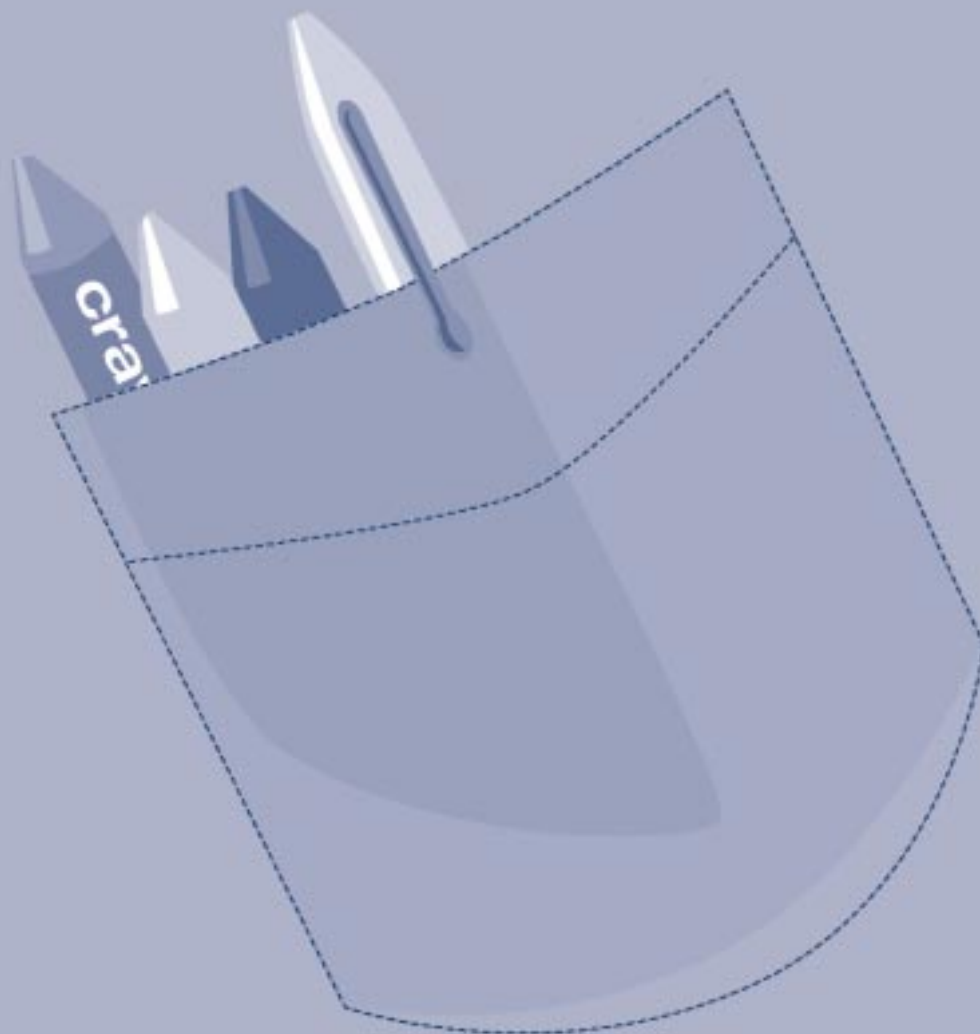


Work & Parents

competitiveness and choice

a green paper



dti

Department of Trade and Industry



Work & Parents

competitiveness and choice
a green paper

Presented to Parliament by the
Secretary of State for Trade and Industry by
Command of Her Majesty
December 2000

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FOREWORD

Jobs and prosperity go hand in hand. The more people who want to work and are able to do so, the stronger the economy. The more people who make use of scarce skills, the better for business. The more parents in work, the lower the level of poverty, including child poverty. As standards of living rise, quality of life matters more. Working and bringing up children is a tough combination. Parents daily juggle work and family life.

The Government wants to make it easier for parents who choose to work to do so. The UK's statutory provision is not as generous as that in many European countries. But it is more generous than that in the USA or Australia. This Green Paper seeks views on a number of practical measures to help working parents. It also recognises that businesses, particularly small employers, need to minimise extra costs. We need to find ways of helping parents and helping business at the same time.

This consultation is a step along the path to the future. Getting a proper balance between home and work is a prize for us all. We must approach it carefully and weigh and consider the changes. This is an issue we will tackle in the long term as well as the short term. We need to achieve a society where being a good parent and a good employee are not in conflict.

We want to hear what your priorities are on the issues set out in this Green Paper. This is your opportunity to help shape a new deal which supports parents and business.



Stephen Byers

Secretary of State for Trade and Industry



SETTING THE SCENE

1.1 Improved quality of life is an issue for all of us, whether we are parents, caring for elderly relatives, studying, running a business or for any other reason. Everyone is trying to balance work and other commitments.

1.2 This review focuses particularly on working parents and the people they work for. We all benefit from the contribution working parents make to our prosperity. We all have a stake in the development of their children: in years to come they will shape our world and help to support older people.

1.3 The UK's competitiveness depends increasingly on the knowledge and skills of people. In today's tight labour market we need more people who want, and are able, to work. Business needs to draw on a deep and diverse pool of skills and experience. Employers that help their employees to balance their work with their family lives see improvement in business performance¹.

1.4 To the great benefit of our economy, more mothers now choose to work outside the home, for financial reasons and rewarding jobs. In two-thirds of families both parents work outside the home, up from under a half in the 1980s. To the great benefit of the family, many fathers spend more time with their children and want to do even more.

Children see working parents as a role model but also want their parents to be with them when it counts².

1.5 However, the decision for both parents to work is not cost free. People take seriously their responsibilities to their families and to their employer but often these responsibilities compete. They are forced into a daily juggling act. Their success in this should be celebrated but often the rewards are strain and a sense of failure.



¹ Scheibl, L. and Dex, S., "Would more 'family-friendly' working arrangements benefit business and families?", ESRC working paper, No 106, Sept 1998

² Lovell, E. M., "What do children think about their parents'/carers' employment", working title/research in progress, 2000

1.6 Many employers take their responsibilities towards working parents seriously. They provide support that is tailored to meet both the needs of the business and the parents that work there. But markets do not always provide the right environment and the incentives for parents to work. Many employers recognise what needs to be done but may not be aware of what can be done.

What is the Government's role?

1.7 The Government does not wish to tell parents how to balance work and family responsibilities. Parents should make their own choices. But providing help to parents to balance work and family life is important for the economy, and for the welfare of children.

1.8 The opportunity to work is one of the key routes for many poor parents and their children to escape from poverty. The gains also go well beyond the immediate improvement in families' circumstances. Poverty inhibits a child's future prospects, including its educational attainment. At present one in three children lives in poverty, 60% of them in families with no working adult³.

The **Listening to Women** consultation undertaken in 1999 by the Women's Unit heard the views of over 30,000 women through 12 roadshows all over the UK, a postcard campaign and focus groups. Of prime importance to women was striking a better balance between work and home life, and getting support to do it. Women taking part were not looking to the Government to make choices on their behalf but to support them in the choices they make.

1.9 The Government has already taken action, for example, through record rises in Child Benefit and increases in the child rates in income-related benefits. The Working Families' Tax Credit ensures that families are better off in work than on benefit. By 2001, households with children will on average be £850 a year better off than in 1997 as a result of measures introduced since then⁴.

1.10 The Government has also extended entitlements to maternity leave and Maternity Allowance. Parental leave has been introduced and employees are now able to take time off to look after dependants in an emergency. Of equal importance, quality of life issues are being addressed through the Work-Life Balance campaign and the entitlement to four weeks' paid annual leave for workers. The National Childcare Strategy aims to ensure good quality, affordable childcare for children aged up to 14, or 16 for those with special needs, in every neighbourhood.

1.11 The Government is also responding to business' concerns. Employers can develop arrangements with their employees in certain areas for parental leave and working time in a way that suits their business. Employers can also delay requests for parental leave, where granting them would cause harm to the business. Record keeping requirements for working time have also been reduced. In addition, all employers get back most of the money they pay out through Statutory Maternity Pay (SMP) and the smallest ones are refunded in full. The Government also compensates small employers for some other costs they incur on SMP.

³ Households Below Average Income 1994/5–1998/9, Department of Social Security

⁴ Pre-Budget Report, November 2000

What more needs to be done?

1.12 The Government recognises that people need more support if they are to achieve their full potential as employees and parents. It also recognises that businesses need support and time to take on board the changes already made. The Government has a duty of care to the small businesses which energise our economy and are particularly vulnerable to heavy-handed regulation.

1.13 The Government, therefore, set up a Ministerial Group to look carefully at the scope for helping working parents in ways that aid business competitiveness and productivity. The Terms of Reference are “to review the steps needed to make sure that parents have choices to help them balance the needs of their work and their children, so that they may contribute fully to the competitiveness and productivity of the modern economy”. In doing this, the review seeks “to examine how the economy is changing, particularly in relation to working patterns, what the needs of the modern economy will be and to identify how competitiveness and productivity in this context can be enhanced through giving families reasonable choices to help them to balance the needs of their children and work”. The full Terms of Reference and the membership of the Ministerial Group are at Annex A.

1.14 The Ministerial Group, led by the Secretary of State for Trade and Industry, has held 16 roundtable discussions with 250 employers and employees in all the English regions, Wales and Scotland. In addition, Ministers and officials have met over 50 organisations to listen to their views on how the current system needs to change. These have included a number of small businesses and their representative organisations.

Parents and employers, including small ones, have participated in detailed surveys and over 150 people have told us what they think through a website. A list of many of the organisations that have contributed is at Annex B. The review has drawn on existing research both here and overseas to consider the case for change and has commissioned new research. The evidence is being made available separately but is summarised throughout this document⁵. Other research is underway, for example on how employers manage absences. A separate, but similar, consultation paper will be published in Northern Ireland.

So what are our aims?

1.15 The extensive consultation has helped in particular to clarify what the Government needs to consider in order to achieve the objectives set out in the Terms of Reference. The Government needs to consider ways to balance improving choice for parents and enhancing competitiveness for business by:

- keeping women’s skills and knowledge in the economy and maintaining their attachment to the labour market even when they are not working outside the home
- enabling business to benefit from a greater contribution from the workforce
- maximising the contribution that working parents are able to make to their employers
- safeguarding the health and welfare of the mother and child before and after birth
- improving the quality of family life, and

⁵ www.dti.gov.uk/er/review.htm

- “thinking small first” in the design of any solutions, to simplify systems so that everyone understands their rights and responsibilities, and introduce any changes in the best way for all.

1.16 The review has received over 150 suggestions from parents, business, trade unions and other lobby groups for achieving these aims. Many ideas covered in this Green Paper were proposed or supported by both business and family groups.

1.17 It is evident that employers are already contributing much. Many large employers have good policies and practices which go well beyond legal entitlements and provide considerable flexibility for working parents. Small businesses tend to deal with the problems as they arise on a day-to-day basis rather than establishing policies in advance. But the outcomes can still be good as owners often know their employees and their families personally. Much can be achieved by promoting such best practice more widely and providing more incentives for it.

1.18 However, best practice is unlikely to permeate the whole economy and frequently does not reach the lowest paid. Statutory options may need, therefore, to be considered to provide minimum standards but these must be developed with care and properly designed for small businesses. Regulation must not undermine best practice or stifle innovation. Accordingly, this Green Paper incorporates the elements of a **Regulatory Impact Assessment** (RIA) so that an analysis of costs and benefits to the State, employers and parents is included where there are specific options. This can be considered alongside other arguments for

and against action in particular areas.

However, on a number of issues a variety of different approaches is considered and the Government is seeking views to help establish the best way forward.

The Government would welcome **information on the costs and benefits that will then be used to prepare a full RIA on any options developed further following this consultation.**

1.19 Examples of the benefits to business of work-life balance practices are given as part of the competitiveness analysis in Chapter 2. Support for parents around the time of a child’s birth is discussed in Chapter 3 and supporting businesses at the same time is covered in Chapter 5. Similarly, there is a separate discussion of supporting parents in the workplace in Chapter 4 and of how flexible businesses might be encouraged in Chapter 6.

What should be our priorities?

1.20 The rewards of resolving the tensions in so many parents’ lives are great but change needs to be introduced with care and to take the needs of business into account. Not all these options can be pursued as there are many competing demands on resources. Choices will, therefore, have to be made between them. This consultation asks which options should be priorities, which options are not a priority or indeed why they should not be pursued.

1.21 The Government will promote in-depth monitoring of the impact of any changes that result from this review. This consultation is a step along the path to the future. Getting a proper balance between home and work life is a prize for us all. We must consider change

and its consequences carefully. This is an issue that we will tackle in the long term as well as the short term. We need to achieve a society where being a good parent and a good employee is not in conflict.

Tell us what you think

1.22 Responses are needed by **7 March 2001** and should be sent to:

Review Team
Department of Trade and Industry
1 Victoria Street
London SW1H 0ET

Fax: 020 7215 5450

Email: reviewteam@dti.gov.uk

1.23 There are summary boxes in each chapter which may help to guide responses. Questions from these, including on costs and benefits, have been separately brought together in "How to respond" and on our website – www.dti.gov.uk/er/review.htm

2

THE ECONOMIC CONTEXT

The labour market underpins our competitiveness...

2.1 In today's globalised market, business needs constantly to find products and services that distinguish it from its competitors. It needs to be flexible in its management practices and quick to improve the way it serves the customer.

The economy needs successful businesses.

2.2 To achieve such success, business needs people who bring high levels of skills and knowledge and can rapidly respond to change. The same is true in the public sector where customers' expectations are also rising and the taxpayer expects greater efficiency.



2.3 An efficient labour market is, therefore, essential to our competitiveness and ability to generate investment domestically and attract it from overseas. The Government needs to ensure that the UK labour market provides

the right mix of incentives to work, opportunities for skills development and flexibility. Business must have flexibility to organise work to respond to the market. People must have the right incentives to work and the right opportunities to develop their skills. Otherwise they will not join the workforce in the numbers the economy requires and their talents will be wasted.

...participation can be improved if more parents work...

2.4 At present the UK labour market has a high level of job creation: 74% of those of working age are in work. The Government wants this to increase to 75% or more on a sustainable basis.

2.5 There are 7.29 million families in Britain with at least one dependent child under 18. Over 5 million of these are two parent families and today nearly 70% of mothers in them choose to work⁶. The greatest increase in the employment rate over the last 10 years has been among mothers with children aged up to 4.

⁶ Moss, P., Holtermann, S., Owen, C. and Brannen, J., "Lone parents and the labour market revisited", Labour Market Trends, November 1999

2.6 The number of lone parents in work has increased from 44% in 1997 to almost 50% today and 100,000 of them have moved from welfare to work. However, the UK still lags behind Europe and the US. For example, 82% of lone mothers work in France, 70% in Sweden and 60% in the US. The number of lone parents in full-time employment in the UK is only 20%, whereas France and the US have figures of 70% and 50% respectively⁷.

2.7 The UK still has 3.1 million non-working parents with children under 16, most of whom are mothers primarily with a child under 5⁸. The economy would benefit significantly if more of these parents chose to join the labour market.

2.8 Over the last 30 years, improvements in maternity leave and pay, combined with other rights, have been associated with higher employment rates for women and a narrowing of the pay gap between men and women. Mothers are now much more likely to return to work and to their original employer. Employers are more likely to retain women as employees with their knowledge and skills. In households where children live

in poverty, their mothers' earnings can be the key route to escape from that poverty.

2.9 Government reforms are improving women's opportunities to work, and making work pay better. The introduction of the National Minimum Wage in April 1999 is estimated to have raised the wage of 900,000 women. Already more than 1.1 million families are receiving the Working Families' Tax Credit (WFTC). This was introduced to address the particular work incentive problems faced by families with children. Over 100,000 of these families are also benefiting from the WFTC's childcare tax credit, which helps families for whom the cost of childcare is a barrier to work⁹.

...and our skills deficit narrowed

2.10 Skills are lost to the economy when women take lower skilled and less well-paid jobs on return from maternity leave. As shown in Figure 1, the level of women's lifetime earnings is lower than those of men and this demonstrates the level of skills lost to the economy¹⁰.

Figure 1: Women's lifetime earnings

Skills level	Gender Gap – the cost of being female	Mother Gap – the impact on a woman's lifetime earnings of having two children	Parent Gap – the difference in earnings between a mother of two and a father of two
Low skilled (no qualifications)	£197,000	£285,000	£482,000
Mid skilled (qualifications to GCSE level)	£241,000	£140,000	£381,000
High skilled (graduate)	£143,000	£19,000	£161,000

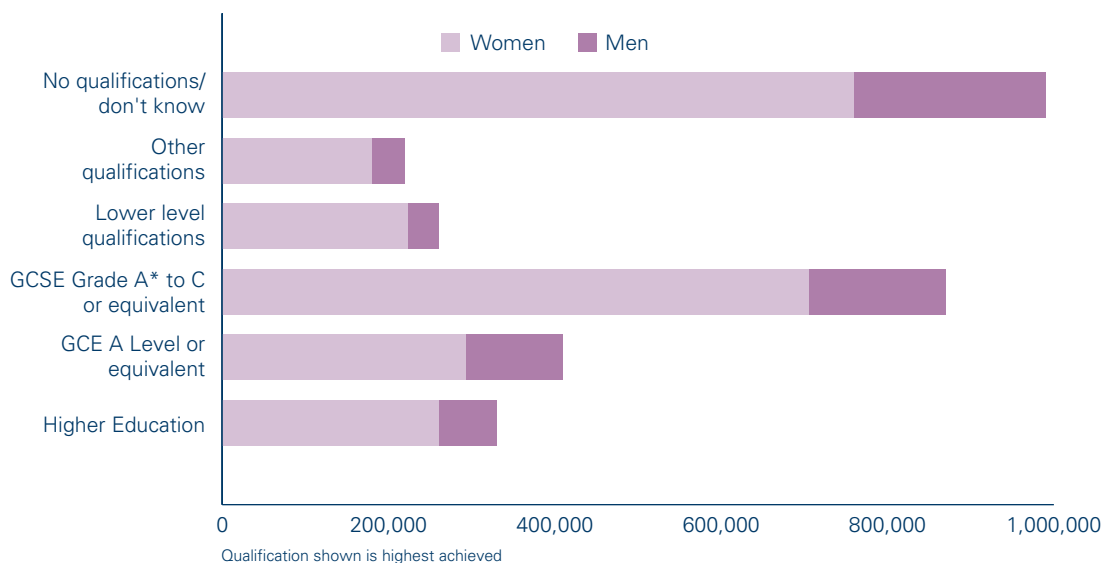
⁷ Bradshaw, J., Kennedy, S., Kilkey, M., Hutton, S., Corben, A., Eardley, T., Holmes, H., and Neil, J., "Policy and the employment of lone parents in 20 countries", EU Report, 1996

⁸ Labour Force Survey, spring 2000

⁹ WFTC Statistics Quarterly Enquiry, UK, May 2000

¹⁰ Rake, K. (ed), "Women's Incomes Over the Lifetime", February 2000

Figure 2: Qualifications of non-employed parents with dependent children under 16¹¹



2.11 The UK has weaknesses in the skills of the workforce. Too many people have no qualifications or low level ones and there are too few people with intermediate level qualifications¹². The UK also has acute skills shortages in the fastest growing sectors. Non-working parents can help plug these gaps. Figure 2 above shows that over 1.5 million of them have GCSE level qualifications or their equivalent or above.

