25. This question polarised opinion, with very strong views on both sides. The consultation revealed a clear majority in favour of a right to withdraw support; among employers and their representative bodies this support was almost unanimous. On the other hand a small number of respondents, including TUC and several individual trade unions, were firmly opposed to any withdrawal of time for training once it had been granted.
26. Among those who supported the right to withdraw support, the most commonly cited scenarios were:
- If the employee doesn't adhere to the agreement, for example by failing to attend the training (35% of respondents); and
 - Unforeseen changes in the employer's circumstances e.g. an increase/decrease in customer demand (32% of respondents).
27. Other suggested scenarios included situations where the time off was having a negative impact on the employees' performance, or where there was a change in the employee's role which rendered the training irrelevant.

28. A number of respondents felt that support for time to train should only be withdrawn in exceptional circumstances, pointing out that the employee could lose out financially if they had paid for their training. Others felt that where time for training was withdrawn due to an unforeseen change in the employers' circumstances, the employer should be required to review the decision within a set period of time, and to reinstate the support as soon as circumstances allowed.

Q7. Do you think any employers should be exempted from the right to request time to train?

TABLE 8 There were 135 responses to this question

	A	B	C	D	E	Total %	
Yes	31	8	2	6	4	51	38
No	22	23	19	15	5	84	62

Breakdown of Employer Responses

TABLE 9

Size of Businesses	Yes	No
Less than 10	2	1
10 - 20	10	3
21 – 49	3	3
50 – 249	6	4
250 - 999	1	4
1000-4999	3	5
5000+	6	2

Q8. If you answered yes to question 7, which employers do you think should be exempt?

TABLE 10 There were 42 responses to this question

	A	B	C	D	E	Total %	
Employers with fewer than 25 employees	14			3	2	19	45
Employers with fewer than 250 employees	3	3		1		7	17
Other reason	11	1	1	2	1	16	38

Analysis of Responses

29. 62% of respondents believed that all employers should be covered by the time to train regulations.
30. The remaining respondents thought some employers should be exempt, but opinion was divided on where the exemption should apply – see Table 10. The “other reasons” cited by 16 respondents included: all employers should be exempt (7 respondents); employers already have a structured training programme and/or are Investors in People recognised (5 respondents).
31. Among those who argued for an exemption, the main reasons given were the potential for additional bureaucracy for employers and/or the difficulties of

releasing staff for training. There was a strong feeling that these issues would be more acute for small and medium enterprises (SMEs)³. 28 respondents asked Government to give consideration to the specific impact of TtT on SMEs and 16 respondents thought that extra funding should be given to SMEs to help them to grant TtT requests. There was also a feeling that SMEs would need additional support and guidance to help them to implement TtT procedures.

32. Suggestions were also made that exemptions should be considered for firms with fewer than 5 employees and for start-up businesses.
33. TUC and other TU respondents firmly opposed an exemption on any grounds, arguing that any exemption would disenfranchise large numbers of the workforce.
34. The Federation of Small Businesses (FSB) didn't seek an exemption for small firms but they did suggest a relaxation of the TtT application process. They believe that the right for an employee to be accompanied at a TtT meeting with their employer would create an extra layer of bureaucracy for the employer. FSB suggest instead that firms with fewer than 20 employees should be allowed to hold informal, "one to one" meetings to discuss TtT requests, without the need for union representation.

Q9. If you are an employee and had a formal right to request time to train, would you be more likely to approach your employer about your training needs than you are now?

TABLE 11 There were 45 responses to this question

	A	B	C	D	E	Total %	
Yes		4	14	12	1	31	69
No			1	10	3	14	31

Analysis of Responses

35. 31% of respondents answered no to this question. Of these, almost three quarters said this was because they already receive training in work and/or would feel comfortable about asking their employer for training. The most common reason cited by others who answered no to this question was that the new right wasn't strong enough and would be ignored by some employers.
36. Of those who answered that TtT would make them more likely to approach their employer, 35% said the new right would make them more confident about asking for training. Others felt that the legislation would endorse the value of training in the workplace. One person commented that they had previously approached their employer about training and had hit a brick wall and felt that a formal right to request time to train would help address this situation.
37. A number of respondents welcomed the TtT proposals but wanted to know what the mechanism would be for ensuring that employees were aware of the new right.
38. TUC questioned the amount of detail employees would be required to provide when making an application. They suggested this could deter employees from

³ Definition of SME – businesses with up to 250 staff

making an application, particularly those seeking training for literacy or English for Speakers of Other Languages.

Q10. If you are an employer and a statutory right to request time to train was introduced would this change your behaviour in terms of giving your staff time off to train?

TABLE 12 There were 79 responses to this question

	A	B	C	D	E	Total %	
Yes	16	4	2			22	28
No	37	15	1		4	57	72

Breakdown of Employer Responses

TABLE 13

Size of Businesses	Yes	No
Less than 10	1	1
10 - 20	4	9
21 – 49	3	6
50 – 249	2	6
250 - 999	4	1
1000-4999	2	6
5000+		8

Analysis of Responses

39. 28% of respondents answered that they would change their behaviour in terms of giving their staff time off to train if the new right was introduced. A small number of these respondents felt that the administration involved in switching to the more formal TtT processes might actually lead to them offering less training to their employees.