2.12 The Government is committed to raising the educational attainment of all pupils. The percentage of 15-year-olds in England and Wales who did not obtain a GCSE grade has fallen from 7.8% in 1996 to 6% in 1999¹³. The number of pupils leaving school with no qualifications should fall further as a result of initiatives such as the “Don’t Quit Now Campaign”, the introduction of the literacy and numeracy hours and the availability of Part One GNVQ and Vocational GCSEs.

2.13 Increasing participation by parents will bring greatest benefit if they enter jobs where they can use their talents to the full. Young women currently entering the labour market tend to be better qualified than young men. There is evidence, explored in Chapter 3, that skill retention is greater where maternity leave is longer and pay is greater.

Flexibility is the key...

2.14 The gains to competitiveness from promoting participation in the labour market and skills must not be obtained at the expense of flexibility. Flexible working patterns have been identified as one of the key ingredients of the labour market¹⁴. People work, and wish to work, a wide variety of hours and at a wide variety of times.

2.15 Flexibility helps a wide range of businesses to respond to changing market conditions. It helps service sector

¹¹ Labour Force Survey, spring 2000

¹² “The Skills Audit: A Report from an Interdepartmental Group”, DfEE and the Cabinet Office, 1998

¹³ Statistics of Education, public examinations GCSE/GNVQ and GCE/AGNVQ in England, DfEE, 1999

¹⁴ “Towards 2010: an agenda for socially inclusive wealth creation”, Confederation of British Industry, 2000

organisations to meet customers' expectations of services being available around the clock. It also enables those working globally to cover American and Far Eastern working times. Such working patterns are also emerging in manufacturing where businesses need to supply on a just-in-time basis. Business is, therefore, increasingly keen and able to accommodate part-time and variable hours working arrangements¹⁵.

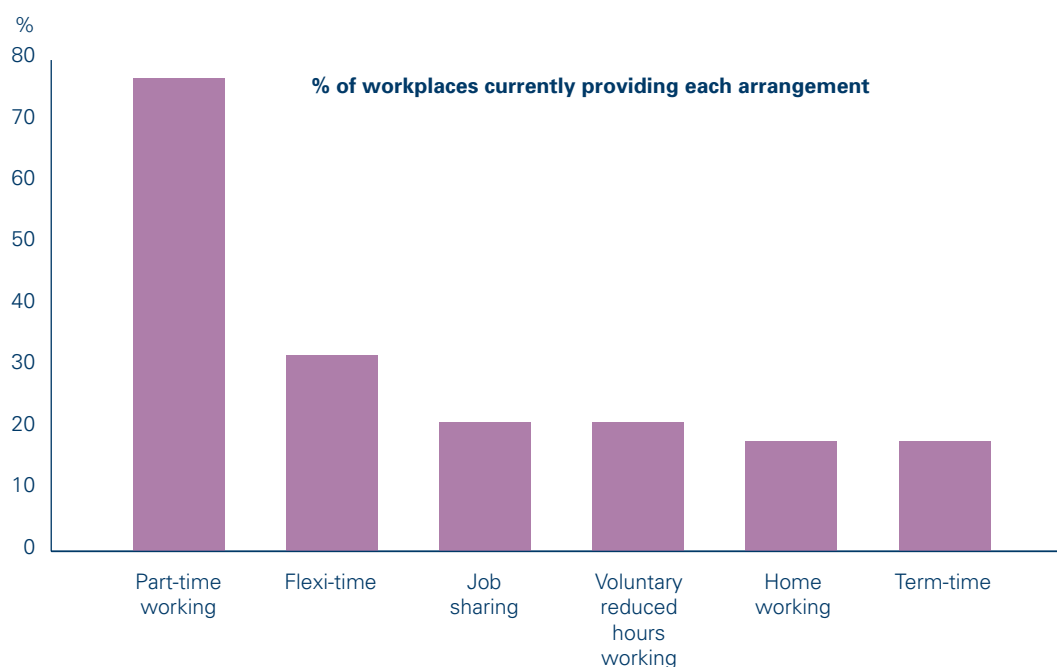
2.16 Provision of flexible working arrangements is shown in Figure 3. In both the public and private sectors, flexible working is available more to women than men. The differences between the public and private sectors are considerable. In the public sector, 82% of women and 73% of men have access to either flexi-time, job sharing or working at home. In the private sector, the

figures are 73% and 40% respectively¹⁶. In the economy as a whole, women working full-time are more likely to work during the day and less likely to work evenings or nights than any other group. In contrast, women working part-time are more likely to work evenings than either men or women working full-time¹⁷.

2.17 Over half of employers say they would allow some movement from full-time to part-time work. Three-quarters would make this available to women returning from maternity leave¹⁸.

2.18 Flexible working is not only about part-time hours. It can include doing a full-time job at unusual hours, or working part of the time from home, as well as reduced hours. Teleworking is growing fast. In spring 2000, over 1.8 million people teleworked from home in their main job¹⁹.

Figure 3: Provision of Flexible Working Arrangements



¹⁵ Cully, M., Woodland, S., O'Reilly, A., and Dix, G., "Britain at Work – As depicted by the 1988 Workplace Employee Relations Survey", Routledge, 1999

¹⁶ Hogarth et al, "Work-Life Balance 2000; Baseline Study of work-life balance practices in Great Britain", DfEE, 2000

¹⁷ Harkness, S., "The 24 Hour Economy", Employment Audit, Employment Policy Institute, summer 1999

¹⁸ "Employers' survey on support for working parents", DTI, 2000

¹⁹ Labour Force Survey, spring 2000

...and this can lead to savings...

2.19 Retention of staff is key to the stability and knowledge of the organisation. Knowledge is lost when somebody leaves and networks are broken. In a small business this can be critical: major customers can go elsewhere when an employee who understands their needs and whom they trust moves on to a competitor. Flexible policies help women and men to remain in or return to the business. They also increase motivation and reduce absenteeism. There have also been other business imperatives for adopting these practices²⁰ and implementing them has led to an improvement in business performance²¹.

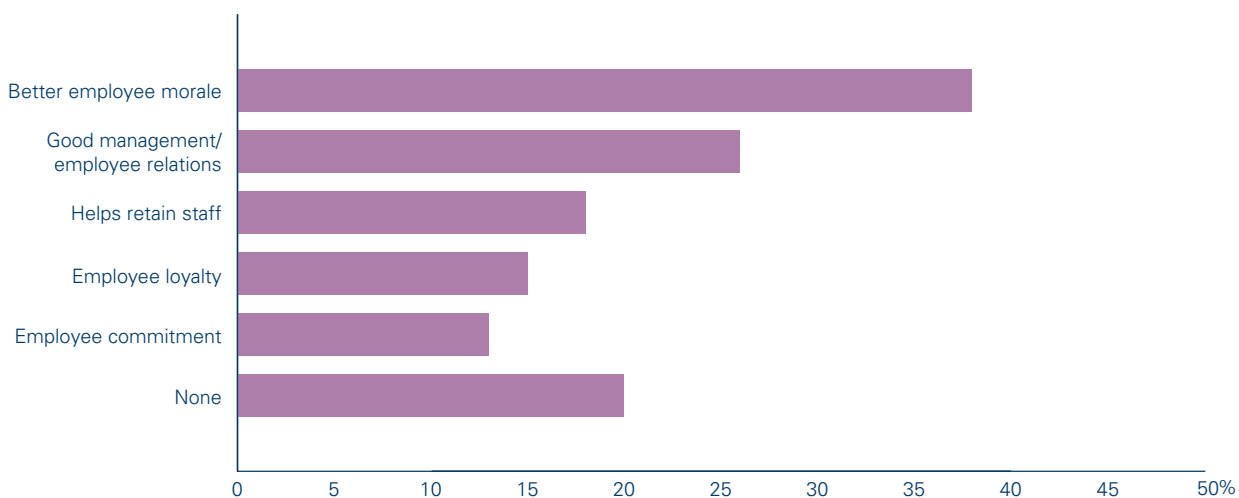
2.20 There are major gains as shown in Figure 4²². Typical recruitment costs of replacing an individual have been estimated at £3,500, ranging from £1,000 for an

unskilled manual worker to over £5,000 for a professional employee²³. This can be a crucial issue for small businesses. One company found that the cost of its childcare allowance was more than offset by the replacement costs it would otherwise have faced and that it retained key employees who might have defected to competitors. Another small company identified six people they had persuaded to stay at a saving of £45,000²⁰.

2.21 These costs do not take account of the investment made in training which is lost if skilled employees leave the workplace or work in a lower skilled area. The NHS loses an investment of £200,000 if a doctor leaves, £34,000 for a nurse and £22,000 for a physiotherapist²⁴.

2.22 Productivity can also be improved by savings in absenteeism for businesses of all sizes. Absenteeism costs £500 per employee

Figure 4: Benefits to organisations of providing flexible working/leave arrangements for parents



²⁰ Bevan, S., Dench, S., Tamkin, P. and Cummings, J., "Family-Friendly Employment: The Business Case", Institute for Employment Studies, Research Report no.13b, 1999

²¹ Scheibl, L. et al., op. cit.

²² "Employers' survey on support for working parents", DTI, 2000. Respondents could specify more than one benefit.

²³ "Labour Turnover", Chartered Institute of Personnel Development, October 2000

²⁴ "Working Lives", Department of Health (NHS Executive), 1998

a year. A quarter of employers rank home and family responsibilities as one of the five main causes of sickness absence. But this is not a simple picture. Sick absence rates for parents, both men and women, are lower than those of non-parents²⁵.

2.23 For other businesses, the endorsement of key external opinion formers, from whom they need continuity of support, plays a major role. A strong track record in work-life balance can be a selling point to large clients.

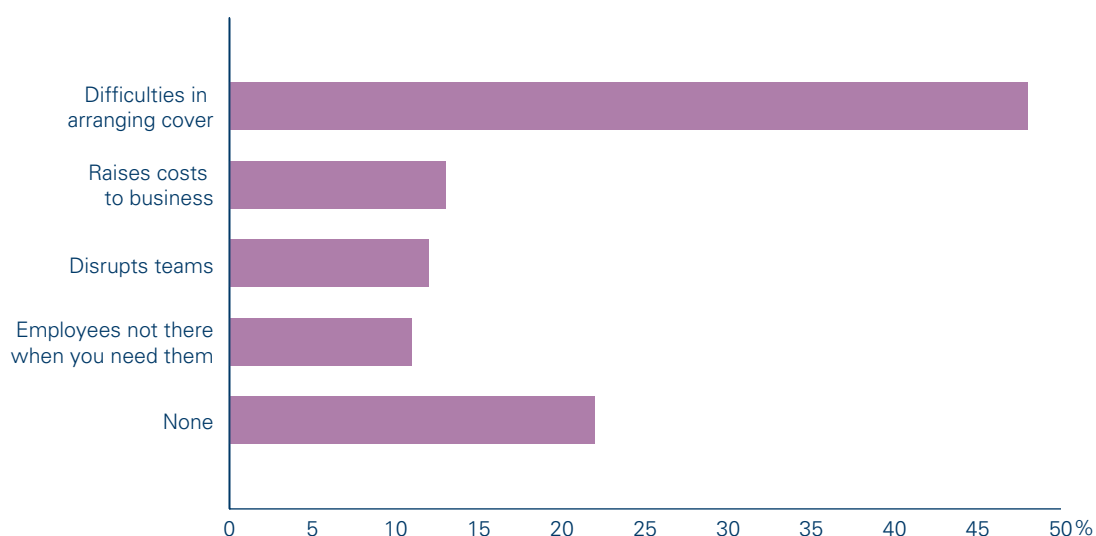
2.24 Such benefits have led some employers in the UK to offer more generous terms than those provided by the statutory minimum. Before the introduction of the right to parental leave, around 35% of public sector employees were given some form of leave to care for children. In the private sector, 30% of women and 20% of men had such arrangements²⁶. Figure 4 indicates that many businesses see benefits from providing flexible working and leave arrangements for parents and these

benefits grow as more work-life balance policies are adopted. Where new working patterns are fully integrated into the working practices of companies they tend to have better business performance²⁷. Even in countries that have generous state support, such as Sweden, employers improve on these to ensure employee retention. International comparisons on maternity pay and leave and parental leave are at Annex C.

...but do they outweigh the costs?

2.25 Large organisations are concerned about bureaucracy and small ones about how they can get the work done. Some of the problems employers face are shown in Figure 5²⁸. Getting the job done is particularly a problem where the job is highly skilled or in an area of acute labour shortage. Having key people out for whatever reason can cause major disruption to the workplace. This is particularly a problem where there are only

Figure 5: Problems for organisations with providing flexible working/leave arrangements for parents



²⁵ Chartered Institute of Personnel Development survey on employee absence, May 2000

²⁶ Dex, S. (ed), "Families and the Labour Market", Family Policy Studies Centre, 1999

²⁷ Cully et al, op. cit.

²⁸ "Employers' survey on support for working parents", DTI, 2000

one or two people who can do the job so that the work cannot be shared amongst others. There are costs in assessing properly requests for part-time or other flexible work, against the needs of the business. Job re-design takes management time. Employers that have faced this problem have told us that the benefits do outweigh the costs.

Conclusions

2.26 The economy needs a flexible labour market. Our participation and skills deficit can be improved if more parents choose to work. More flexible working opportunities, and the opportunity for parents to spend time with children, are important to reducing stress and absenteeism. There are benefits to individual employers and the economy as a whole if the needs of employers and parents can be brought closer together.

SUPPORTING PARENTS AROUND THE TIME OF A CHILD'S BIRTH

3.1 The previous chapters have set out the background to what the Government is seeking to achieve and the case for change.

This chapter focuses on how parents might be provided with greater support around the time of a child's birth in a way which is consistent with the needs of business.

Maternity leave and pay have improved...

3.2 Almost all pregnant working women are entitled to either Statutory Maternity Pay (SMP) or Maternity Allowance (MA). Both are paid over a maximum 18-week period. In addition, women who have worked for their employer for more than a year are able to take a further 22 weeks' leave, but this is unpaid. For information on existing entitlements, see Annex D.

3.3 Working Families' Tax Credit (WFTC) gives a top-up to nearly all low-income families during maternity leave. From 2001, as long as a woman is receiving maternity pay, WFTC and Child Benefit, a family will be guaranteed a minimum weekly income of:

- £150 for a lone parent having her first child after working 16 hours a week
- £200 for a lone parent or woman-earner-only family having a second child after working full-time
- at least 90% of previous income for all families where both parents work and earn up to £9,000 a year

- more than 100% of previous income for many low-earning families, especially families where both parents work and those receiving childcare tax credit for their childcare costs.

3.4 Already, more than 1.1 million families are receiving WFTC. The Government started a new phase of advertising of WFTC in October 2000 to increase take-up.



Examples of how the Government is supporting families

Sure Start and **Sure Start Scotland** encourage different agencies to work together in new ways to provide services to pregnant women, families and children in disadvantaged areas. Its main aim is to narrow the gap in outcomes between children growing up in poverty and those in better-off families whether both parents work or one stays at home.

The Sure Start Maternity Grant provides help with the costs of a new baby for parents receiving income-related benefits and tax credits in return for them contacting a healthcare professional to ensure they receive expert advice on child development and services. The full grant is £300. It is already available to over 200,000 low income families every year and from October 2001, this will be available to up to 15,000 families a year.

The Family Support Grant Programme provides funding to voluntary organisations to develop and improve services and support for families. A good example was the YMCA "Lads and Dads" project which used football to help fathers learn parenting skills.

The Government also contributes funding to the National Family and Parenting Institute's free helpline in England and Wales, **Parentline Plus – 0808 800 2222** – which offers help and advice to anyone grappling with raising a child in the modern world. The Scottish Executive is considering what policies it might develop in relation to parent support.

3.5 Just over half of women take 18 weeks' leave or less²⁹. Managers are most likely to take 20 weeks, non-manual employees 18 weeks and manual employees 16 weeks³⁰. Women entitled to longer periods of maternity leave are more likely to return to work, 72% after 28 weeks compared to 50% after 18 weeks³¹. Some women returning to work after 18 weeks, when maternity pay ends, feel distracted and less productive. Women returning to work after a longer period feel better prepared to return. They have also had more time to make satisfactory childcare provision. Another concern among early returners is that they have to give up breastfeeding too early for their child's well being.

Three mothers told us...

"I do not think maternity leave is anywhere near long enough. I had no idea before my boy was born how long it would take me to feel 'normal' again after giving birth. ... it took the better part of a year."

"At the mother and baby club you see how other children of the same age are doing. You exchange ideas about how to solve daily problems – but I can't go now I'm back at work."

"I am a single parent reliant on my income alone. I felt pressure to return to work due to finances... Within one and a half weeks of returning to work I went off sick with depression... It was only when my daughter was a year old that I felt more able to cope."

²⁹ "Survey of how parents balance work, family and home", DTI, 2000

³⁰ Hogarth et al, op. cit.

³¹ Callendar, C., Millward, N., Lissenburgh, S., Forth, J., "Maternity Rights and Benefits in Britain in 1996", Department of Social Security Research, Report no. 67

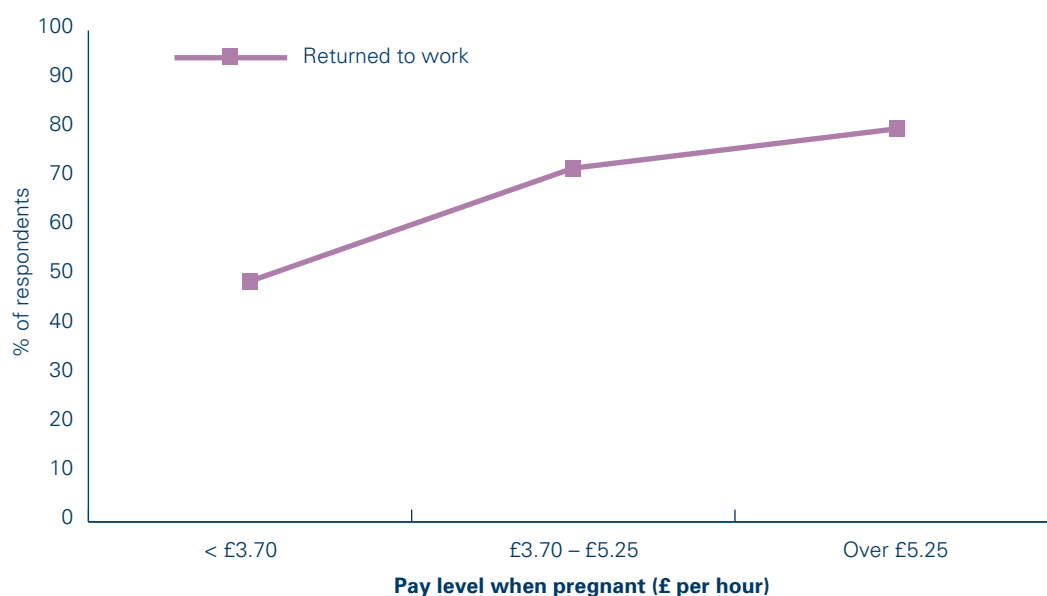
3.6 Some research, based on children growing up in the 1970s, suggests that, all other things being equal, a child's educational attainment is higher if the mother stays at home during the first year. However, this could not consider the quality of alternative childcare available in the 1970s when the children being studied were young. In addition, any negative effects of working in the early months are far outweighed by the benefits if the mother's employment raises household income above poverty levels. In the following years, the income effects dominate and children have higher educational achievements if their mother works³². This research suggests that children may be more likely to do best if their mothers can spend a lot of time with them in their first months provided this is followed by mothers working if this is needed to keep families out of poverty.

...but could be better

3.7 Many women and men feel that maternity leave and pay need to improve to ensure that the health and welfare of all new mothers and their children are safeguarded after birth and to make it easier to return to work. The more generous the paid maternity leave, the higher the proportion of women who choose to return to work³³. Women receiving extra payments from their employers are also more likely to return than those receiving only maternity pay.

3.8 Expected income on returning to work after maternity leave also influences choices about work as shown in Figure 6 using 1996 data³³. With the introduction of the National Minimum Wage and WFTC, it is likely that more women are choosing to return to work because it is more financially worthwhile to return.

Figure 6: The effect of pay on women's decision to return to work after maternity leave



³² Joshi, H. and Verropoulou, G., "Maternal Employment and Child Outcomes", Smith Institute, 2000

³³ Callendar et al, op. cit.

3.9 Many women already have an entitlement to a longer period of leave than 18 weeks, but often this is unpaid. Sixty-one per cent of those who have an entitlement to longer leave do not take it. The primary reason for this is financial need³⁴.

Four mothers told us...

"I came back after 14 weeks because I had no other choice. My partner works 12-hour days and we depend on both incomes, as does the baby."

"I'm dreading 12 weeks at £60. I haven't earned that since I left school."

"It's very hard to survive as a single parent, I really struggled and had to return to work very quickly. The thing that makes the difference is the big drop in salary from 90% to £60.20 per week. It is hard to budget for if you are used to a certain level of income."

"I've worked for seven years – SMP is not much money after that and the unpaid leave is really bad."

3.10 Some employers already see the advantage in providing more than the statutory terms. The Government is encouraging this through the Work-Life Balance campaign. However, the full potential benefit to the economy and to all parents is unlikely to be achieved through best practice alone. The Government believes that if it is to secure a step change in the opportunities available to all

working mothers, then it is important that it considers the possibility of improving statutory entitlements.

3.11 The issue of employment status has been raised in relation to maternity leave. This issue, and the impact of employment status on other statutory employment rights, will be explored in a discussion paper that the Government will publish in 2001.

How could leave be improved?

3.12 The options set out below are based on amendments to existing provision. The Government believes it is preferable to move forward in this way.

3.13 One option is to **extend unpaid maternity leave so that a woman can stay at home for a year in total**. Just under half of parents believe that a woman's job should be held open to her for up to 12 months³⁴. This would have only a marginal cost to the State, but for business it would increase the need for cover for a longer period. Each additional week of cover for unpaid maternity leave could cost employers an additional £9 million³⁵. The marginal cost to employers of each additional week is likely to fall the longer the absence. However, employers are keen to have more certainty about a woman's intentions to return to work. Many recognise that a longer period of leave might help in this respect because women will then be more certain of what they really want to do.

3.14 A third of new mothers currently do not return to work³⁶. If only 10% changed their

³⁴ "Survey of how parents balance work, family and home", DTI, 2000

³⁵ As people taking this leave would not be paid a wage, it is assumed that the money they would have been paid is used to meet the wages of the person providing cover. But there are costs in engaging and training cover and other costs, and it is assumed that the average cost of this is 24% of the wage paid. A 50% take up rate is used here as existing data does not permit a precise estimate of how many women take up all their existing legal entitlement.

³⁶ 86,000 women. There are 260,000 new mothers in employment (LFS, Autumn 1999).

mind because they had a longer time to be with their child, the total benefit to employers through reduced recruitment costs could be as much as £30 million³⁷. It might also help reduce the number of women taking sick leave immediately or shortly after maternity leave. Some employers feel that cover might be easier to find where leave is longer but for others, particularly small businesses, providing cover for any absence remains a key concern (see Chapter 5 on meeting these concerns).

3.15 It was suggested in a number of discussions that it should be possible to **split any extension to the existing unpaid maternity leave entitlement between the mother and father**, if that is what they choose to do. The Government is interested to hear whether there is any support for such a provision. It would increase the costs to the economy and employers. For example, for each 1% of men who take up this option, this would cost £10 million. For each man in a workplace that took this, it would cost the employer £3,000. These would be in addition to the costs of cover for the woman's maternity leave.

How could pay be improved?

3.16 A number of options have been suggested for how maternity pay might be improved to help women take a longer period of leave and be better prepared to return to work. In considering the options the Government believes it is important to take into account the greater willingness amongst women on higher incomes to return to work. Increased spending on earnings-related compensation for maternity leave would mainly go to these higher earners.

3.17 The Government is concerned not to increase the complexity of the current arrangements. For this reason the Government does not favour the introduction of a tapering rate of earnings-related maternity pay. (Various means of simplifying maternity leave and pay are considered in Chapter 5.)



3.18 One option which was supported during discussions would involve **increasing the flat rate of maternity pay for the existing period**. This would be of most value to women on low incomes. It would improve their standard of living and make it more likely that they could take their existing entitlement to paid leave. It might also help them to take more of their unpaid leave, although it would provide no direct incentive for women to do so. Increasing the flat rate of SMP by each additional £10 a week for 12 weeks would cost a total of £35 million, £5 million of which would be met by employers³⁸. Similarly there would be additional costs for MA, but none of these would fall on employers. Each additional £10 of MA for the total period of 18 weeks would cost the State £5 million³⁹.

³⁷ Based on 10% of 86,000 new mothers returning each saving an employer an average of £3,500 recruitment costs.

³⁸ Based on all women entitled to the additional £10 taking it, so may be an overestimate.

³⁹ This figure excludes women entitled to variable rate MA.

3.19 Whatever the increase in SMP, employers would incur one-off implementation costs estimated at £8 million, arising from changing systems and adapting to changes in legislation. The typical cost for an employer is around £200⁴⁰. This cost is likely to fall most heavily on large businesses that have invested in systems. There would also be increased costs for cover. Thirty per cent of mothers take maternity leave for less than 18 weeks⁴¹. If all of these mothers take one extra week's leave the costs to employers of arranging cover would be £5.4 million, and for an individual business around £100 for a full-time employee and £40 for a part-timer. These costs are likely to vary considerably from employer to employer depending on the nature and size of the business⁴².

3.20 An alternative option would be to **increase the period of time over which flat rate maternity pay is available to bring the total period of paid leave to 26 weeks**. It would provide a direct incentive for women to take more time off work, if they choose to do so, and should provide a better safeguard for the health and welfare of mother and child. It would also provide a better fit with WFTC arrangements. Currently WFTC lasts for six months, while the woman's SMP or

MA stops before this. This means that the family's income drops, possibly below Income Support rates, even though the mother may have a longer leave entitlement. Therefore, this option would extend the period that the family receives a decent level of income replacement making it easier for the woman to take her remaining leave entitlement. For the reasons set out earlier, this option should also increase the number of women that choose to return to work after maternity leave.

3.21 Each additional week of maternity leave paid at the current rate of £60.20 would cost the State £18 million (£145 million for the additional 8 weeks) and increase total maternity payments by £20 million a week. The difference of £2 million would be met by employers⁴³. Each additional week's absence would cost employers £18 million to arrange cover or otherwise deal with the absence (an additional £115 million in total for the 8 weeks)⁴⁴.

3.22 Maternity payments now reach at least 95% of working women following the widening of the entitlement to MA. However, there are a very small number of working women (perhaps 3,000 a year) who are not entitled to maternity pay, because they are on very low incomes or are in informal or occasional employment. These women are

⁴⁰ Based on half of all businesses with 50–199 employees and all businesses with 200+ employees making system changes (40,000 businesses in total). The typical system change involves half a day of personnel manager's time and half a day of a payroll administrator's time. New Earnings Survey wage data and an allowance for non-wage labour costs were used to produce the cost per business. No estimates are made for the smallest employers as pregnancy is a rare event in organisations of this size.

⁴¹ "Survey of how parents balance work, family and home", DTI, 2000

⁴² Thirty per cent of mothers returning to work before 18 weeks equates to 78,000 mothers per year (41,000 full-time and 37,000 part-time). The mean wage paid to mothers is £405 for a full-time employee and £159 for a part-time employee (New Earnings Survey). As the woman on maternity leave is not being paid a wage, it is assumed that this money meets the wages of the person providing cover. But there are costs in engaging and training cover and other costs, and it is assumed that the average cost to an employer of arranging cover is 24% of the wage paid.

⁴³ Assuming an average take-up of 80%.

⁴⁴ If an additional week is paid take up is assumed to be 100% but this is likely to be an overestimate because some mothers at the moment return to work before their entitlement to maternity pay finishes. Taking full- and part-time employees together the average cost of cover to the employer for a week's absence is £69. 260,000 new mothers might take additional paid leave. An average take-up rate of 80% is used to calculate cover costs for an additional eight weeks. Figures are rounded to the nearest £5 million and exclude women entitled to variable rate MA.

generally working less than 8 hours a week, for example as playtime supervisors in schools, so it is often difficult to track their earnings. An option would be to **see if the eligibility criteria for maternity pay could be widened to include these women.**

3.23 Student nurses are not entitled to SMP or MA, even though they may be full-time on a ward. The Government is considering whether this can be changed.

Adoptive parents

In 1999, around 2,000 children were adopted from care⁴⁵. Around 70% of adoptive parents are in full-time employment⁴⁶.

Adoptive parents are now entitled to take parental leave up to the fifth anniversary of the date when the placement for adoption began, or the child's eighteenth birthday if this is earlier. But they are not entitled to any statutory paid leave. However, a third of employers provide or intend to provide paid adoption leave⁴⁷. Currently, those individuals whose employers will not accommodate requests for time off, whether paid or unpaid, are likely to leave the labour market as a result.

The Government will publish a White Paper on Adoption, and would like views on the option of **introducing a right to leave paid at the equivalent flat rate and for the same period as SMP, when adopting a child.** Any provisions on paternity leave would need to be adapted for those adopting a child.

Adoptive parents will be able to choose who will take time off, and the payment would go to that person. To avoid discrimination, it could not be paid exclusively to the mother, unlike SMP.

If the full 18 weeks' paid leave was taken the cost to the State would be around £2 million in total. The earnings-related element of SMP recognises the unique circumstances of pregnancy and childbirth. As there are so few adoptions the cost to employers of arranging cover or otherwise dealing with these absences would be around £800,000⁴⁸.

Paid paternity leave

3.24 An increasing number of men want to play a more active role in supporting their partner following the arrival of a new child. This was supported at the Ministerial roundtables, with participants repeatedly saying that caring for children is not a woman's issue, but a family issue. One proposal was to give fathers an identical entitlement to leave and pay as women already receive. The Government rejects this proposal because it would double the cost to employers of the existing maternity leave provision. It would also impose too high a cost on the State (possibly in excess of £1 billion).

3.25 Ninety-four per cent of parents believe that fathers should have a right to take paternity leave and just over half believe that the best option would be a right to two weeks' partly-paid leave. Thirty-eight per cent

⁴⁵ "Children looked after by Local Authorities, Year ending 31 March 1999", Department of Health

⁴⁶ "Surveying Adoption: a comprehensive analysis of local authority adoptions 1998-99", BAAF

⁴⁷ "Employers' survey on support for working parents", DTI, 2000

⁴⁸ Based on a 25% additional take up of the right as many employers already provide unpaid leave for adoptive parents. Assuming men and women take leave equally. Using the average cost of cover at £110 for men and at £69 for women as there is no data on numbers of full- and part-timers.

of fathers are automatically entitled to paternity leave through a specific scheme provided by their employer. Many are expected to take annual leave (33%) or to make the time up later (5%)⁴⁹. Women whose partners take paternity leave are more likely to choose to return to work than those whose partners do not⁵⁰. One option would be to **introduce a right for working fathers to take paternity leave paid at the same rate as SMP**. Those arguing for this say it would enable all fathers to have the choice to spend time supporting their partner and new child. The cost to the State of providing these payments at the current flat rate of SMP would be £25 million a year⁵¹. This length of leave would be in line with best practice.

3.26 As with maternity leave, employers usually know when paternity leave will be taken and this gives them more opportunity to plan. Employers would need to consider providing cover to the extent that fathers take up the option. There is evidence that fathers are increasingly taking leave at the time of the birth of their child, often using annual leave or extra leave given by their employers. One-third of employers provides fully paid paternity leave so there is some experience already in the market of handling such absences⁴⁹. Costs of cover to employers arising from additional absences from work would be £18 million⁵². Administrative costs on top of this would depend on the method of payment (see Chapter 5).

Three fathers told us...

"My wife was expecting triplets. My boss...signed me off sick for a fortnight when the babies arrived. There was no way that my wife could have managed on her own and there was no way that I could have afforded to take unpaid leave."

"My employer offers two weeks' paid paternity leave. It is a basic human right to balance working life with family life."

"It is assumed that family responsibilities can be dealt with on the days I don't work....I would not like to jeopardise my position with the company any further by taking additional days off."

⁴⁹ "Survey of how parents balance work, family and home", DTI, 2000

⁵⁰ Deraniyagala, S., and Lissenberg, S. Multivariate analysis of data from "Maternity Rights and Benefits in Britain 1996" not yet published

⁵¹ Based on 60% take up rate by fathers (currently 80–90% of fathers take an average of three days at the time of birth). This would be about 210,000 fathers.

⁵² Based on similar assumptions as for cover of maternity leave, but using average wage costs for fathers as £440.

Summary

This chapter sets out a number of options on maternity leave and pay and paternity leave. Views are sought on the following options, the relative priorities, and the costs and benefits, including comments on those set out in the text.

- Extending unpaid maternity leave so that a woman can stay at home for a year.
- Sharing any extension to unpaid maternity leave equally between the mother and the father.
- Increasing the flat rate of maternity pay for the existing period.
- Increasing the period of time over which maternity pay is available to 26 weeks.
- Seeing if the eligibility criteria for maternity pay could be widened.
- Introducing a right to leave paid at the equivalent flat rate and for the same length of time as SMP, for one adoptive parent.
- Giving working fathers the right to paternity leave, for example for two weeks, paid at the same flat rate as maternity pay.

For information on how to comment on these options, see “How to respond”.

4

SUPPORTING PARENTS IN THE WORKPLACE

4.1 This chapter sets out how parents can be supported in the workplace. It draws on the case for change set out in Chapter 2 and considers options on flexible working and parental leave.

Setting the context...

4.2 Working parents, mothers as well as fathers, already choose to play an important part in the labour market. Many businesses could not compete without their contribution. In the US, some businesses, particularly small ones, are actively recruiting working mothers. They have learnt that flexibility on hours allows them to compete for skilled employees. They also benefit from increased employee loyalty, an important asset in the US labour market. Working mothers have also shown the way for other employees with care responsibilities.

4.3 In the UK, the majority of women believe a career and children can be combined, if the children are well looked after. A smaller percentage, but still the majority, believe that this will not affect the relationship between mother and child, regardless of whether the woman works full- or part-time⁵³.

Supporting working parents

New Deal for Lone Parents (NDLP) is just one of the measures introduced to help lone parents gain independence through moving into work. It is a voluntary programme that provides a comprehensive package of back-to-work help for lone parents on Income Support. Over 200,000 lone parents have received help since the start of the programme, with over 66,000 moving directly into work as a result⁵⁴. A £23 million injection extended NDLP to all lone parents who are out of work or who are working less than 16 hours a week.

Working Families' Tax Credit (WFTC) is at the heart of the Government's reforms to help make work pay and provide improved support for children. It seeks to ensure that families are better off in work than on benefit and so tackles the unemployment trap. WFTC includes a disabled child credit to help with the additional support needed to care for disabled children. From April 2001 a new Children's Tax Credit will be available which will be a further step in delivering a fairer tax system for families with children.