40. Of the 72% of respondents who said their behaviour wouldn't change, 60% said this was because they already offer training, rather than because of any particular reservations about the TtT proposals.

41. Among the remaining 40% of those who answered that their behaviour wouldn't change, the most common issues raised were that TtT might create additional bureaucracy and/or costs for business.

Breakdown of All Employer Respondents in England

No of Employees		Achieved liP	Signed Skills Pledge
Less than 20	12	4	2
21 – 49	6	2	3
50 – 249	12	7	2
250 – 999	7	5	4
1000 – 4999	8	6	4
5000 or more	7	4	3
Not stated	1		

SUMMARY OF RESPONSES TO THE CONSULTATION IN WALES

Q1. Were you aware that existing legislation gives certain employees with caring responsibilities the right to request flexible working arrangements?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Yes	10	8	4	1	9	32
No	0	0	0	1	0	1

4.1 There is a very high awareness (99% - 32 out of 33 respondents to this question) across all types of organisation of this existing legislation. This is encouraging given the proposal to base the Right to Request Time to Train on a similar model and legislative basis. Many acknowledged the success that Right has had in changing workplace culture. Some trade unions, however, felt that the Time to Train proposal requires more robust statutory rights.

4.2 Many respondents argued for simple, clear guidelines which can be used to reduce confusion for employers where there are differences on eligibility rules, exemptions, and processes between the Right to Request Flexible Working and the Right to Request Time to Train.

Q2. Could a request for time to train help skills development in your organisation?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Yes	8	6	2	2	4	22
No	2	1	1	0	4	8

4.3 73% answered 'yes' to this question, seeing a legal right as providing the relevant weight to shift attitudes of those organisations that offer little or no training, and to empower employees to take responsibility for their own training.

4.4 Of the 27% who felt that it would not help, many clarified that their organisation already supported staff development and practised these rights, with 78% having achieved or working towards Investors in People status. Some respondents expressed concern that the Right could actually have a detrimental effect on those organisations, deflecting focus and resources away from existing well-functioning arrangements.

4.5 Numerous respondents stressed the need for the proposal to recognise and build on existing good practice, and to promote the initiative as first and foremost about training and performance, and not to distract through the time off element.

4.6 A number of employer organisations and unions felt that the effect of a legislative approach would be limited, like the Right itself, which represents merely a right to *request* training, not a right to *receive* it.

4.7 Some respondents argued that such a prescriptive, legislative approach is superfluous and/or not the most effective and practical way to achieve the aim:

“employers believe that staff development is critical for the success of their business and the economy in Wales; however, they are not convinced that there is any value in legislating...perhaps Investors in People could be the vehicle for measuring an employer’s commitment to staff development.”

e-skills (UK)

4.8 A small number of employer organisations argued that small firms may struggle to manage the process to the standard required by the government, and that many employers would see it as an obligation and another expense rather than a worthwhile investment in economically valuable skills.

4.9 Numerous respondents recommended that the introduction of the Right should go hand in hand with increased efforts to: engender a change in the culture of organisations to recognise the value of training; improve the availability of high quality, relevant and flexible training in Wales (e.g. through incentives to providers wherever there are important gaps, and the use of the Credit and Qualification Framework for Wales to fund parts of full qualifications); and increase take-up of relevant qualifications.

“...the guidance should...include an equal emphasis on the need to a) actively consider all possible sources of funding and b) help employees explore funding or other help to which they may be entitled. This should include access to advice and guidance.”

Wales TUC

“...many employers are not able to identify their training needs alone and how they can improve their productivity through training. This would be the case for some employees as well and would require objective assistance.”

CBI

4.10 Whilst the TUC argued in favour of paid time off to train, the CBI and other employer representative bodies argued strongly against any compulsion on employers to fund training.

Q3. Do you think the right to request time to train should cover any training that the individual and the employer agree or only training that is nationally recognised and accredited?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Any training that the individual and the employer agree	9	8	4	2	7	30
Only training that is nationally recognised and accredited	0	0	0	0	1	1