⁵³ Bryson, C., Budd, T., Lewis, J., and Elam, G., "Women's Attitudes to Combining Paid Work and Family Life", Women's Unit, 1999

⁵⁴ Figures quoted are up to 31 August 2000

...returning to work

4.4 When choosing whether to return to work women want to know that they will be able to balance home and work. They need to know that they will be able to deal with the crises that inevitably arise in family life. The Government gives all parents a right to unpaid time off in these circumstances. But both employers and individuals are often unaware of it. This is of concern and the Government is launching a new campaign to heighten awareness of this right⁵⁵. One option would be to **launch further campaigns to raise awareness of employment rights for working parents.**

4.5 Eighty-eight per cent of women who choose to return to work go back to their original employer. Just over a quarter report that their employers offer the opportunity to stay up-to-date during maternity leave. Three-quarters of those offered this opportunity took it up⁵⁶. These opportunities include very informal practices, where the manager and close colleagues contact the woman from time to time. They also include formal schemes when information is regularly sent to the individual during maternity leave and a return to work interview is held to discuss training needs and working hours. Most parents say that it would be realistic for their employer to provide opportunities for women on maternity leave to keep in touch⁵⁶.



4.6 Currently Statutory Maternity Pay (SMP) rules mean that a woman will lose a week's payment of SMP if during any part of that week she has worked for the employer paying her SMP. Family advisers have suggested that this rule acts as a barrier to a woman keeping in touch with her employer by preventing her from taking advantage of the occasional day's training during her maternity leave. The Government would welcome views on **whether SMP rules act as a barrier to women keeping in touch and if so, how they could be changed.**

4.7 At a number of Ministerial roundtables, the loss of skills during maternity leave was raised and the point made that skills are decaying faster as the pace of technological change increases. Most parents say it would be realistic for their employer to provide retraining on return from maternity leave. Currently, only a quarter of women report having this opportunity, half of whom take it up⁵⁶. Given the crucial role that skills play, both for the individual and for the employer, one option would be to **find new ways to help women returning to work after leave of one year or more to improve their skills.**

⁵⁵ For information on time off for dependants, see Annex D.

⁵⁶ "Survey of how parents balance work, family and home", DTI, 2000

BP Amoco runs a Parental Advisory & Networking Service (PANS), which offers a wide range of work-life balance support to all BP employees in the UK. The services available include information on all aspects of maternity leave and pay, parental leave and returning to work; a Family Solutions Helpline, which assists employees with all caring responsibilities, plus a range of in-house workshops including Taking Maternity Leave, Returning to Work, New Fathers at Work, Work-Life Balance, parent education courses and on-site network meetings. The service provides support to managers as well as individual employees. PANS also offers a comprehensive website giving detailed information on all the services available.

PANS offers many benefits to both the employee and the organisation. The central co-ordinated approach delivers consistent standards and procedures, including for adapting best practice, to support working parents. PANS has provided a vehicle to promote new ideas and flexible working practices, especially for women returning from maternity leave. Employees benefit from an opportunity to share experiences with others through workshops and network meetings, exchanging information and ideas. Role models can also be identified for those who may feel less confident about their abilities to balance work and home successfully.

Working flexibly

4.8 Flexible working arrangements, particularly home working and term-time work, are a further key factor in facilitating a mother's return to paid employment⁵⁷. Seventy per cent of mothers choose to switch to part-time working when they return from maternity leave⁵⁸.

4.9 Women are more likely than men to have flexible working patterns. Part-time employment opportunities and flexi-time are by far the most common types of flexible working practices. In 1999, nearly 25% of female full-time employees in the UK had flexible working patterns, as opposed to 15% of men⁵⁹.

The National Strategy for Carers

While the review does not include carers in its Terms of Reference, carers face many similar issues to parents. The Government, in The National Strategy for Carers, has set out what it has been doing, and what it intends to do, to offer practical help to carers in ways which are needed and which will work. These include a website and helpline for carers, a new grant to allow carers to have a break from caring, and work-focused interviews for carers on benefit to help them keep in touch with the world of work. Over the next three years, 300,000 carers working a small number of hours each week will benefit from the increase in the Invalid Care Allowance earnings threshold. The Scottish Executive is developing its own measures to assist carers.

⁵⁷ La Valle, I., Finch, S., Nove, A., and Lewin, C., "Parents' Demand for Childcare", DfEE, Research Report RR126, March 2000

⁵⁸ Hogarth et al, op. cit.

⁵⁹ Social Trends 30, Office for National Statistics, 2000

4.10 Flexible working has dominated the Ministerial roundtable discussions. It has emerged as the most important area for giving working parents choice. Over half of women put flexibility in working arrangements as their top priority when they return from maternity leave⁶⁰. This is often interpreted as working part-time and, usually, working half the hours worked by a full-time employee. However, this narrow definition is often not what many parents want in terms of flexible working practices. They would prefer either slight reductions in their working time or changes in the times when they are at work.

Lacking flexibility for mothers

A skilled mother working in a factory asked her employer if she could start 15 minutes later so that she could take her child to nursery. She offered to make up the time later in the day. Her employer refused, she was forced to resign, and a skilled individual, who wanted and needed to work, dropped out of the UK workforce.

4.11 The Equal Opportunities Commission (EOC) receives many enquiries from people wanting to change their working hours, often after the individual has discussed this with their manager. When people have these discussions after consulting the EOC, nearly four in ten are successful in agreeing a change of hours or other acceptable arrangements.

4.12 The Government, through the Work-Life Balance campaign, will provide in the New Year advice to individuals on how to go about arranging flexible working patterns with their employer. It will also advise employers how to respond to such requests. The Government believes that this advice will play

a powerful role in helping employers and employees to work together to reach an agreement which suits them both. This will, over time, help change the culture of the workplace.

4.13 Many people have suggested that the Government should go further to speed up this process by introducing a right to work part-time. There is some confusion as to whether a right to work part-time has already been established in case law, under the Sex Discrimination Act 1975. Each case is decided by employment tribunals on an individual basis. Employers need to show that they have given serious consideration to any request for a reduction in working hours. They also need to show that they can objectively justify the requirement to work full-time. Women do not, therefore, have a statutory right to work on a reduced hours basis but employers can be found to be discriminating if they have turned down a reasonable request to work part-time.

4.14 Case law also suggests that women are most likely to be granted the right to return part-time by employment tribunals if they are in relatively junior jobs without supervisory or financial responsibilities. A summary of employment tribunal cases in this area is at Annex E. The nature of the law at present has led to a lack of clarity for employers and employees about their respective rights and responsibilities.

4.15 There are a large range of options available which would introduce greater flexibility and certainty. In the following paragraphs three possible approaches are outlined. The Government recognises that these are not the only options and would welcome views on other approaches in addition to those outlined here.

⁶⁰ Hogarth et al, op. cit.



4.16 The Government is considering whether to **introduce a right for mothers to work reduced hours during the total period of maternity leave available, if the mother chooses to return to work before the end of that time**. This would ease the transition back to work, particularly for those women who, as we highlight in Chapter 3, cannot afford to take all their current entitlement. It would reduce the need for mothers to negotiate hard for new terms when they are coping with a young baby. There would be no exemption from this right for any employers as it is strictly time limited. It would cease at the end of the total entitlement to maternity leave.

4.17 There would be a net gain for employers where the mother returns earlier than she might to her job because of the opportunity to start back on reduced hours, or where this opportunity persuades her to return. The costs to employers of cover vary, depending on take-up, but in Chapter 3 we calculate that they could be as high as

£18 million a week. We also calculate that there could be savings in recruitment costs of £30 million if changes in maternity leave persuade an additional 10% of mothers to return to work. Offering the right to ease back into the workplace on reduced hours may have the same effect. There would be costs in covering the hours not worked but these would be much less than those of covering the work completely⁶¹.

4.18 Another option would be to **extend this right to work reduced hours until the end of the maternity leave period to fathers, but to exempt the smallest employers from it**. Such a right would cater for those families where the father wishes to spend more time caring and bonding with the baby without having to give up his current job. Employers of fathers who opt to work reduced hours for this limited period would face new costs. This and the potential disruption to small employers means there is a case for an exemption for them. The size of employer who would qualify for this exemption is discussed in Chapter 6.

4.19 Over 20% of working fathers, with children under 5, have indicated that they would wish to work reduced hours but there is no data on how many new fathers would wish to do so. There was much greater interest in flexi-time and term-time only working. Nor were the fathers asked to consider the pay cuts that would be involved⁶². In the fairly unlikely event, therefore, that all of the fathers who have said they want to reduce their hours did so by 25%, the cost to employers of cover would be £1.9 million a week⁶³. However, there

⁶¹ Additional costs of a week's cover for a full-time woman average £97. Additional costs of covering the additional hours if the woman reduced her working hours by 25% would be around £24, a saving of £73 if the mother had taken her full entitlement to maternity leave rather than returning on reduced hours.

⁶² Hogarth et al, op. cit.

⁶³ There are 350,000 working new fathers every year. The costs of a week's cover is on average £110 and the costs, therefore, of covering for a quarter of this, for the 20% of new fathers who might take it, is pro rata £28.

would be no continuing cost to employers as the right to work reduced hours would cease at the end of the entitlement to maternity leave. This also means that there does not need to be any fundamental job redesign, as ad hoc arrangements could be used. Working parents and employers will clearly have experience to go on as to whether the job can or cannot be done on a reduced hours basis which they can draw on in discussing future arrangements.

4.20 Another option is to **introduce a right for both mothers and fathers to work reduced hours when the mother's maternity leave ends**. This could be introduced with an exemption for small employers and there could be grounds for large employers to refuse to grant a request based on a harm test. This is explored further in Chapter 6. The evidence about demand from women for the right is mixed. More women are currently offered part-time work on return from maternity leave than take it up. An inability to afford to work part-time and the unsuitability of the hours offered are the primary reasons given for this⁶⁴. A right to work reduced hours would not solve these problems.

4.21 There are advantages for business in flexible working, as explored in Chapter 2. However, a new, continuing, right could cause particular problems for small businesses. They have less flexibility than large businesses in meeting a request from mothers and/or fathers without disrupting the organisation of work. Large employers may have similar problems where the request comes from a small or highly specialised part of the workplace. Some businesses address

this successfully through job sharing or job redesign. Others are concerned that there may be problems finding the right job share partner for a mother or father working reduced hours, or that the arrangement may fall apart if one partner leaves.

4.22 Most mothers who return to work from maternity leave do so on a part-time basis already. There are 63,000 mothers each year who return to a full-time job and a proportion of these might seek to work reduced hours instead. Some of the 21,000 women who return to work part-time in a different job or for a different employer might have preferred to return to their previous job on a reduced hours basis. However, some of the mothers who return to work full-time may have had the option to return to work part-time⁶⁴. Hence the number of additional requests for reduced hours that employers might face from mothers is likely to be in the low tens of thousands each year.

4.23 It is much more difficult to predict the likely take-up of reduced hours amongst fathers. More parents may choose to share childcare between them by each working reduced hours. This might persuade more mothers to return to the workplace. On the other hand, while the number of hours women work falls sharply with the number of children they have, this is not the case for men. If anything their hours increase the more children they have⁶⁵. There are 350,000 new fathers every year. If 1% of these decided to reduce their hours, and pay, by 25% to 30 hours then the costs of covering these hours for employers would be £5 million a year or less as some of these requests would be rejected⁶⁶. As highlighted above, it is unlikely that more than 20% of

⁶⁴ "Survey of how parents balance work, family and home", DTI, 2000

⁶⁵ Schiebl, L., and Dex, S., op. cit.

⁶⁶ Calculation is based on the costs of cover being 24% of the costs of cover at average gross wage.

new fathers every year would opt to work reduced hours. The percentage may be reduced still further as this option may involve working reduced hours for a longer period. If all 20% opted to work reduced hours and employers agreed all these requests, the costs to employers of cover for the remaining hours would be £100 million a year. These costs would increase every year as there would be new parents with this right, in addition to those that had taken up the right in previous years. Some may of course give up the right as their children become older. There would also be administrative costs of dealing with requests to work reduced hours in a formal way and for redesigning jobs.

4.24 It has been suggested that disruption to business could be minimised if any right to work reduced hours could be time limited, perhaps until the child's fifth birthday. This would limit the cumulative costs. But employers would still face the initial costs of job redesign and in practice the individual is likely to have proved by the time a child is five that the job can be done on a reduced hours basis. It would be difficult for employers to justify the termination of a viable arrangement at that point and disputes may end up in employment tribunals.

4.25 Employers and their representatives have suggested that, instead of a change to the law, they should be offered incentives to increase the spread of flexible working patterns. This is explored in Chapter 6. The Government would welcome views on the issues raised.

Could parental leave be more flexible?

4.26 Both men and women can now take unpaid parental leave of 13 weeks for children born since 15 December 1999 up until the child's fifth birthday⁶⁷. This enables parents to spend more time with their children or to help children settle into new childcare arrangements or a new school, for example. Three per cent of parents have exercised this right⁶⁸. It appears that the majority are men (reflecting the fact that new mothers will not have returned to work until relatively recently).



4.27 The Government does not want to reopen the debate around the regulations on parental leave at this stage, with one exception. For parents of disabled children, parental leave can be taken up to the child's eighteenth birthday. While this has been welcomed by parents of disabled children, it does not take account of their additional needs, such as time to learn to use special equipment. The Government is considering whether to **increase the amount of parental leave available to the parents of disabled children.**

⁶⁷ For details on existing entitlements, see Annex D.

⁶⁸ "Survey of how parents balance work, family and home", DTI, 2000

4.28 Encouraging businesses to develop more flexible parental leave schemes is explored in Chapter 6.

4.29 The **possibility of introducing paid parental leave** has been raised a number of times during the review, as one way of helping parents spend more time with their children. Family representatives argue that, without payment, parental leave is unlikely to be taken up by men or to be affordable to the low paid. But employers do not perceive that it is just financial reasons that prevent working parents taking parental leave. A sizeable minority cited the other partner taking leave or work pressures as reasons for non take-up⁶⁹.

4.30 The business community has, however, expressed concern that any payment would increase absence from the workplace and affect business performance. Despite this, nearly one in ten of employers offer or intend to introduce some form of paid parental leave. The costs of introducing paid parental leave are considerable for both the State and employers. Views on its introduction are invited.

Figure 7: Costs of paid parental leave over 5 years⁷⁰

Level of payment (£ per week)	Mothers One week (£ million)	Fathers One week (£ million)
£25	10 (30%)	4 (10%)
£50	26 (40%)	13 (20%)
£75	48 (50%)	40 (30%)
£100	77 (60%)	71 (40%)

4.31 As well as the costs illustrated in Figure 7, there would also be costs to employers of providing cover but these would depend on the level of take-up, ranging up to £77 million if 40% of fathers take one week's parental leave paid at £100. Costs of administration would be another factor but these would depend on the method of payment chosen.

4.32 Parents and other employees with dependants are now able to take unpaid time-off to deal with an emergency. Forty-three per cent of parents have taken this opportunity⁷¹. In the vast majority of cases, this was to look after a sick or injured child. However, at a number of the Ministerial roundtables, the need to expand the list of occasions when the right might reasonably be used was raised. One option would be to **include routine hospital appointments within the right to time off for dependants**. This is unlikely to increase the level of absence from the workplace significantly and, therefore, should have little impact on employers. But it would benefit parents with disabled or sick children.

Providing childcare

4.33 Childcare is another important factor in helping both parents to work. Thirty-three per cent of mothers who do not work cite the lack of suitable childcare as the reason. In addition, childcare costs are a particularly significant barrier if there is more than one child or if children are of pre-school age⁷².

4.34 Seventy per cent of full-time working mothers and 62% of those in a part-time job

⁶⁹ "Employers' survey on support for working parents", DTI, 2000

⁷⁰ The table above gives cumulative cost estimates for a set of *illustrative* options for each week paying for parental leave up to the child's fifth birthday (in £ million) and, in brackets, the estimates of take-up used to derive these. There are 260,000 new mothers and 350,000 new fathers in employment (LFS, Autumn 1999).

⁷¹ "Survey of how parents balance work, family and home", DTI, 2000

⁷² Bryson et al, op. cit.

use formal childcare. Nearly three-quarters of parents who work or study outside the home say that their current childcare arrangements are not ideal. The most commonly cited reasons are lack of local provision and inability to afford more adequate childcare. Households with younger children and those from lower income groups more frequently report difficulties in paying for childcare⁷³.

4.35 The childcare tax credit in the WFTC and the Disabled Person's Tax Credit (DPTC) helps low and middle income families with the cost of good quality childcare. This provides families with help of up to £70 per week for one child, or £105 per week where two or more children are being cared for.



4.36 The Government recognises that the cost of childcare for disabled children is higher than for other children. The Government's position remains to target help on those who need it most through the childcare tax credit in WFTC and DPTC. It will look at how successful this has been as part of the evaluation of the two tax credits. One area that will be examined is whether the rules

restricting eligible childcare should be changed to allow wider access to help with childcare costs, particularly for parents (such as those with disabled children) who have difficulty getting access to eligible childcare.

4.37 The National Childcare Strategy aims to ensure good quality, affordable childcare for children aged up to 14, and up to 16 for those with special needs, in every neighbourhood. To date, the Strategy has created new childcare places that have helped 427,000 children across England. The key to the programme is partnership. In England, Early Years Development and Childcare Partnerships (EYDCPs) have been set up in every local authority. In Scotland, local childcare partnerships have been established in each local authority area.

4.38 Many of the concerns on childcare raised during the review should be met by the recent announcement for England of:

- a threefold increase in the annual investment in childcare from £66 million this year to over £200 million by 2003/4
- new childcare places for 1.6 million children by 2004
- 900 new nurseries in deprived areas using part of the money
- five pilot areas in Cornwall, Ealing, Kirklees, Lancashire and York to test the benefits of providing early education and childcare on one site
- the ambition to provide a childcare place in the most disadvantaged areas for every lone parent entering employment by 2004.

⁷³ La Valle et al, op. cit.

4.39 Similar strategies have been developed by the Scottish Executive and the Welsh Assembly.

4.40 The Government is also concerned about the falling number of childminders and has introduced a number of measures to reverse the trend. To encourage more new childminders, start-up grants (worth £21.5 million) have been introduced. Up to 32,000 new childminders will be supported over the next three years.

4.41 In addition, by 2003 the New Opportunities Fund will allocate £220 million from the proceeds of the National Lottery to create new out of school hours childcare places for 865,000 children across the UK.

4.42 At a number of Ministerial roundtables, the inability of schools under existing legislation to provide childcare unrelated to the activities of the school has been raised. They may provide study support activities only for their own pupils out of school hours. The Government will shortly publish a consultation document, as part of the Regulatory Reform Bill process. This will propose a permissive, not compulsive, power to enable school governing bodies to provide childcare for other children out of school hours, as well as for their own pupils.

Childcare Link – 0800 0960296 – is a freephone information line for England and Scotland. It provides information on childcare provision and signposts callers to local Children’s Information Services.

4.43 Very few employers offer any assistance with childcare to their employees. Only 2% of employers provide a workplace nursery and only 1% subsidise nursery places. Providing information about childcare is a low cost way for employers to help employees but only 12% of employers go this far⁷⁴.

4.44 Many EYDCPs already play an active role in raising employers’ awareness of the business case for supporting childcare initiatives for their employees or the wider community. The Government is stepping up the support given to EYDCPs to undertake this work. One option would be to **consider what tools would best support EYDCPs in their work with the business community.**

4.45 Options on how the Government might support more childcare businesses are included in Chapter 6.

⁷⁴ Hogarth et al, op. cit.

Summary

This chapter sets out a number of options to support working parents. Views are sought on the following options, the relative priorities and costs and benefits, including comments on those set out in the text.

- Launching further campaigns to raise awareness of employment rights for parents in work.
- Considering whether SMP rules act as a barrier to women keeping in touch and, if so, how they could be changed.
- Finding new ways to help women returning to work after leave of one year or more to improve their skills.
- Increasing the amount of parental leave available to the parents of disabled children.
- Including routine hospital appointments within the right to time off for dependants.
- Considering what tools would best support Early Years Development and Childcare Partnerships in their work with the business community.

In addition, the Government is seeking views on:

- ways to enable more people to work on a reduced hours basis, through
 - allowing mothers to work reduced hours during the total period of maternity leave available if the mother chooses to return to work before the end of that time
 - extending this right to work reduced hours to the end of the maternity leave period to fathers
 - introducing a right for both parents to work reduced hours when the mother's maternity leave ends.

This right could be balanced by some exemptions for small businesses and by allowing other employers to refuse requests to work reduced hours, if it would cause harm to the business. These rights for employers and voluntary means of achieving more flexible working are explored in Chapter 6,

- the possibility of introducing paid parental leave. The costs of its introduction would be considerable, for business and the State.

For information on how to comment on these options, see "How to respond".

SUPPORTING BUSINESSES

5.1 This chapter looks at the problems faced by business when a woman goes on maternity leave and the options on how they might be eased.

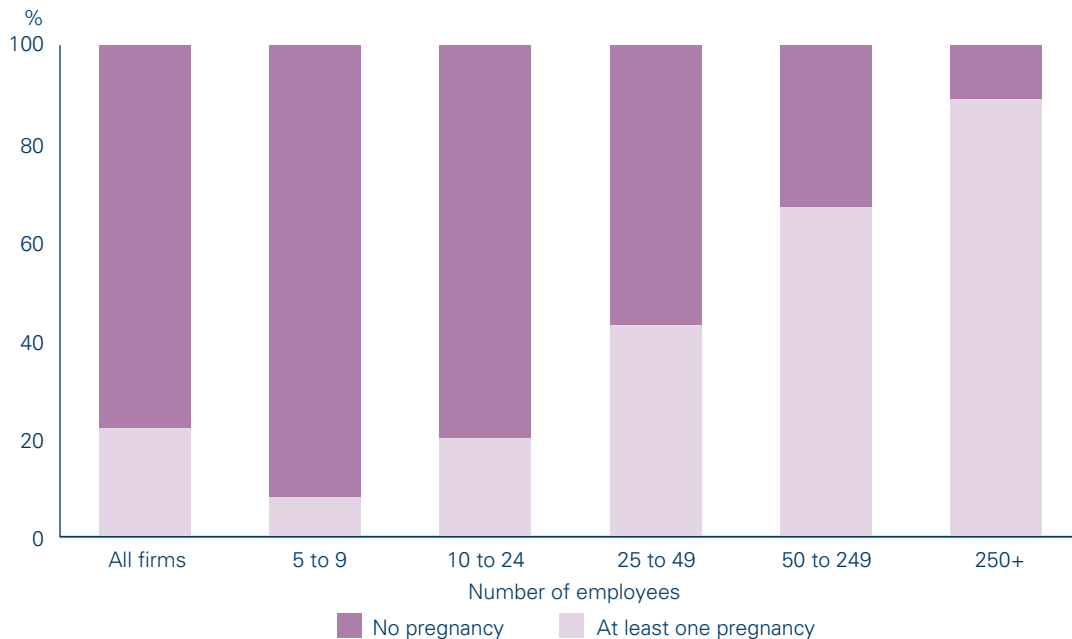
Businesses face problems with complex legislation...

5.2 Employers' priority is to keep their businesses profitable and competitive. They need to know what the law requires and so do pregnant women. It should be possible to find solutions to help both. Maternity leave can be a problem for businesses, especially smaller ones. However, for many of them this is a relatively infrequent event. Businesses with

fewer than 10 employees are likely to have a pregnant employee only one year in ten and those with fewer than 25 employees, one year in five as shown in Figure 8⁷⁵. Only 6% of small businesses say that maternity legislation has a significant impact on their business⁷⁶.

5.3 Best practice is not necessarily encouraged by regulation. Government needs to take care that legislation to establish

Figure 8: Incidence of pregnancy by establishment size each year



⁷⁵ "Employers' survey on support for working parents", DTI, 2000

⁷⁶ "Survey of SMEs' knowledge and awareness of employment rights", DTI, 2000. Report to be published next year. Survey covers businesses with up to 50 employees.

minimum standards does not discourage the voluntary adoption of higher standards. This may result if the law is too complex or if it has not been designed on a “think small first” basis. Many businesses think that the balance of rights and responsibilities has been lost. This review provides an opportunity to consider the current legislation to see how it can be improved.

...on maternity leave and pay

5.4 Employers are bewildered by, or unaware of, the existing legislation on maternity leave and pay. Employees are equally confused. Complexity is particularly a problem for small businesses that rarely have to encounter the world of maternity legislation.

Two small businesses told us:

“Understanding the rules of Statutory Maternity Pay (SMP) and complying with them is difficult especially when someone is sick with a pregnancy-related illness before and after the SMP period. All the dates make it difficult to get it right. Less complex procedures could be introduced.”

“As a small recruitment agency, we can handle a payroll of about 100 people a week. Statutory Sick Pay (SSP), SMP and the more recently introduced payroll deductions (Working Families’ Tax Credits and student loans) and attachment of earnings orders require additional paperwork and calculations. SSP and SMP are a particular problem, rules are difficult to follow and complicated to calculate. In particular, payments to the prospective mother are not always recoverable from the State and can impact on already tight profit margins for a small business.”

5.5 Around one-third of employers are unaware of either the rules, or their detail, concerning maternity leave. Smaller organisations showed a lower level of awareness particularly about the detail of maternity leave provisions⁷⁷. Many are also unaware of the funding arrangements for SMP.

5.6 This suggests that the time is now right to simplify the current maternity pay and leave system. The review has heard a number of suggestions for doing so. Many of the suggestions themselves are complex. Examples of what might be looked at, many of which would require changes to primary legislation, include:

- changing the average earnings calculation
- changing the rule by which women have to go on maternity leave if they have a minor pregnancy-related illness in the last weeks of the pregnancy
- looking at the relationship between maternity leave and the working time regulations
- creating more certainty over the dates and length of maternity leave by basing it on a fixed length and from a fixed date rather than dependent on the date of the baby’s birth
- reviewing guidance on contractual rights during maternity leave to make entitlements clear to employers and individuals
- setting the same qualifying dates for maternity leave and SMP, and
- examining the differences between SMP and Maternity Allowance (MA) and looking at the scope for refining the qualifying criteria (including for those women entrepreneurs who currently may not be eligible for SMP).

⁷⁷ “Employers’ survey on support for working parents”, DTI, 2000

5.7 This is a highly technical subject, with wide implications. Radical simplification is possible, but could be costly. One option is to **bring together the experts in business, the public and voluntary sectors, and unions to make recommendations to the Government on how the existing rules could be made easier for employers to understand and cheaper to administer.**

All suggestions for simplification that have been and are received will be considered. The Government would welcome further suggestions.



The length of leave

5.8 Recent changes in the notification period on return from maternity leave have left many employers uncertain when the mother is going to return. This makes planning difficult and may build up resentment in other staff. Notice also has to be given for return from maternity leave only in some circumstances.

5.9 Options to solve this would include **harmonising the rules on return to work to ensure there is always an adequate notification of return to work, and lengthening the current 21-day notification**

period. Some employers argue that it is too short for proper planning while others have said that it gives them no difficulties. The major problems seem to occur when there is no contact between the manager and the mother until the last possible moment, and particularly when it is only at this point that the mother asks for flexibility in her working hours.

5.10 The Government also recognises the need for better guidance on maternity-related sickness absence to help employers actively manage such absences, as they would do any other sick leave. The options on extending the length of maternity leave, set out in Chapter 3, would make it less likely that a mother would run out of maternity leave before recovering from most illnesses.

Getting the job done

5.11 Providing cover is a particular problem for smaller employers. There is rarely capacity within a small organisation to pull in a “spare” person from somewhere else to cover absences. Often managers’ decisions to share the work among existing staff mean they work longer hours themselves. This is particularly the case in owner-manager businesses. Sometimes employees welcome the opportunity to earn overtime but others resent the extra burden. All employees’ pensions depend on others having children who will then work, but this is a difficult message to get over on a day-to-day basis. For employers, any such resentment has to be managed. For example, a recent NOP poll for UNISON of their members’ concerns showed that covering for sickness absence was a far bigger source of stress than covering for maternity absence⁷⁸.

⁷⁸ “Against the Odds: Delivering Local Services”, report of an NOP survey of UNISON local government members, May 2000

5.12 Temporary staff brought in from outside is another solution but smaller businesses are often not aware of how much this will cost, where to find the right people or their legal obligations to them. They are also concerned about paying two wages for one job although this overlooks the fact that they can reclaim from the Government most of the money they pay out in SMP.

5.13 Employers have asked whether it would be possible to exclude people brought in from outside to cover maternity leave from the current unfair dismissal rules. There is no need for this as, in broad terms, the existing rules for people on fixed-term contracts cover the position of temporary workers replacing an employee on maternity leave whose dismissal is due solely to the expiry of the contract. Any revised guidance on maternity leave and parental leave following this consultation will explain these rules clearly.

5.14 The Employment Service, with its access to people on New Deal schemes where there are already subsidies for business, could work more actively with employers to identify and train suitable people to provide cover. The private recruitment industry already has a wealth of experience in helping employers find cover for key posts. Replacing, even temporarily, skills within the workplace is difficult but it is easier where there is longer notice. If employers contact private recruitment agencies or the Employment Service as soon as they learn that a woman is pregnant, to talk about their needs, it is much more likely that a temporary replacement can be identified and trained by the time he or she is needed. Any extension of maternity leave to a year could also help by making it more

worthwhile for someone to be trained for that period.

Finding cover

“Our childcare business relies upon having trained and qualified staff who have undergone both local authority clearance procedures and a subject access check where appropriate. These checks can sometimes take many weeks to arrive. How can I arrange cover if one or more staff takes the new leave?”

“We are required by Social Services to maintain an adequate ratio of staff to children and, therefore, if we fail to find a suitable replacement, we either have to turn business away (not an easy alternative because of contractual obligations) or break the law.

“There is a shortage of suitably qualified and trained individuals. More unqualified staff will be employed which will impact on the quality of service and, in any event, unqualified staff can only be taken on in small numbers.”

5.15 To help employers manage absences, one option would be to **invite the partnership to consider how the Employment Service and private recruitment agencies work with employers at an earlier stage to manage absences**⁷⁹. The partnership is currently considering how best to meet the needs of small businesses and at the same time provide opportunities for unemployed people to develop new skills. It could also be invited

⁷⁹ A partnership to help employers manage absences has been set up by the Minister of State, DfEE. This consists of small business organisations, private recruitment agencies, the Employment Service, the Small Business Service, DfEE and DTI.

to consider whether to issue best practice guidance including examples of cover for paternity leave, drawing on existing evidence.

A guide for small businesses

The partnership has drawn up a booklet which outlines the practical options available to small businesses for covering absences resulting from maternity and parental leave, time off for dependants and other absences. It also provides information on the services both private agencies and Jobcentres can offer in such circumstances and signposts sources of information.

Should businesses be required to act as an arm of the State?

5.16 Many small businesses think that they meet the costs of SMP and that paying for cover, therefore, means they are paying twice. In reality, most of the SMP they pay out is refunded by the Government. There is a clear need to communicate this more widely.

5.17 However, there is concern in small businesses about having to act as agents for government in administering SMP. But if mothers received SMP direct from the State it would take on more of the characteristics of a benefit, rather than a payment that reflects a woman's commitment and contribution to a particular employer. Paying SMP via the employer reinforces a woman's link to that employer and to work in general⁸⁰. It is also easier to manage for employers who decide to top up state payments, although it

tends to be large rather than small businesses that do this. Only 11% of employers with fewer than 250 employees, while 24% of those with over 250 employees offer or intend to offer more than the law requires⁸¹. In addition, employers have spent money on payroll systems that support the current arrangements.

5.18 However, the Government recognises that asking employers to administer SMP is not a cost-free option. Currently the State reimburses employers for 92% of the SMP they pay out or 105% if their previous year's National Insurance liability (employers' plus employees') was £20,000 or less. Only 7% of employers currently pay SMP in any one year and of these some 44% are already entitled to recover 105% of the SMP they pay out. The Government would welcome views on **whether the mechanism for paying SMP to mothers through their employers operates as well as it might particularly in the way the system works for small employers**. Many of the changes suggested would be expensive for the State, others less so. The Government would, therefore, welcome views on the relative priority for each of them:

- enabling more small and medium-sized employers to qualify for complete repayment of the money they pay in SMP and the additional 5% compensation.
- encouraging small employers that cannot afford their SMP payments to women employees to seek it in advance from the Inland Revenue

⁸⁰ Callendar et al, op. cit.

⁸¹ "Employers' survey on support for working parents", DTI, 2000

- making a short, simple reminder of maternity leave and pay requirements, and where to find more information available through the Inland Revenue's employers' pack.

5.19 An alternative to these options is for **the State to take on the responsibility for paying SMP direct to the mother**. As explained in paragraph 5.17, this would have disadvantages, for example, reducing a woman's link with her employer. As such it would flow in the opposite direction from the recent reform which made the Working Families' Tax Credit payable through the wage packet. Some small employers would welcome such a change but large employers are concerned about the costs of changing payroll systems. There are no ready mechanisms for paying SMP direct to mothers. Their creation would have to wait until existing system changes to the tax and benefit system are absorbed and could not happen until the end of the decade.



5.20 There are similar complexities in devising any system for payment of paternity leave. As there is no existing system around payment to fathers, the Government would like views on **the advantages and**

disadvantages of payment mechanisms so that if paid paternity leave is introduced it can take these into account in devising any such system.

Advice and guidance designed for smaller businesses

5.21 Employers, particularly small ones, often do not know how to get help and find that guidance reflects the policies of government departments or organisations rather than answering their particular needs.

5.22 Analysis of calls to a range of helplines shows that employers want to do the "right thing" but are uncertain what that is. Nor does the guidance yet make full use of the potential of the Internet. Equally, employers are concerned that it does not set out their rights or employees' responsibilities. The options are listed below.

- **Developing integrated guidance from different departments**, including making use of the Small Business Gateway and UK Online.

TIGER (Tailored Interactive Guidance on Employment Rights)

TIGER – www.tiger.gov.uk – is fully interactive and tailored to suit each person who uses it. At the click of a button, employers and individuals can find out how the minimum wage applies to them. They can enter their own details and find out if the wages they pay or receive are above the minimum. The Government is planning to extend the TIGER system to other employment rights.

- **The development of packs to help employers and employees to draw up a maternity leave “contract”** covering an agreed level of contact during that time, an initial indication of the expected return date and whether the employee might wish to change her hours on return and how this will be handled.
- **Improving guidance by providing one page flow charts for employers and backing this up with more detailed guidance for advisers.** For examples of one page flow charts for maternity leave, parental leave and time off for dependants, see Annex F.
- **Recasting existing guidance in the form of a rights and responsibilities charter for maternity and parental leave** and possibly on other employment areas.

Rights and responsibilities

Maternity leave

- An employee has the **right** to maternity leave but the **responsibility** to give 21 days’ notice if she wishes to return early. If the employee does not give suitable notice, the employer has the **right** to refuse.
- An employee has the **right** to return to the same job on the same terms and conditions after paid maternity leave. When an employee has taken unpaid maternity leave, the employer has the **right** to offer suitable alternative work rather than the same job.

Parental leave

- An employee has a **right** to parental leave but the **responsibility** to give 21 days’ notice of their intention to take it.
- An employer has the **right** in most cases to postpone the leave for up to 6 months if an employee’s absence would unduly disrupt the business.

Time off for dependants

- An employee has the **responsibility** to tell their employer, as soon as is practicable, the reason for their absence and how long they expect to be away from work.
- An employee has the **responsibility** to use the leave only for the purposes specified in the legislation.
- An employer has the **right** to take disciplinary action against an employee who they think is not doing so.

Summary

This chapter sets out a number of options to support businesses. Views are sought on the following options, the relative priorities, and costs and benefits, including comments on those set out in the text.