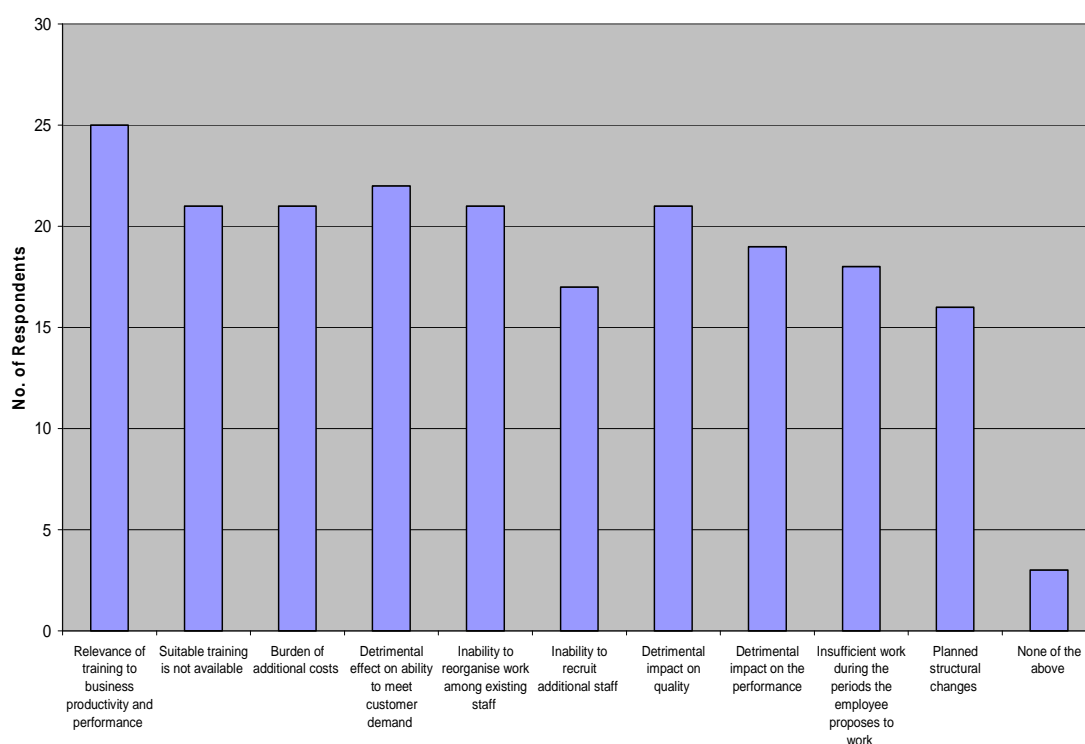
4.11 In terms of the scope of eligible training, all bar one of the respondents felt that the Right should cover any training that the individual and the employer agree.

Q4. For which of the following reasons do you think an employer should be able to reject a request for time to train?

	Emp	Emp org	TU	Ind	Other	TOTAL
Relevance of training to business productivity & performance	10	6	1	2	6	25
Suitable training is not available	8	6	1	1	5	21
Burden of additional costs	8	6	1	1	5	21
Detrimental effect on ability to meet customer demand	8	5	1	2	6	22
Inability to reorganise work among existing staff	9	6	1	0	5	21
Inability to recruit additional staff	7	5	1	0	4	17
Detrimental impact on quality	9	4	1	1	6	21
Detrimental impact on the performance	9	4	1	0	5	19
Insufficiency of work during the periods the employee proposes to work	8	4	1	0	5	18
Planned structural changes	6	4	1	0	5	16
None of the above	0	1	2	0	0	3

4.12 Figure 3 below shows graphically which reasons were felt to be legitimate.

Figure 3: Reasons for Rejecting a Request for Time to Train



- 4.13 Only 3 respondents who answered this question felt that none of the reasons were applicable.
- 4.14 The overwhelming reason most respondents argued should be included was “relevance of training to business productivity and performance” (66%). However, some clarified this by saying that any decision invoking this reason should be based on an understanding of the direct and wider benefits of learning.
- 4.15 One Sector Skills Council (SSC) raised the difficulty of proving enhanced productivity and argued that it would be dependent on the employer’s subjective judgement.
- 4.16 The least popular reasons to reject a request were “planned structural changes” (16%) and “inability to recruit additional staff” (17%).
- 4.17 A number of (mainly) employer organisations felt that the burden of additional costs arising from the time off and the administration of the process, especially for micro businesses, could be prohibitive and should be given greater weight. Nevertheless it was noted that:

“Incurring additional costs’ is not a satisfactory reason in its own right for turning down a request for training. However, if a cost becomes a significant burden for the business it could then become a legitimate reason.”

Fforwm

- 4.18 Some were concerned that the reasons are not specific enough, and are susceptible to wide interpretation, and thus would require clear guidance to clarify. One SSC feared this aspect could be difficult to apply legal judgement to, and could lead to numerous burdensome appeals and put employers off engaging in the process. Others, however, felt that it would be open to abuse by the employers:

“Giving employers a checklist of pre-formed reasons for rejection will merely serve to give those companies that have not been convinced of the benefits of training staff a ready ‘get out clause’.”

Wales Employment and Skills Board

Q5. Are there any other reasons you think employers should be able to cite in rejecting a request for time to train?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Yes	5	4	1	1	3	14
No	5	3	3	1	4	16

- 4.19 47% of respondents answered yes. Notably, one half of all employers who responded to this question cited additional reasons for rejecting requests. The most common reasons offered by all types of organisation were poor attendance or performance record. Other proposed reasons included:

- when training enhances personal interests rather than those of the employer;

- when training conflicts with peak work periods of the organisation (request should be postponed); and
- when 10% or more of staff are already involved in out-of-office training;

See also responses to Question 6 and 8 regarding micro and small firms.

4.20 There was a mixed response to the right of appeal process with some arguing that recourse to an Employment Tribunal was excessive, and others perceiving the right of appeal as limited and not likely to be widely exercised.

“When applications are refused there should be a process that demonstrates that the employer has considered all viable adjustments rather than a straight refusal...”
Fire Brigade Union

Q6. Are there any circumstances in which an employer should be able to withdraw their support for an individual’s time to train where they had previously granted a request?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Yes	9	6	1	2	7	25
No	1	1	3	0	1	6

4.21 An overwhelming 81% of respondents to this question favoured giving employers the option to withdraw their support in certain circumstances. All of the individuals, and the majority of employers, employer representative bodies and ‘other’ respondents answered yes, with the unions largely rejecting any circumstances for withdrawal of support.

4.22 The most common circumstance cited was if the employee doesn’t adhere to the training agreement, for example if he/she fails to attend their training, doesn’t make adequate progress or apply the training to the workplace, or where there are performance or disciplinary issues at work.

4.23 A significant number of respondents also felt that the employer should have the right to withdraw support if their circumstances change (e.g. increased customer demand, downturn in business, unforeseen staff absences, work pressures or financial crises).

“The proposal should encourage employers to assure themselves that the learning is being applied in the work setting and that opportunities are given to the employee to practice the new learning.”
Wales Employment and Skills Board

Q7. Do you think any employers should be exempted from the right to request time to train?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
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Yes	3	4	1	1	4	13
No	7	3	3	1	5	19

4.24 59% of all those who replied to this question believed no employees should be exempt. To break this down by segment, 70% of employers, 43% of employer representatives, 75% of trade unions, 50% of individuals and 55% of 'others' answered 'no'.

Q8. If you answered yes to question 7, which employers do you think should be exempt?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Employers with fewer than 25 employees	2	4	1	0	1	8
Employers with fewer than 250 employees	0	1	0	0	1	2
Other reason	1	1	1	0	1	4

4.25 Of the 41% who believed that some firms *should* be exempt from the legislation, 71% linked exemption to the size of the company. 57% of responses favoured exempting companies with fewer than 25 employees, and a handful specified employers with fewer than 10 employees. The main reason given was that such small companies do not have the necessary structure or the number of staff in place to be able to cover for staff undertaking training.

4.26 One respondent suggested that employers who already have mandatory or comprehensive training provision and a positive approach to workforce development (e.g. companies which have achieved Investors in People or signed a Basic Skills Employer Pledge) should be exempt, irrespective of size.

Q9. If you are an employee and had a formal right to request time to train, would you be more likely to approach your employer about your training needs than you are now?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Yes	5	3	3	1	1	13
No	3	0	0	1	4	8

4.27 62% of respondents who answered this question felt the Right would change their behaviour and encourage them to approach their employer.

4.28 Among those that answered 'no' (38%), the feeling was that the Right would make little impact as their organisation already had well-developed staff training systems and positive attitudes to training which, as employees, they could access and benefit from.

4.29 However, many of these recognised that a legal right would act as a stimulus to employees and employers alike to be proactive in cases where there is a poor track record of training.

4.30 This Right must, it was stressed by a number of respondents, be combined with other actions: to change organisational ethos to support training as part of strategic development; to change employee attitudes to the benefits of training; and to provide advocacy and support for those employees who are less confident in approaching their employer and would not normally request or access training – with or without a legal right. Wales TUC argued for targeting of the Right on the most needy.

“...divided as to whether it would make a difference and believe that this would be based on the employee’s willingness to seek training from the outset.”
Forum of Private Businesses

Q10. If you are an employer and a statutory right to request time to train was introduced would this change your behaviour in terms of giving your staff time off to train?

	Employer	Employer Org/Rep Body	Trade Union	Individual	Other	TOTAL
Yes	3	2	2	0	1	8
No	7	3	0	0	5	15

4.31 35% answered ‘yes’ the Right would change their behaviour.

4.32 Of the 65% who answered ‘no’, many cited (as for question 9) the fact that they already give their staff time off to train.

“We are already allowing staff the maximum amount of time off to train the company can cope with. We must be mindful that we do not over burden those employees not on time off to train and cause stress and discontentment amongst staff.”
Arfon Dwyfor Training

Other comments about the proposed right to request time to train

4.33 Other comments focused on the following points:

- bureaucracy;
- right to paid time off;
- equal opportunities;
- eligibility criteria;
- implementation and publicity.

4.34 The prime concern cited was additional, unnecessary bureaucracy – in terms of lost employer time, funding of additional staff cover and costs to implement the Right, including possible appeals and grievances.

“... it would seem that the onus to justify rejecting a request will fall completely to the

employer and very probably in a grievance hearing or even an employment tribunal. This will be yet another burden placed on employers – especially those with limited resources – that will significantly increase the risk of litigation.”

Deeside College

4.35 Others associated the right to request time to train with an expectation on employers to also fund the additional demand for training, especially if it was for training already offered to other employees and paid for by the employer, or to fund the replacement of staff during training:

“The prime concerns relate to the burden of the additional cost of training within the organisation. It is unlikely that existing staff development allocations would be sufficient to cover the increase in internal demand. For the scheme to be successful consideration needs to be given to additional government funding. “

Coleg Llandrillo Cymru

4.36 It was proposed by many employers and employer organisations that the guidance must make it clear that such requests do not assume any requirement on the employer to fund such training.