- Bringing together experts from business, the public and voluntary sectors, and unions to make recommendations to the Government on how the existing rules on maternity pay and leave could be made easier for employers to understand and cheaper to administer.
- Harmonising rules on return to work and lengthening the current period of notification of return from leave.
- Inviting the partnership on employers managing absences to consider how the Employment Service and private recruitment agencies might work with employers at an earlier stage to manage absences.
- For maternity pay:
 - enabling more small and medium-sized employers to qualify for complete repayment of the money they pay in SMP and the additional 5% compensation
 - encouraging small employers that cannot afford their SMP payments to women employees to seek it in advance from the Inland Revenue
 - making a reminder of maternity leave and pay requirements available through the Inland Revenue’s employers’ packor
 - the Government to pay SMP direct to the mother from 2010.
- Developing integrated guidance from different government departments.
- Developing packs to help employers and employees to draw up a maternity leave “contract”.
- Improving guidance by providing one page flow charts for employers and backing this up with more detailed guidance for advisers.
- Recasting existing guidance in the form of a rights and responsibilities charter for maternity and parental leave.

In addition, the Government is seeking views on the advantages and disadvantages of different payment mechanisms so that if paid paternity leave is introduced, these views can be taken into account when devising a payment mechanism.

For information on how to comment on these options, see “How to respond”.

ENCOURAGING FLEXIBLE BUSINESSES

6.1 This chapter sets out what help might be given to businesses to get most benefit from people's desire to work flexibly. It draws on the case for change set out in Chapter 2 and considers options on flexible working, making parental leave more flexible, and developing childcare as a business.

Setting the context

6.2 Employers have moved a long way in the past 10 years to accommodate people's wishes to balance their home and work lives. While this chapter concentrates on working parents, what it has to say is applicable more widely to the debate on work-life balance.

Work-Life Balance campaign

The Prime Minister launched the Work-Life Balance campaign in March 2000. Its aim is to increase employers' awareness and take-up of employment policies and practices which benefit their businesses and help their employees achieve a better balance in their lives. The campaign is being developed with advice from the Ministerial Advisory Group on Work-Life Balance. It is being delivered in partnership with Employers for Work-Life Balance (an independent group of 22 employers who have benefited from work-life balance policies).

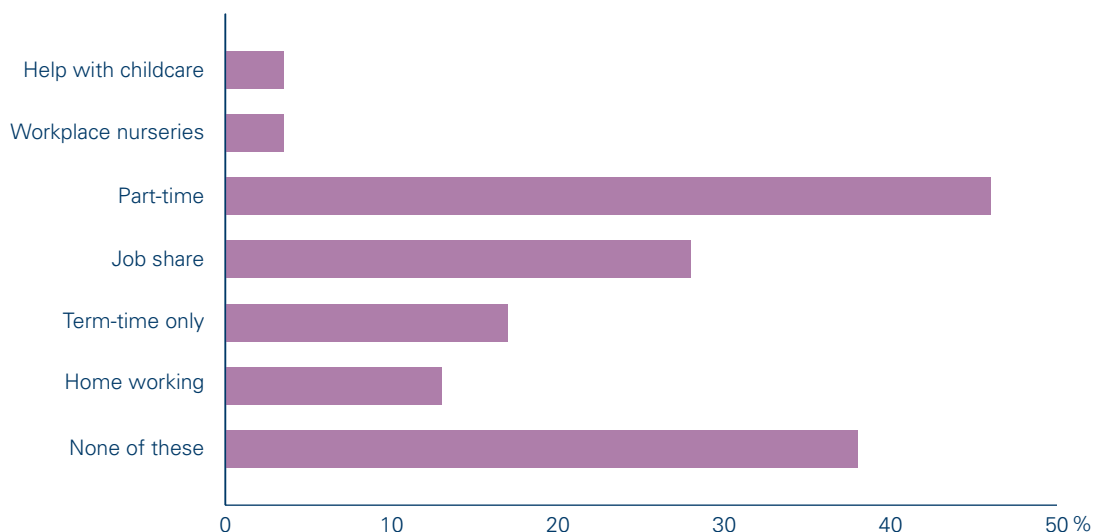
The campaign covers England and Scotland. Separate but related campaigns are planned in Northern Ireland and under way in Wales.

Sixty-nine employers, including large charities, manufacturers, hospital trusts and small businesses have been awarded funding in the first round of the £3.2 million Work-Life Balance Challenge Fund. Each winner will receive free consultancy advice to help them introduce flexible working practices. The results of each project will be publicised widely to make sure that other employers can learn from the experiences gained. The Government will invite more applications from employers for Challenge Fund support in the spring.

6.3 In 1998, over 60% of workplaces with more than 10 employees had at least one arrangement to help employees balance work and family lives as shown in Figure 9⁸².

⁸² Cully, M. et al, op. cit.

Figure 9: Workplaces with more than 10 employees⁸³



6.4 By 2000 part-time work was available in three-quarters of workplaces. A sizeable minority allowed term-time only working or working from home. In 1998 large organisations were more likely to offer flexible working than small organisations, although there was no clear difference between them on working from home. The differences by size of company are much less marked in 2000.

6.5 The public and voluntary sectors have often led the way in exploring innovative ways to help working parents. They can rarely afford to pay at the top rates and so seek to recruit and retain staff on the basis of better conditions. DTI allows unpaid parental leave to be used for temporary shortening of hours during school holidays. DfEE offers maternity leave of up to 52 weeks, gives parents special leave on the day their child starts school and currently has 500 home-workers. The NHS has experimented successfully with allowing nursing teams to devise their own work schedules.

Greenvale AP plc is one of Europe’s leading suppliers of fresh and seed potatoes with 14 operating outlets in the UK.

At March in Cambridgeshire, the company employs 213 people, a large percentage of whom are female. There are several direct competitors locally, so to recruit and retain staff, Greenvale successfully operates a variety of shifts.

The ‘family friendly’ shift (9.30am – 2.30pm) was designed to fit in with school hours. During the summer school break, these workers are allowed to take authorised absence from work if they wish. Greenvale also operates a weekend shift, which appeals mostly to college students. They often wish to work full-time during the summer and so they are able to cover for those staff taking leave.

Greenvale have retained most of the initial recruits for this shift and gained the flexibility required to meet customer demand.

⁸³ Cully, M., et al, op. cit.

What do businesses think?

6.6 More than half of all employers think that everyone should be able to balance their work and home life. Only 20% thought this was none of their business although small employers are more likely to say this. This is shown in Figure 10⁸⁴. Most employers put the needs of the business first. Support for balance is tempered by concern about its impact on the business, particularly about costs and getting the job done when key people are not available.

Concern about backlash

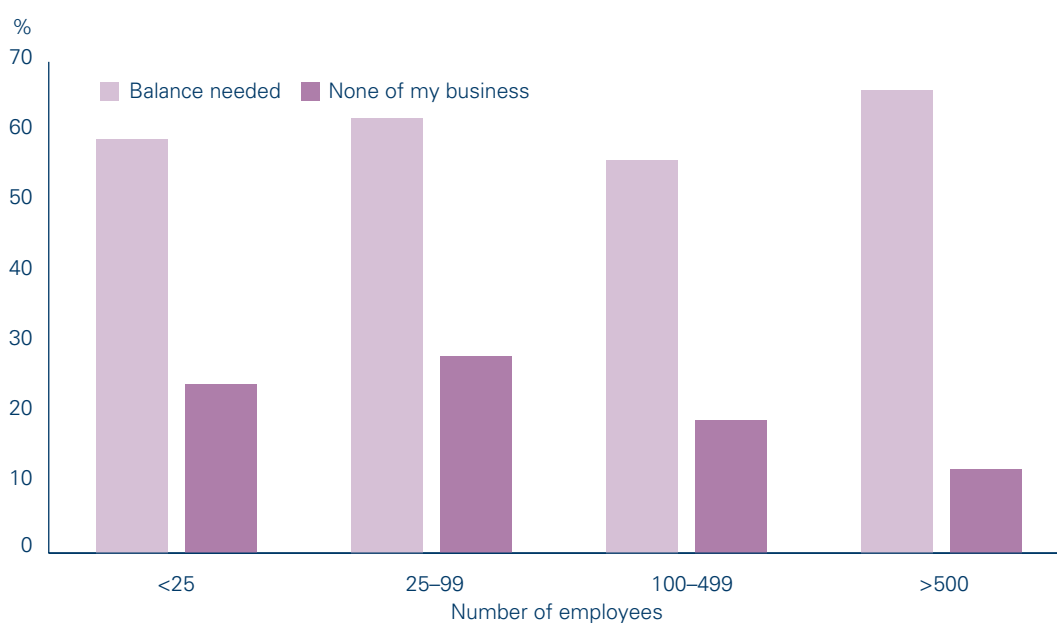
6.7 A sizeable minority of businesses recognise that policies which support only working parents can create unfairness. Concern about backlash was greater in smaller workplaces. Substantially fewer employees, when asked the same question, thought that work-life balance policies were unfair. This was also the case amongst those people who do not have caring responsibilities⁸⁴. This suggests that

employers may be overestimating the significance of this issue for their workforce. Indeed the Equal Opportunities Commission (EOC) reports that it has seen no evidence of backlash in calls to its helplines.

6.8 The demand for flexible working patterns is similar for employees both with and without caring responsibilities. Only job sharing and compressed hours are more attractive to those with caring responsibilities. This is shown in Figure 11 on page 46⁸⁴.

6.9 This widespread desire for flexible working indicates that there is more likely to be a backlash if businesses do not offer opportunities for flexible working to everyone. Many employers recognise this in their policies. But there are also cases where these do not translate into consistent practice because managers have different views of how the policies should be applied. Changing corporate culture is an important element in non-regulatory solutions to meet the demand for flexible working.

Figure 10: Is balance a matter for business?



⁸⁴ Hogarth et al, op. cit.

Employees want flexibility too

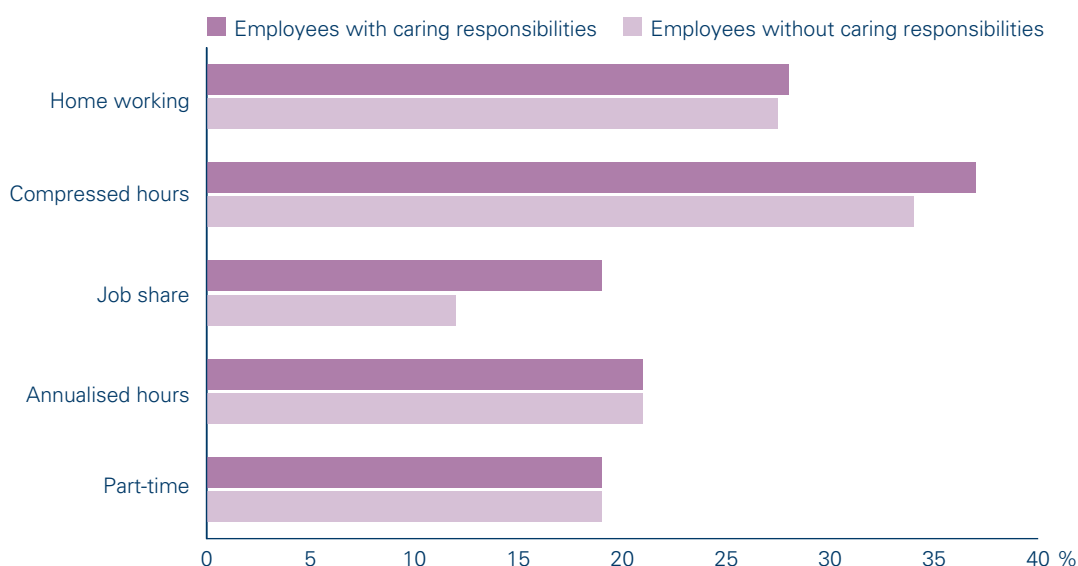
6.10 People in workplaces which offer flexible working practices report that 8% offer annual hours or a compressed working week, 24% offer job share, 17% reduced hours or term-time employment, 25% flexi-time and 88% part-time work. The last two are the only practices which are taken up by a quarter or more of employees at the workplace. Take-up is consistently higher in the public sector. Management discretion in deciding who is eligible for these policies is widespread. About 80% of employees said that managers had “a great deal” or “a fair amount” of discretion.

6.11 Employees report that requests to transfer from full-time to part-time work were less likely to be accepted in organisations with fewer than 25 people than they were in organisations with more than 500 employees⁸⁵.

Improving flexible working opportunities...

6.12 Flexible working means a negotiation between the employer and the individual about their needs to determine the pattern that helps them both. It does not mean that employers always have to accommodate demands to work Tuesdays and Wednesdays or 9.30am to 3pm if the work cannot be done that way. Employment tribunals have recognised this⁸⁶. Nor should traditional manager perceptions prevail that the job can be done only from 9am to 5pm, or that the person needs to be in the office at all hours. There is a great deal of expertise available to business about how to design jobs to meet needs.

Figure 11: Demand for flexible working among employees with and without caring responsibilities



⁸⁵ Hogarth et al, op. cit.

⁸⁶ A summary of employment tribunal cases in this area is at Annex E.

MTM Products Ltd has been manufacturing labels and nameplates in the East Midlands for over 30 years. By 1996 it had been making a loss for several years. Drastic action was needed to turn the business around.

A key strategy was to recognise the value of the knowledge and skills of its employees. It began to implement work-life balance policies with a particular focus on flexible working patterns.

Today MTM Products offers 25 different working patterns to its 31 employees. Importantly, the company is now making a profit and its performance is in the top quarter of its sector. It has been able to extend the working day at its key plant, staff turnover is negligible and last year absenteeism was just an average of two days per person. Equally, its employees are happier now that they are better able to balance their working hours with their lifestyle.

...through legislation or best practice?

6.13 The knowledge economy demands flexible working. Chapter 2 explains the main benefits to business of improving the quality of life for employees. Innovation is important and legislation can discourage it.

6.14 In implementing the European Directive on equal treatment for part-time workers, for example, the Government decided to eliminate any obstacles to part-time working through developing best practice advice⁸⁷.

6.15 The Government will seek an amendment to the part-time work

regulations. This will ensure that officers appointed by the Advisory, Conciliation and Arbitration Service (ACAS) to conciliate over claims of less favourable treatment of part-time workers are able to reach a binding agreement where this claim is brought to an employment tribunal⁸⁸.

Four businesses told us...

"It is important for government to promote the benefits of introducing flexible working practices, with legislation taking a back seat as this tends to put Chief Executives' backs up."

"It is important not to lose sight of the fact that in some instances it is not operationally feasible for particular jobs to be performed on a part-time (or even a job share) basis."

"Employers are afraid to say no to requests for part-time work even when operationally it's not feasible. There are no practical guidelines for employers to follow."

"Part-time working disrupts the work patterns and is a vehicle for all employees to get on the bandwagon."

Through best practice?

6.16 More could be done to encourage employers voluntarily to offer flexible working practices more widely. One option is to **consider whether incentives would encourage employers to offer flexible working patterns to more people and what incentives might work best**. The Government would welcome views on

⁸⁷ This guidance is available on the Internet at www.dti.gov.uk/er/pt-info.htm

⁸⁸ The Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000

whether incentives would be sufficient to help businesses respond to the demand and on priorities on the options for incentives set out below.

Radcliffe-Fleet Project

In the US, Fleet Financial Group and the Radcliffe Public Policy Institute explored how they would develop strategies to address business goals and to enable employees to balance work and their families. A number of different approaches were tested, including teleworking, flexible schedules, and job reorganisation. Qualitative and quantitative measures were developed to judge the success of the project. These showed that:

- there is a positive relationship between improvement in business outcomes and quality-of-life outcomes
- productivity improves when people gain time to concentrate on their real work
- employee turnover fell to 4.5% in those business units participating in the project compared to 6.9% in those not participating
- commitment to changing work processes was increased when it involved employees.

6.17 There is a clear need for better information about what is possible and for practical advice. Many employers encounter the same problems but, while some find solutions that suit all sides, others do not and lose a valuable employee. They may be reluctant to try something even on a temporary or pilot basis because of the implications for others in the workplace.

But it is important that employers consider all the options.

Lacking flexibility for fathers

“When my son was about six months old, my employer relocated to a site that was more than an hour’s drive. I’d end up having to leave before my son woke up and getting home after he was in bed. I could have worked a little from home or left early a couple of days a week. But ... my boss wasn’t interested in the impact on my family life. So I had to leave.”

6.18 Although there is a considerable amount of advice and guidance available, it is neither accessible in one place nor well known. A number of web-based tools or management consultants are available in the private sector to help employers assess the business case for change or to find matched job share partners.

6.19 Given this, one option would be to **provide better information and practical advice through an easily accessible Internet Flexible Working Gateway, backed up by a call centre, to link together expertise and the employers who seek it.** This would be relatively low cost and could gradually link into other initiatives, such as Childcare Link (see Chapter 4).

6.20 There is also nothing to help people looking at recruitment advertisements to identify whether employers recognise the need for work-life balance. There are various symbols, such as Investors in People, that employers can show in recruitment, advertisements and other information. One option would be to **create and promote a kitemark that organisations committed to**

an appropriate code on flexible working would display. This would give instant information to existing staff, potential recruits, customers and shareholders. This could build on the checklist put forward by Employers for Work-Life Balance.

6.21 The code would have to be simple and unbureaucratic if it is to be useful to small businesses. Complex accreditation procedures can be costly and off-putting for small employers. To help, an option would be that **winners of awards with acceptable criteria and judging processes should automatically be accredited to the code and able to display the kitemark.** The same could be done for employers who have completed appropriate self assessment tools, such as the Work-Life Balance Standard or the CBI's Headstart programme. Tools specifically for small businesses may need to be developed. All of them would need to be adequate to ensure that accreditation to the code had real meaning.

6.22 The code could include a menu of flexible working practices, such as reduced hours, part-time, term-time or flexi-time. One option would be **that employers would agree to offer a certain percentage of flexible working practices and to seek to achieve an agreed level of take-up.**

6.23 Light touch accreditation would have to be balanced with an effective mechanism to see that policies are put into practice and that award-winning activities continue. An option would be for **employers signing up to the code to survey their staff anonymously and report the findings.** This might be done every three years. Accreditation would be taken away if the level of take-up was not being achieved and the employer was unable to resolve the problems.