4.37 A number of respondents argued for particular attention to be paid to ensuring equal opportunities for all employees, especially in light of changing employment patterns:

“Firstly, very large numbers of employees are in part-time, fixed term or hourly paid employment and these employees in particular are excluded from their employer’s normal training provision. Secondly, amongst those providing training, there is a disproportionate number of atypical workers especially working as fixed term, hourly paid, part-time and increasingly as agency workers ...”

University and College Union

4.38 Some unions argue for the rights to be applicable to employees from the first day at work or from 13 weeks rather than wait 26 weeks. Others requested special consideration to be given to English for Speakers of Other Languages (ESOL).

4.39 A number of respondents felt a large part of the success of the Right would depend on wide publicity of the legislation to raise awareness and encourage uptake. Finally, one respondent questioned whether a pilot should be run and proposed that results be evaluated to assess the impact on productivity, business performance, careers prospects and earning potential.

Annex 2: Consultation Responses by Category

Respondent Type by Sector	
Organisation Type	Number of Consultation Responses Received
Employer	10
Employer organisation / representative body	10
Trade union	7
Individual	2
Other	9
Total	38

SUMMARY OF RESPONSES TO THE CONSULTATION IN SCOTLAND

Q1. Could a request for time to train help skills development in your organisation?

TABLE 1 There were 23 responses to this question.

	Employer	Employer Organisation	Trade Union	Other	Total
Yes	5	10	1	4	20
No	1	0	0	2	3

1.1 87% (20) of respondents answered 'yes' to this question, with strong support from employers and employer organisation/representative bodies. Many of the employers noted that they already invested time and money in staff development recognising the importance of this to their business. They commented that the introduction of a formal right to request time off to train would help embed a culture where employees are encouraged to take ownership of their training and to develop their skills, thereby increasing their contribution to the business. This right would be likely to have a bigger impact on those employers that did not already have well established systems and processes to encourage employee development.

It is about driving cultural change by encouraging a dialogue between employer and employee about skills needs.
Skills for Justice

Q2. Do you think the right to request time to train should cover:

TABLE 2 There were 27 responses to this question.

	Employer	Emp Org	Trade Union	Other	Total
Any training that the individual and employee agree	5	8	4	6	23
Only training that is nationally recognised and accredited	1	2	0	1	4

1.2 85% (23) of respondents felt that the right to request time off to train should cover any training agreed between the individual and the employer, provided that the training met the needs of both the individual and the business. Many respondents noted that restricting the training to only nationally recognised or accredited training would mean that employees would miss out on other training opportunities that have the potential to have a real impact on their productivity. It was also noted that in certain areas there may be no or limited recognised or accredited training. Several

respondents also highlighted that it may be most appropriate to undertake ‘on-the-job’ training to acquire specific technical skills and that limiting the type of training would be unhelpful.

Q3. For which of the following reasons do you think an employer should be able to reject a request for time to train?

TABLE 3 There were 26 responses to this question.

	Emp	Emp Org	Trade Union	Other	Total
Relevance of training to business productivity and performance	6	11		6	23
Suitable training is not available	5	10		3	18
Burden of additional costs	6	11		6	23
Detrimental effect on ability to meet customer demand	5	11		5	21
Inability to reorganise work among existing staff	5	11		4	20
Inability to recruit additional staff	5	10		3	18
Detrimental impact on quality	6	11		4	21
Detrimental impact on the performance	6	11		3	20
Insufficiency of work during the period the employee proposes to work	4	10		3	17
Planned structural changes	5	9		2	16
None of the above			3		3

1.3 88% (23) of respondents believed that an employer should be able to reject a request for time off to train for one or more of the reasons above.

1.4 One of the most important issues here was the requirement for training to be relevant to the needs of the business as well as the individual. There needs to be a balance between these factors to ensure that employers give every consideration to requests for time off to train but the recognition that there would be some practical decisions to be made in terms of resources and the potential impact on the business. Several respondents noted that employers needed to consider the longer term benefits of the training and this should be offset against the short term inconvenience and costs.

We feel that it is reasonable to expect employers to allow employees to access relevant training. At the same time, we realise that employers need to strike a balance between supporting staff through training and meeting the business demands.
Scottish Funding Council

1.5 Four respondents raised concerns in particular areas where there were statutory responsibilities in relation to the care of young people or vulnerable adults. These statutory duties needed to be taken into account when employers were considering requests. Two respondents also noted that the context of the business would be a factor and that SMEs were much more likely to find it difficult to recruit additional staff or to reorganise the work among existing staff than large employers and this should be taken into account.

The FSB does not believe that any employer should be exempted from the right to request time off to train; however, there must be flexibility in the legislation to allow smaller companies with under 50 employees to conduct training at a time and in a manner appropriate to their business.
Federation of Small Businesses

1.6 Employers and employer representatives felt that the reasons listed were all valid reasons for refusal although one respondent noted that the reasons were subjective and therefore open to wide interpretation. A number of trade unions felt that the reasons for refusal should be tightly prescribed to ensure that the reasons were not open to interpretation.

We believe that there is a risk that the 'get-out' clauses are so broad that it is difficult to see how an employer who is currently sceptical of the value of training would be willing to acceded to requests for Time to Train.
Investors in People

1.7 A number of respondents suggested alternative reasons for refusal; this included the CBI and a number of trade unions.

Q4. Are there any other reasons you think employers should be able to cite in rejecting a request for time to train?

TABLE 4 There were 24 responses to this question.

	Employer	Employer Organisation	Trade Union	Other	Total
Yes	1	4	0	3	8
No	4	6	3	3	16

1.8 67% (16) of respondents felt that there should be no more additional reasons for employers to cite when refusing a request.

1.9 A number of reasons for refusal were cited. The ones that were most frequently mentioned are:

- Where the performance of the employee was causing concern;
- Where the employee was already well skilled and the employer was of the view that there were other areas of development with a higher priority; and
- Where an employee had intimated a desire to leave the company or where the training was clearly with a view to securing a post elsewhere.

1.10 Other reasons that were cited were:

- Where time off to train would have a negative impact on services to patients or vulnerable people;
- Where the training is not relevant to the employees current job description; and
- Where there are no financial resources.

1.11 There was a need for clear and consistent guidance for employers in relation to the reasons for refusing a request.

Q5. Are there any circumstances in which an employer should be able to withdraw their support for an individual's time to train where they had previously granted a request?

TABLE 5 There were 25 responses to this question

	Employer	Employer Organisation	Trade Union	Other	Total
Yes	6	7	0	5	18
No	0	3	3	1	7

1.12 72% (18) of respondents agreed that there were circumstances where an employer could withdraw support although there were strong views on both sides. All of the employers who responded felt there were circumstances where they should be able to withdraw support. The trade unions that responded to this question felt that if the right to request time off to train was to have an impact there must be protection to prevent employers from withdrawing their support. One trade union commented that if circumstances changed then the onus was on the employer to make alternative arrangements to ensure the individual was still able to undertake the training.

1.13 Among those who supported the right to withdraw support the most commonly cited reasons were:

- Where circumstances changed either within the business or with the employee, particularly if one of the reasons for refusal came into play due to the change of circumstance;
- Where there were performance, capability or disciplinary issues developed with the employee; and
- Where the employee was not putting effort into the training or was failing to attend the training.

1.14 Other suggested reasons were:

- It becomes clear the training is being undertaken with a view to get a job outside of the company;
- It becomes clear that the skills acquired through the training are not needed within the company; and
- On review, the abilities of the employee are not suited to the demands of the training.

1.15 One respondent noted that support should be withdrawn in exceptional circumstances and, in line with the Flexible Working Hours scheme, it should be postponed for a specified time due to justified operational reasons. One respondent also noted that withdrawing support could cause the employee to lose money where they had paid upfront for the training, while another noted that there should be the right to appeal if support was withdrawn where they felt they were treated unfairly.

Q6. Do you think any employers should be exempted from the right to request time to train?

TABLE 6 There were 27 responses to this question.

	Employer	Employer Organisation	Trade Union	Other	Total
Yes	1	1	0	3	5
No	5	10	4	3	22

1.16 The majority of respondents, 81% (22), thought that all employers should be covered by the right to request time off to train regulations; this included the majority of employers. The trade unions felt strongly that all employees should have access to this right and that there should be no exemption for smaller businesses as they noted that employees in these businesses were often those that received the least training.

USDAW is of the strong view that no employers, even small businesses, should be exempt. Employees at small companies quite often receive little or no training; therefore any exemptions for small companies would exclude many employees who need the new right most.
Union of Shop, Distributive and Allied Workers (USDAW)

Q7. If you answered yes to question 6, which employers do you think should be exempt?

1.17 19% (5) of respondents felt that there should be some exemptions for particular employers.

- Three respondents felt that employers with less than 25 employees should be exempt;
- One respondent felt that employers with less than 250 employees should be exempt; and
- One respondent noted that in the context of schools the exigencies of the service were paramount and the quality of education to children protected at all costs.

1.18 The Federation of Small Businesses in Scotland did not believe that any employer should be exempt but noted that there needed to be sufficient flexibility in the legislation to allow smaller businesses, with less than 50 employees, to conduct training at a time and in a manner appropriate to their business. Other respondents commented within their consultation responses that there were particular issues for SMEs. Additional funding or support may be needed to ensure that SMEs were not disadvantaged and clear, accessible information, advice and guidance would be need to be put in place before the right to request time off to train was introduced.

Better advice on available courses and development opportunities will be crucial to individuals understanding their options, and for employers to understand the implications of requests.
Skillfast-UK

Q8. If you are an employee and had a formal right to request time to train, would you be more likely approach your employer about your training needs than you are now?

TABLE 7 There were 14 responses to this question.

	Employer	Employer Organisation	Trade Union	Other	Total
Yes	2	2	2	0	6
No	3	4	0	1	8

1.19 The response to this question was fairly evenly split with 43% (6) answering that this right would encourage them to approach their employer. The STUC highlighted the recent survey carried out by TUC/Unionlearn which was published in September 2008. This revealed that 70% of people working in Scotland would like to see a new legal right to request paid time off for training and that over half of workers said they would wish to use this right. The trade unions noted that this right could lead to a culture change but also noted concerns in relation to employees who were dyslexic, had literacy needs or similar issues and the difficulties these employees would have in submitting their request in writing.