6.24 A further option would be for **the code to include sectoral and size specific "how to" guides, developed by the Work-Life Balance campaign.** These would include policies that individual employers could easily tailor and adapt for themselves. Compliance with these would be sufficient for accreditation.

6.25 To have any impact on society, much more needs to be done to publicise existing initiatives as well as any suggestions adopted following this consultation. This would be particularly important in order to establish demand from potential recruits to work for employers that display the kitemark. An option would be to **launch an advertising and publicity campaign to spread information about the help available and what the kitemark means.**

6.26 Other incentives may be needed before employers sign up. While the value of displaying the kitemark should be high, given appropriate publicity, it offers rewards in the future while the potential costs are immediate. This is particularly a problem for small businesses which do not have access to in-house expertise. An option would be to **introduce a challenge fund for small**

businesses to provide grants to help them adapt systems for, and training managers in, flexible working. Such grants might contribute to the costs of job redesign, skills training for managers in identifying opportunities for flexible working and managing people working flexibly or evaluating the business case for change. The availability of such grants would help to remove barriers that may be preventing small businesses increasing productivity through flexible working.

6.27 Big and small businesses can also help each other by passing on innovative ideas. This already works with various supply chain initiatives, for example to improve production methods. The Government could **pump prime a supply chain initiative to demonstrate the potential for cost savings from flexible working.**

Through legislation?

6.28 To proceed on flexible working through better information and a code backed by incentives demands a leap of faith by government. The arguments about preserving space for innovation and managers to manage are strong. But so are the arguments that flexible working opportunities will be available only to those with negotiating clout, and that only employers already converted will sign up to codes. Clear legislation on the existence of a right to work reduced hours, which sets out the rights of both employees and employers, might also be easier for employers than the current legal uncertainty. As highlighted in Chapter 4, this is clearly a controversial area. The Government would welcome views on the issues raised.

6.29 Chapter 4 contains three options. The first is that mothers should have the right to return early from maternity leave on reduced hours, if they wish to do so, for the remainder of their maternity leave period. As this would be a net gain for employers, who would get their skilled and experienced employee back earlier, no exemptions are proposed.

6.30 A second option is for fathers also to have the right to work reduced hours during the period of the mother's maternity leave. This would bring them for the first time into the equation and thus increase costs for their employers. But this is for a strictly time limited period and thus there are no long term adjustment costs. However, there may still be particular problems for small businesses and these, and options for solutions to them, are discussed at paragraph 6.36 below.

6.31 A third option would be for both mothers and/or fathers to seek reduced hours when a mother's maternity leave ends. This right would not be time limited and would not replace maternity leave.



Exploring rights for employers

6.32 Any right for employees to work reduced hours would need to be balanced by rights for employers. One option would be to **allow employers, except when a women wants to return early from maternity leave, to refuse in writing an individual's request to work reduced hours where to grant it would cause harm to the business.** The harm test might be that to allow the individual to work reduced hours would unduly disrupt the business. This test is used for determining whether employers have the right to postpone parental leave. Employers would need to make sure that they are able to demonstrate, if challenged, that the claim of undue disruption was a justified one. Employers could be required to set out the reasons for refusal and this would show that the matter has been considered and could be used as evidence of this if a dispute arises.

6.33 A harm test is being used in Germany and the Netherlands to meet employers' concerns about the introduction of a general right to work reduced hours. Contacts with employer organisations in those countries indicate that it has not entirely done so, particularly because the legislation would diminish the scope for flexibility in the workplace. Examples of how the German harm test might work include:

- a detrimental impact on normal operational processes,
- changes would jeopardise health and safety, or
- considerably increased costs.

6.34 An option would be to **produce guidance on what the harm test might mean in Britain and publish this alongside**

any change in the law to introduce a limited right to work reduced hours.

The status of this guidance would need to be determined.

6.35 In the UK a harm test approach in respect of requests to work part-time has been adopted by employment tribunals when considering cases brought under the Sex Discrimination Act 1975. The objection to flexible working has to correspond to a real need, be appropriate and necessary to achieve the objective of the employer. As highlighted in Chapter 4, the application of such tests has confined decisions on part-time working to generally junior and unskilled work. The following are examples of their approach:

- the work requires continuity of service
- it is not possible to do the job at the times the employee wants to work
- the size and resources of the undertaking
- the employee has supervisory responsibilities and there are no suitable means to delegate part of their responsibilities
- the job involves team work
- the cost of training someone else to do the remaining time or parts of the job would be prohibitive
- the nature of the job is such that it cannot be split.

The small business litmus test...

6.36 Small businesses and their representatives have played a major part in the review. A number of local Chambers of Commerce hosted discussions on the issues that concern small businesses.

6.37 Administrative costs tend to fall particularly hard on small businesses. The options in Chapter 5 on simplifying legislation and improving guidance, and the discussion of mechanisms for paying maternity and paternity leave recognise this. Changes in legislation that are relatively easy for large employers who already follow best practice can fall particularly hard on small businesses.

...produces the option of a limited exemption

6.38 It is the question of a right to work reduced hours that has most concerned small businesses. If such a right is introduced, one option would be to **exempt employers with fewer than a pre-determined number of employees from the statutory requirement to offer reduced hours working**. This would apply to fathers from the birth of the child and to mothers and fathers at the end of the period of maternity leave. This would recognise that the disruption is greatest in the smallest employers so that the test of undue disruption is automatically met and such employers will not have to justify this in each case.

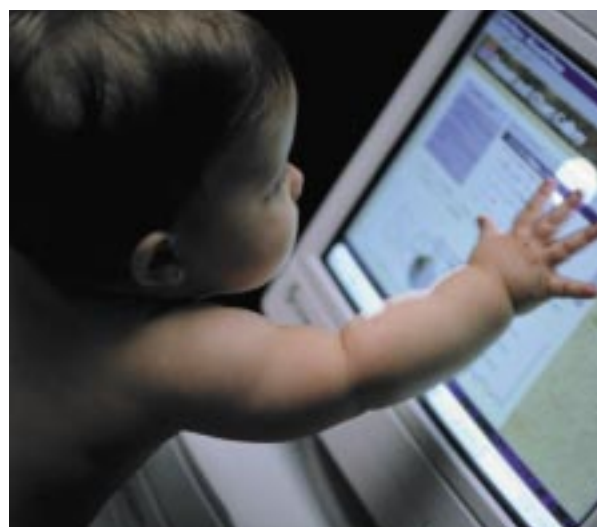
6.39 However, it would remove the right to work reduced hours from the employees. They would need to be warned, on recruitment or in literature, that the right does not apply to them unless the employer voluntarily chooses to offer it. While the incidence of pregnancies in a small employer is low (see Chapter 5) they may also be employing fathers whose partners have recently had a baby.

6.40 The Government would welcome views on this option and in, particular,

what size of employers should be exempt.

For example if the limit was set at employers with fewer than:

- 5 employees, 2 million people in 900,000 businesses would be exempt
- 10 employees, 3.4 million people in over a million businesses would be exempt
- 20 employees, 5 million people in 1.2 million businesses would be exempt
- 50 employees, 7 million people in 1.25 million businesses would be exempt
- 100 employees, 8 million people in 1.4 million businesses would be exempt
- 200 employees, 9 million people in 1.5 million businesses would be exempt
- 250 employees, 9.4 million people in over 1.5 million businesses would be exempt.



Encouraging flexibility through parental leave

6.41 Only half of employers are aware that parental leave has to be taken in weekly blocks⁸⁹. But this is the point that their representatives have consistently said is

⁸⁹ "Employers' survey on support for working parents", DTI, 2000

essential for employers. There are examples, particularly in the public sector, where parental leave can be taken on a daily basis. The parental leave regulations already provide for employers and employees to negotiate more flexible arrangements and the Government is keen that this opportunity is taken up. An option would be to **pump-prime the development of sector and size specific schemes by employers and to encourage widespread dissemination.**

Two examples

Neath Port Talbot County Borough Council, Wales, offers parental leave that can be taken up to the child's eighth birthday. It can also be taken in days rather than blocks of a week.

South Lanarkshire Council, Scotland, also offers their staff more than the statutory fall back scheme requires. They have extended parental leave until the child's fourteenth birthday.

Changing culture

6.42 Systems that are designed around the idea of a stay-at-home spouse do not reflect the reality of today's society where two-thirds of British mothers work outside the home. A person's work-life balance stands or falls on a manager's ability to turn policies into workable practice. This can be difficult where managers do not have balance in their own lives or are under particular pressure to achieve targets. It can also be difficult to persuade them that someone can work effectively from home or that allowing a team to devise its own schedules will still get the work done.

Fear of change?

An employer reported that he had received a request from a mother to work for part of the week from home to help her balance her work-life responsibilities. He did not dispute that the post was compatible with home working but turned down the request. Reasons given were the cost of installing computer equipment, the fear of other employees making similar requests and the difficulty in managing people working away from the office and ensuring they were really doing their jobs.

6.43 Managers need better information on where flexible working has produced good results in specific industries or situations. The Work-Life Balance campaign is currently preparing good practice guides for employers which will look at assessing the business case and other practical issues. One of these will provide advice for managers on what they need to know to negotiate with employees seeking flexible working patterns.

6.44 Changing culture takes time and effort. Most small businesses will think about the issue only when it arises for them. To help inform them on a regular basis of the possibilities, the Work-Life Balance campaign will be distributing a regular one-page best practice news sheet to small businesses or to advice networks such as Trade Associations.

Childcare as a business

6.45 Women entrepreneurs are praised. But, one of the possible entrypoints, childcare businesses, have not been sufficiently supported until now.

6.46 The Government has announced a £2 million-a-year programme to provide business support to childcare businesses in England. From next year each of the 150 Early Years Development and Childcare Partnerships in England will appoint an individual to help support and grow childcare businesses.

Longbridge Childcare Strategy Group

is a training provider or creator, an employer of nursery workers, a provider of nurseries and crèches, provider of a library of books for loan to nurseries, a retailer of nursery resource materials and much more. They also provide training and support to after school clubs and work with employers to recycle unwanted materials to local groups. As such, they do not fit easily into any one category. The only boxes with which this group is comfortable are the ones that they send out to support their innovative "Playtemps" scheme. Playtemps can set up a crèche in any suitable venue to cover a meeting or other short-term need.

Anything that will improve the quality and availability of childcare is tackled by the Longbridge Childcare Strategy Group. Founded by local parents 10 years ago, it is a community-based organisation identifying and responding to parents' needs, seeking funding from all sources and using their own initiative to achieve their ends.

6.47 The Regional Development Agencies (RDAs) are responsible for the Single Regeneration Budget which had traditionally been available for good value projects including childcare. Government funding for RDAs has been increased to £1.7 billion in 2003/04. The Government plans to discuss with RDAs how their forthcoming plans can be used to support childcare businesses.

6.48 More work is being done to raise the standard of business support provided by the Small Business Service (SBS), the new government agency created to support UK small businesses. People entering childcare will rarely see it first and foremost as a business opportunity. This stands in the way of the growth of more childcare, particularly in areas where investment by large chains is not viable. One option would be to **ask a group of business advisers and providers of childcare to consider on a continuing basis what support those setting up such businesses need from the SBS**. Their work could include looking at how people can find out more about the support, including financial support, offered by the SBS, and could also look at whether there are any obstacles in current schemes to anyone setting up childcare businesses.

www.businessadviceonline.org

April 2000 saw the launch of the Small Business Gateway: a website that seeks to provide a single easily accessible source of reference about running a small business. Information on the site ranges from creating a new business, finding suppliers, marketing, training, to selling a business. The Gateway also includes a summary guide outlining the main employment regulations faced by small businesses.

The Gateway will be developed further over the coming months by the SBS. It will cater for all entrepreneurs but will be sensitive to the needs of groups which face particular barriers to business, including women. It may help to foster online communities of women entrepreneurs to aid networking and the exchange of experience.

6.49 Childcare businesses can already seek support from the Small Firms Loan Guarantee scheme (SFLG) to underwrite bank loans. In five months this year, the scheme has provided support to 15 childcare businesses totalling around £1.25 million. However, playgroups and other providers of non-education based childcare are not currently eligible for support. The SBS is reviewing the SFLG and will look at **making all childcare businesses eligible for support.**

6.50 There are currently a number of sources of funding available to support childcare businesses. It is important to balance the aim of keeping access to funding as simple as possible with the flexibility of being able to target resources to a range of areas in different ways. Whilst the richness of funding available is positive, an option is for the Government to **streamline funding where practical.**

Summary

This chapter sets out a number of options to encourage businesses to be more flexible. Views are sought on the following options, including their relative priorities and the costs and benefits, including comments on those set out in the text.

- Providing incentives for flexible working as an alternative to legislation:
 - providing better information and practical advice through an easily accessible Internet Flexible Working Gateway, backed up by a call centre, to link together expertise on flexible working and the employers who seek it
 - creating and promoting a kitemark that organisations committed to an appropriate code on flexible working would display
 - accrediting achievement of existing awards, codes, or self assessment tools and developing a code tailored to small business needs
 - including in the code a menu of flexible working practices. Employers would agree to offer a certain percentage of these practices and to seek to achieve an agreed level of take-up
 - employers signing up to the code would survey their staff anonymously and report the findings. Accreditation would be withdrawn if the level of take-up is not achieved
 - introducing a challenge fund for small businesses to provide grants to help them adapt systems for, or train managers in, flexible work
 - pump priming a supply chain initiative to demonstrate the potential for cost savings from flexible working
 - promoting an advertising and publicity campaign to spread information about the help available and what the kitemark means.

- Pump priming the development of sector and size specific flexible parental leave schemes by employers and encouraging widespread dissemination.
- Considering with a group of business advisers and providers of childcare businesses what support those setting up such businesses need.
- Making more childcare businesses eligible for support from the Small Firms Loan Guarantee scheme.
- Streamlining funding for childcare businesses.

In addition, if a limited right to work reduced hours is introduced the Government is seeking views on whether to:

- allow employers to refuse in writing an individual's request to work reduced hours, where to grant it would cause harm to the business
- produce guidance on what the harm test might mean
- exempt employers with fewer than a pre-determined number of employees and if so what that number should be.

For information on how to comment on these options, see "How to respond".

HOW TO RESPOND

A summary of all the options explored in this document follows below. Not all of these options can be pursued. This means that it will be necessary for the Government to choose what action will bring the most positive outcome for parents and employers at an affordable price.

To understand what options will help parents and employers the most, you should indicate your top three priorities from the list below. Comments on the estimated costs and benefits of your chosen options, which are described in full in the relevant Chapters and briefly here, would be particularly useful. You should also comment why other options are not a priority or indeed why they should not be pursued at all.

Maternity pay and leave

Which of these options provides the best balance between the needs of women and employers?

- Should the period of unpaid maternity leave be extended so that a woman can stay at home for a year in total?
- Should any extension to unpaid maternity leave be shared equally between the mother and the father?
- Should the flat rate of maternity pay be increased? Or the period over which a woman receives maternity pay lengthened to 26 weeks?

- Should working women who are paid less than £30 a week be able to receive maternity pay?
- Should one parent have a right to leave paid at the same flat rate as maternity pay when adopting a child?
- Should we find new ways to help women returning to work after maternity leave improve their skills?

What are the priorities? Benefits would be greater participation of women in the workplace, more chance that women on low pay could take the full period of paid leave, more likely to find childcare when the baby is slightly older and, possibly better outcomes for the child and reduction of sickness on return. The total benefit to employers through reduced recruitment costs could be as much as £30 million. One-off costs to employers of adapting existing systems could be £8 million. Costs of cover could be between £5.4 million and £18 million, depending on take-up, for each extra week's leave a mother takes. It could cost £35 million a week for each extra £10 maternity pay, £5 million of which would be met by employers. Increasing paid maternity leave to 26 weeks would cost £145

million. For each father that took some of the leave available currently only to a mother it could cost employers £3,000. Eighteen weeks paid adoption leave would cost the State £2 million and employers £800,000 in cover.

Paternity leave

An increasing number of men want to play a more active role in supporting their partner following the arrival of a new child.

- Should fathers have the right to paternity leave, for example for two weeks, paid at the same flat rate as maternity pay?
- What mechanism should be used if paid paternity leave is introduced and why?

What are the priorities? Benefits would be the increased likelihood of mother returning to work, support to the mother and baby (and any other children) at a critical time and more chance for fathers to bond with their babies. It would cost the State £25 million a year and employers £18 million for cover.

Administrative costs to employers would depend on the method of payment chosen.

Parental leave

Paying for parental leave would be very costly for employers and the State. However, the Government is seeking views on whether, despite this, it is more of a priority than other options for change. Other options on parental leave are:

- Should the amount of parental leave available to parents of disabled children be increased?
- Should there be funding for employers to develop sectoral and size-specific flexible parental leave schemes?

What are the priorities? Parents are already entitled to take unpaid parental leave. Paying for it would increase the likely take-up, particularly for parents on low wages. The rate of increase would depend on the level of take-up. Employers could face disruption at uncertain times during the year and incur costs of covering any additional absences caused by the payment, ranging up to £77 million, over 5 years, if 40% of fathers take one week's leave paid at £100. A week's leave in each of 5 years for both parents paid at that rate would cost the State £140 million.

Time off for dependants

- Should the entitlement to time off work include routine hospital appointments for children and other dependants?

Managing absences

- How could the Employment Service and private recruitment agencies work with employers from an earlier stage with managing absences?

Payment mechanisms

Does the current mechanism for paying Statutory Maternity Pay (SMP) to mothers through their employers operate as well as it might?

- Should more small and medium-sized employers qualify for complete repayment of the money they pay out on SMP and the additional 5% compensation to women employees?
- Should small employers be encouraged to seek SMP payments in advance from the Inland Revenue?

- Should Inland Revenue make available a reminder of maternity leave and pay requirements through the pack that it sends to employers each year?

or

- Should the Government, from 2010, pay mothers direct, instead of through their employer?

What are the priorities?

Simplification, advice and guidance

- Should the Government bring together experts from business, public and voluntary sectors, and unions to make recommendations to simplify the existing rules on maternity pay and leave?
- Should the rules on return to work be harmonised and the current period of notification of return from leave be lengthened?
- Do the SMP rules act as a barrier to women keeping in touch and, if so, how could they be changed?