UCATT is concerned with the onerous amount of information that the employee is required to give regarding the training request. You could argue that it will be off-putting for many with literacy issues and those who may lack confidence in letter writing skills.
Union of Construction, Allied Trades and Technicians (UCATT)

1.20 Of the 57% (8) who answered 'no' the most commonly cited reason (5 responses) was that their employer already encourages staff to undertake training. Two employers commented that although this right would not impact on them it could encourage other employees to request time off to train in other businesses that did not have existing processes for employee training. One respondent noted the difficulties in communicating to smaller businesses, highlighting that many were not aware of the Flexible Working Hours arrangements and it was important to communicate this new right effectively. Another employer noted concern about formal regulations placing an additional financial burden on businesses; this could stifle training as due to increased demands for general ad hoc training instead of planned development in line with business needs.

Q9. If you are an employer and a statutory right to request time to train was introduced would this change your behaviour in terms of giving your staff time off to train?

TABLE 8 There were 20 responses to this question.

	Employer	Employer Organisation	Trade Union	Other	Total
Yes	1	2	1	1	5
No	5	6	0	4	15

1.21 The majority of the respondents, 75% (15), believed that a statutory right to request time off to train would not change their behaviour in terms of giving staff time off to train. This was primarily because as employers they already encouraged staff to undertake training and that staff who wished to upskill were not normally prevented

from doing so. One respondent noted that it reinforces what they already do, but adding greater publicity and weight to what they do could increase the uptake of development opportunities. It was also noted that the new right would ensure all employers put procedures in place to deal with requests and that this could encourage more employers to view training positively.

1.22 The importance of guidance was also highlighted by one respondent, notably that it needs to be made clear that:

- It is a right to request time off to train; and
- There is no obligation on the employer to organise or pay for the training.

To keep the administrative aspect of the regulations to a minimum it would be helpful to have model forms.

Other Comments about the proposed right to request time off to train

1.23 A number of the organisations who participated in the consultation did so by way of an open response to the questions asked. The following is a summary of the main issues raised through these open responses.

1.24 Five key issues were identified:

- Legislation around the proposal and whether Time to Train should be compulsory
- Ability of employees to challenge employers decisions regarding Time to Train
- Funding for training
- Impact on smaller businesses
- Impact on volunteers

1.25 The trade union organisations suggested a number of different options to extend the proposal further, including statutory right to paid time off for time to train; five days paid educational leave; a reduction in the current period that someone is required to work before being entitled to request time to train, from 26 weeks to 13 weeks; and that more than one request per year should be permitted.

1.26 Other organisations suggested that implementing legislation to encourage training at work would be detrimental and counter-productive in fostering a culture of learning at work.

Legislation is not the answer; it is a weak and clumsy method to impose change through compliance.
Institute of Directors (IoD)

1.27 On the issue of whether or not Time to Train should be compulsory, views were mixed. As has been mentioned, the trade union organisations who participated were strongly in favour of extending the proposal to ensure that time off to train was compulsory, not solely the right to request.

1.28 On the other hand, a number of responses from organisations representing employers commented that while they supported the uniformity of the right of request, ultimately, businesses should have the final say on these requests.

It is absolutely imperative that employers retain their right to deny time off if it could be damaging to the business.
Scottish Grocers Federation (SGF)

1.29 Following this, another important issue raised was the right of the employee to challenge decisions made in regard to time to train by employers. A number of the trade union organisations were supportive of the right for an employee to challenge or appeal decisions taken, with others expressing concern regarding the reasons by which an employer could refuse a request.

1.30 Conversely, employer organisations were wary of such a mechanism being introduced on the grounds that such an action could lead to further disruption and additional costs for the employer. However, within this it was acknowledged that employers must provide valid reasons for refusal of a request.

As with the right to request flexible working, employers must be able to indicate why they have turned down a request without an employee having the legal recourse to challenge the reasons for refusal in an employment tribunal. Of course, reasons for refusing requests will be related to skills needs or the health of the business; crucially, any training request by employees, must have business relevance.
CBI

1.31 Funding for training was another significant issue raised via the open responses. A number of organisations suggested that support should be available for employees pursuing job-related training either directly from employers or from other funding streams such as Individual Learning Accounts.

1.32 Other organisations expressed concern that as the onus for the funding of training lies with the employee, the motivation and aspiration of employees to pursue training may be limited as a result.

1.33 One organisation suggested that further clarification on the funding aspect of the Time to Train initiative is required.

It is understood that there will be no compulsion on employers to pay for training. The Scottish Government's consultation paper states that those seeking training will have access to various funding streams dependent on the circumstances. This requires further clarification and quantification to incentivise the initiative for employers as well as employees.
Institute of Directors (IoD)

1.34 The impact that the proposal will have on small businesses was also raised, with many of the same themes emerging from those highlighted by the consultation questionnaire. While some organisations stated that they felt no businesses should be exempt from the initiative, those representing smaller organisations reiterated their desire for flexibility, suggesting that accommodating a legislative right on the part of the employer to offer time to train may not be practical in a number of cases.

Individual plans, where desirable, are not always practical in small organisations with high staff turnover or seasonal employment and these organisations would be expected to bear the greatest additional costs impacts which could threaten their viability let alone growth.
Institute of Directors

1.36 Lastly, the impact that the proposal will have on volunteers was another significant issue raised by the open responses. Volunteer Development Scotland noted a range of concerns, notably:

- That a balance needs to be struck between including volunteers in the right but ensuring employers are not dissuaded from recruiting volunteers on account of perceived additional time, costs and administration;
- Volunteers, by nature, should not be expected to pay for training and that the initiative should look at resources available to support volunteers under this proposal;
- There could be complications around volunteer status due to the current proposal position that links learners to contracts of employment; and
- That the qualifying period for a volunteer to request time to train should be 13 weeks continuous involvement with organisation/employer.

List of Respondents to the Consultations

England

Respondent
1 Anonymous "Individual Respondent"
1 Anonymous "Other" respondent
14 Anonymous Employer Respondents
ACAS
Alan Nutten (HMRC)
Andromica Video Systems
ASDA
Asset Skills SSC
Assoc of Colleges
Assoc of Convenience Stores
Assoc of Plumbing & Heating Contractors
Association of Colleges – East Region
B&M Europe Ltd
Bio Products Laboratory
Birmingham CoC
Booths
British Chambers of Commerce
Bury Adult Care Services
Business in Sport & Leisure
Camden Council
Campaign for Learning
CBI
Chartered Management Institute
Cheshire & Wirral NHS Partnership
CIPD
CME Personnel Cons Ltd
Colchester Borough Council
Communications Workers Union
Creative & Cultural SSC
DCLG
DLA Piper UK
East Lindsey District Council
EEF
Employers Forum on Disability
Employment Lawyers Assoc
FDA ULRs
Federation of Master Builders
Forum of Private Businesses
FSB
Gala Coral Group
Go Skills
Gtr Manchester Chamber of Commerce
Heating and Ventilation Contractors Assoc
Inst of Engineering & Technology

IoD
Ixion Holdings
Jenny Hurst
JWG Dalby & Sons
Keoghs Employment Services
Land Registry
Law Society
Lifelong Learning UK
Lines & Jones Ltd
Local Government Employers
N'ampton CIPD Branch Co-Ord
National Learning Officer PCS
National Union of Teachers
Nautilus UK
NE Chamber of Commerce
NIACE
One North East (RDA)
Outsourced Training Company
PLASA
Prospect
Ray Hobby
RDA Network
Recruitment & Employment Confederation
RMT
Road Haulage Association
Rothfield Farms
Royal Academy of Engineering
Royal Bank of Scotland Mentor Services
Sealparts LTD
SEMTA
Skillfast
Skills for Justice
Skipton Building Society
Summit Skills
SW RDA
Target Group UK
The Newspaper Society
The People Development Team
Thurrock Council
Transport for London
Transport Salaried Staffs Assoc
TUC
Ufi
UK Workforce Hub
Unilink Group
UNITE
Universities & Colleges Assoc
University & College Union
USDAW
Plus 24 individual responses
Plus 19 respondents who wished their responses to be confidential

Scotland

Asset Skills	British Energy
CBI Scotland	City & Guilds
COSLA	Federation of Small Businesses
General Teaching Council for Scotland (Employer)	
General Teaching Council for Scotland (Organisation)	
Heating Ventilating Contractors Association	Heriot-Watt University
Highlands & Islands Enterprise	Investors in People Scotland
Institute of Directors	John Lewis plc
Lifelong Learning UK	
National Union of Rail, Maritime & transport Workers	
Optometryscotland	PCS Scotland
Perth & Kinross Council	School Leaders Scotland
Scottish Children's Reporter Administration	
Scottish Council for Voluntary Organisations	
Scottish Engineering	
Scottish Food and Drink Federation	
Scottish Funding Council	Scottish Grocers Federation
Scottish Retail Consortium	Scottish Resources Group Ltd
Scottish & Northern Ireland Plumbing Employer's Fed	SELECT
Semta	Skillfast UK
Skills for Justice	STUC
Summitskills Sector Skills Council	The Open University in Scotland
UCATT	UNISON
Unite the Union	
University and College Union Scotland	
USDAW	Volunteer Development Scotland

Wales

Arfon Dwyfor Training Ltd.
Asset Skills
ATL Cymru
Cambrian Training Co.
Cardiff University

Chwarae Teg
Coleg Llandrillo Cymru
Coleg Morgannwg
Confederation of British Industry
Construction Skills
Deeside College
Employment Training, City and County of Swansea
e-skills UK
Fforwm
Fire Brigades Union
Forum of Private Business
Glyndŵr University
Home Training Initiative Ltd.
Lifelong Learning UK Ltd.
National Union of Rail, Maritime & Transport Workers
NFU Cymru
NIACE Dysgu Cymru
PRP Training Ltd.
SEMTA
Skillfast-UK
Skills for Justice
The Work Based Training Agency
University and College Union
USDAW
Wales Employment and Skills Board
Wales TUC
Welsh Association of Chief Police Officers

(Plus 5 respondents who wished their responses to be kept confidential)

The CBI responded to England's consultation – key messages are reflected in the Welsh summary.

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