Radical simplification is possible but could be costly to the State. It would reduce costs for employers and individuals in understanding and operating the system but would cause one-off costs for adapting existing systems.

Which of the following kinds of guidance and advice would you like to see:

- basic one page flow charts for employers with more detailed guidance for advisers
- integrated guidance from different government departments
- packs to help employers and employees draw up a maternity leave “contract”

- guidance setting out the rights and responsibilities of employers and employees for maternity and parental leave.

Flexible working

The Government is seeking views on the possibility of introducing a limited right to work reduced hours.

- Should mothers who return early from maternity leave have the right to work reduced hours for the rest of that time?
- Should fathers also have the right to work reduced hours until the end of the maternity leave period?
- Should both parents have the right to opt to work reduced hours, for as long as they wish, when the maternity leave period ends?

If any of these these options are taken forward:

- Should all employers be able to refuse a request to work reduced hours on a continuing basis if to grant it would cause harm to the business?
- Should guidance be produced on what the harm test might mean?
- Should employers with a pre-determined number of employees be exempt from granting any requests to work reduced hours, except from the mother until the end of the maternity leave period? If so what should that number be?

Alternatively, the Government could encourage the spread of best practice through introducing incentives such as:

- an easily accessible Internet Flexible Working Gateway backed up by a call centre
- a kitemark that organisations committed to an appropriate code might display
- mechanisms for taking the kitemark away if sufficient flexible working opportunities are not provided
- providing a challenge fund for small businesses to meet the costs of adopting flexible working
- an advertising and publicity campaign.
- Should more childcare businesses be eligible for support from the Small Firms Loan Guarantee scheme?
- Should access to funding be streamlined for childcare businesses?

Flexible working arrangements are a key factor in facilitating a mother's return to paid employment. If 10% of women who currently do not return from maternity leave do so, as a result of returning to work on reduced hours, employers could save £30 million of recruitment costs. If a woman returns early, as a result, employers would save three quarters of the money they would otherwise pay in cover costs. Costs of cover for reduced hours could be £5 million a year if 1% of new fathers decided to reduce their hours. Costs would be much lower for mothers as so many already work reduced hours.

Childcare

- What tools would best support Early Years Development and Childcare Partnerships in their work with the business community?
- Should a group of business advisers and potential providers of childcare consider what support childcare businesses need?

Please list, from the options above, your top three priorities:

1. _____

2. _____

3. _____

Why are these your greatest priorities? What are the potential costs and benefits?

**Of the options you have not chosen, which have the lowest priority and why?
What would be the costs of these options to you?**



Your response to this consultation, including your identity, may be available in whole or in part at the Department's discretion unless you state in the response what you wish to keep confidential. Where confidentiality is not requested, responses may be made available to any enquirer, including enquirers outside the UK, or published by any means including on the Internet.

Please indicate whether you would like this response to remain confidential.

YES/NO

It would be helpful if you would provide your contact details.

Name: _____

Address: _____

Email: _____

Please indicate whether you are responding as a parent, an employer, an employee representative, an employer representative, a family representative or in some other capacity.

Responses should be sent by **7 March 2001** to:

Review Team
Department of Trade and Industry
1 Victoria Street
London SW1H 0ET

Fax: 020 7215 5450

Email: reviewteam@dti.gov.uk

The full text of the Green Paper and this form can be found at: www.dti.gov.uk/er/review.htm

Further copies of this Green Paper can be purchased from The Stationery Office. Copies of a summary are available free of charge from the DTI Publications Orderline on 0870 1502 500. The summary is also available from the Orderline in Welsh, large print, Braille and on audio cassette.

ANNEX A: TERMS OF REFERENCE AND THE MINISTERIAL GROUP

The Secretary of State for Trade and Industry, Stephen Byers, laid out the Terms of Reference for the review in answer to a Parliamentary Question from Andrew Miller MP on 22 June 2000.

The review will consider the steps needed to make sure that parents have choices to help them balance the needs of their work and their children so that they may contribute fully to the competitiveness and productivity of the modern economy.

The review will seek:

- to examine how the economy is changing, particularly in relation to working patterns, and what the needs of the modern economy will be
- to identify how competitiveness and productivity in this context can be enhanced through giving families reasonable choices to help them to balance the needs of their children and work.

In doing so, it will take into account:

- the impact of maternity pay and parental leave on business, particularly SMEs, and families, including whether it is possible to simplify the implementation of existing legislation
- best practice in business and its impact, including the extent to which employers currently offer additional entitlements or flexible arrangements
- factors affecting women's decisions to return to work after childbirth
- factors affecting the take up of parental and paternity leave

- impact of returning to work part-time, from home or on flexible hours
- reducing child poverty, including the particular problems faced by the workless and by parents receiving the Working Families' Tax Credit.

The Secretary of State for Trade and Industry, **Stephen Byers**, chairs a Ministerial Group to help co-ordinate the work of the review. Other members of the group are:

Baroness Jay of Paddington

Minister for Women

Andrew Smith

Chief Secretary to the Treasury

Lord Falconer of Thoroton, QC

Minister of State, Cabinet Office

Tessa Jowell

Minister of State, DfEE and

Minister for Women

Margaret Hodge, MBE

Parliamentary Under Secretary, DfEE

Baroness Hollis of Heigham

Parliamentary Under Secretary, DSS

Alan Johnson

Parliamentary Under Secretary, DTI

David Irwin

Chief Executive, Small Business Service

ANNEX B: CONTRIBUTING ORGANISATIONS

Members of the Ministerial Group and the review team have held a large number of meetings to discuss the review's work. Ministers and officials also undertook fact finding visits to the United States, Sweden and the Netherlands.

Below is a list of many of the organisations who attended these meetings. In addition, we also met:

- individual employees
- other government departments – Home Office, Department of Health, Inland Revenue, Department of Culture, Media and Sport, Ministry of Agriculture, Fisheries, and Food, Ministry of Defence, Department of the Environment, Transport and the Regions, Employment Service, and
- members of local Chambers of Commerce.

We also received a large number of written submissions and email contributions through the review's website. The Government is very grateful to all those who contributed to the review and hope that they will be able to see how their suggestions have contributed.

AGAS

Alliance and Leicester plc

Altrincham Chamber of Commerce

American Federation of Labor-Congress of Industrial Organisations

AMP (UK) Services Ltd

Anderson Strathern Ltd

Arriva Yorkshire Ltd

Asda Group plc

Associated Industries of Massachusetts

Association for Women in Science and Engineering

Association of Chief Executives of Voluntary Organisations

Association of Recognised English Language Services

Avery Dennison UK Ltd

Avon Parents Networks CIS

The Back to Work Company Ltd

B & Q plc

BAA plc

BAE Systems Airbus UK Ltd

Bank of Scotland Group plc

Barclays Bank plc

Barnardo's

Barnardo's Kirkwood Project

Base Connections Ltd

Beazer Homes Ltd

Better Regulation Taskforce

Bloxwich Engineering Ltd

BMP DDB Ltd

The Boots Company plc

Bramall Construction Ltd

Bristol and West Building Society

Bristol Association of Neighbourhood Daycare

Bristol City Council

Bristol Early Years and Childcare Partnership

Bristol Guild

Bristol Water plc
 British Agencies for Adoption and Fostering
 British Airways plc
 British Chambers of Commerce
 British Footwear Association
 British Frozen Food Federation
 British Hospitality Association
 British Phonographic Industry
 British Retail Consortium
 British Telecom plc
 British Water
 BSMG Worldwide Ltd
 Buchanan Clark & Wells plc
 Building Societies' Association
 Business and Professional Women UK
 CAB In Work Benefit Project
 Calderdale & Kirklees TEC
 Cambridge City Council
 Cannon Engineers Ltd
 Cardiff Chamber of Commerce Trade and Industry
 Care Associates Ltd
 Catholic Agency for Social Concern
 CBI Employment Policy Committee
 CBI Scotland
 CBI Small Business Council
 CBI Wales
 Ceridian Performance Partners Ltd
 Chartered Institute of Personnel Development
 Chemical Industries' Association
 Cheshire Fire Authority
 Childcare Partnership
 Children in Scotland
 Children in Wales
 Chwarae Teg
 Citizens Advice Scotland
 Citizens Bank
 City Centre Restaurants plc
 City of Salford
 Civil Service Healthcare
 Clarks Retail plc
 Classic Cleaners Ltd
 Comau Estil
 Companies House
 Coney McPherson Nash
 Confederation of British Industry (CBI)
 Construction Confederation
 Construction Industry Training Board
 Co-operative Insurance Society
 Copydata MSI
 Corus Group plc
 Council for Disabled Children
 Cruddespark CAB
 Dairy Industry Federation
 Davis Blank Furniss Ltd
 DayCare Trust
 Debenhams plc
 Derbyshire County Council
 Diageo plc
 Dixons Group plc
 Early Years Development and Childcare
 Partnership
 East Midlands Development Agency
 Electricity Association
 Electrium Ltd
 Electrolux Ltd
 The Employers Forum on Statute and Practice
 Employers in Voluntary Housing
 Employers' Organisation for Local Government
 Engineering Employers' Federation
 Equal Opportunities Commission
 Equal Opportunities Commission Scotland
 Ericsson Telecommunications Ltd
 Ethnic Minority Forum
 Euroclad Ltd
 Fair Play East Midlands
 Fair Play Scotland
 Fair Play South West
 Falkirk Council
 Families Need Fathers
 Family Friendly UK
 Family Link
 Family Policy Studies Centre

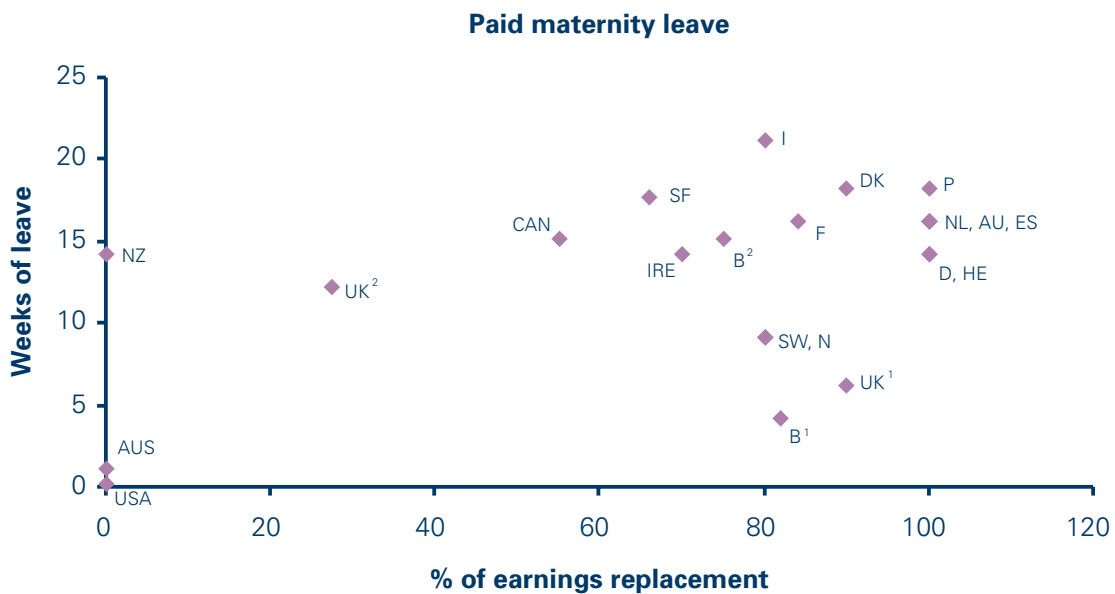
Fannie Mae
Fathers Direct
Fathers Plus
Fawcett Society
Federation of Small Businesses
Federation of Small Businesses (Scotland)
Fidelity Investments Ltd
Filtrauto UK Ltd
Flametree Ltd
Food and Drink Federation
Ford UK Ltd
Forum for Private Business
Gingerbread
GKN Ltd
GKN Autostructures Ltd
GKN Technology Ltd
Glasgow City Council
GMB Union
GMC Fire Service
Go Ltd
Granada Media Group Ltd
Greater Glasgow Health Board
Greater Glasgow Primary Care NHS Trust
Griggs and Co Ltd
Hairdressing Employers' Association
Halifax plc
Halton Chamber of Commerce
Hamilton and Clydesdale Chamber of Commerce
Happy Computers Ltd
Health and Safety Executive
High Duty Alloys Ltd
Hilton International Hotels (UK) Ltd
HSBC Bank
Iceland Frozen Foods plc
IMI plc
Industrial Society
Institute for the Management of Information Systems
Institute of Directors
IPMS
John Lewis Partnership
Joseph Rowntree Foundation
Judge Institute of Management Studies
Ruth Kelly MP
Kettering Business Venture Trust
Kids Club Network
King's College Hospital
Kings Hill Management Consultancy
Kingston Racial Equality Council
Kingston University
KPMG
Lambert Smith Hampton
Lancashire County Hall
Lancashire Fire and Rescue Service
Leeds City Council
Leeds Metropolitan University
Legal and General Group plc
Leicester Asian Business Association
Leicester Chamber of Commerce
Leicester TEC
Leyland DAF Ltd
Life Technologies
The Littlewoods Organisation plc
Lloyds TSB Group plc
London Chamber of Commerce
London School of Economics
London Underground
Look London
Lothian & Borders Fire Brigade
Lothian & Borders Police
Low Pay Unit
Lucy Cavendish College
Machine Tool Technologies Association
Mackay Simon Ltd
Maine Consulting Ltd
Manchester Chamber of Commerce and Industry
Manpower plc
Manufacturing Science and Finance Union (MSF)
Marconi Communications
Marks and Spencer
Maternity Alliance
Mayday Group Ltd
McDonalds Ltd

Mediation Technology
 Melayway Tools and Fixings Ltd
 MENCAP
 Menzies plc
 Merthyr and the Valleys Mind
 Microsoft Ltd
 Ministry of Women's Affairs New Zealand
 Montgomery Work/Life Alliance
 Morrisflex Ltd
 Mothers in Management
 Mothers' Union
 National Assembly for Wales
 National Assembly of Women
 National Association of Citizens Advice Bureaux
 National Botanic Gardens of Wales
 National Children's Bureau
 National Council for Women
 National Council of One Parent Families
 National Council for Voluntary Organisations
 National Early Years Network
 National Family and Parenting Institute
 National Group on Homeworking
 National Hairdressers' Federation
 National Housing Federation
 National Power plc
 National Union of Knitwear, Footwear and
 Apparel Trades
 National Work-Life Forum
 Nationwide Building Society
 Neath Port Talbot County Borough Council
 Netherlands Ministry of Social Affairs and
 Employment
 Network Utilities Ltd
 New College Nottingham
 Newcastle Chamber of Commerce
 Newcastle East Family Centre Network
 Newcastle upon Tyne City Council
 News International plc
 NHS Executive
 Nissan UK Ltd
 Norfolk Education Authority
 North East Family Centre Network
 North Staffordshire Hospital NHS Trust
 North West Local Authority Employers'
 Organisation
 Northamptonshire Chamber of Commerce
 Northern Foods plc
 Norvartis UK Ltd
 Norweb Telecom (United Utilities)
 NSPCC
 OCS Ltd
 Oldham NHS Trust
 Open University
 Opportunity Now
 Parents at Work
 Parents for Inclusion
 Penn Pharmaceuticals Ltd
 Penningtons
 Petrochem UK Ltd
 Pontypridd and Rhondda NHS Trust
 The Post Office
 Pre-School Learning Alliance
 PricewaterhouseCoopers
 Princess Alexandra Hospital
 Prudential plc
 Public and Commercial Services Union
 Qtab
 Radcliffe Public Policy Center
 Realise Potential
 Reds
 Rees Wood Terry
 Lars Rekke
 Resource Connection Ltd
 The Rights Project Benwell
 Riverside Community Health Project
 Road Haulage Association
 Rolls-Royce plc
 Royal Borough of Kingston
 Royal College of Nursing
 Royal Mail Cardiff
 Royal National Institute for the Blind
 Russell Cooke Solicitors

Sainsbury Ltd
SCOPE
Scottish and Newcastle plc
Scottish Council for Postgraduate Medical and
Dental Education
Scottish Executive
Scottish TUC
SER (Social Economic Council)
Shell International Ltd
Shropshire Chamber of Commerce, Training
and Enterprise
Siemens plc
Sloan School of Management
Small Business Administration
Small Business Council
Smiths Industries plc
The Smith Institute
Somerville plc
South East Employers' Organisation for Local
Government
South Lanarkshire Council
South Staffordshire Group plc
South Tyneside Healthcare Trust
Southwark Chamber of Commerce
St Helen's Chamber of Commerce
St John's School
Stradform Ltd
Strathclyde University
Sucklings Bakery
Sue Goodfriend Consultancy
Swedish Employers' Confederation
Tavistock Clinic
TECH Connect
Tees and NE Yorkshire NHS Trust
Textile Services Association Ltd
Thomas Coram Research Unit
Thomas William Lench Ltd
Thornbury Nursing Services
TI Group plc
TileFlair Ltd
Toxide Europe Ltd
Trade Association Forum
Transatlantic
Transport and General Workers' Union
TUC
UK Agricultural Supply Trade Association
UNIFI
UNISON
United Nations Children's Fund
University College Northampton
University of Bradford
University of Cambridge
University of Edinburgh
University of Leeds
University of Sheffield
University of West England
USDAW
US Department of Labor
Vauxhall Motors Ltd
Vivien Young Consultancy
Wales and West Housing Association Ltd
Wales National Ice Rink
Warrington Borough Council
Weetabix Ltd
Welsh Development Agency
West Bromwich Tool & Engineering Co Ltd
Women's Budget Group
Women's National Commission
Work-Life Research Centre
Yamazaki Machinery (UK) Ltd
Ymgynghorydd Rhyddgyfrannol
Zurich Financial Services

ANNEX C: INTERNATIONAL COMPARISONS

Maternity leave and pay – international comparisons



Key

AU	Austria	F	France	NZ	New Zealand
AUS	Australia	HE	Greece	P	Portugal
B	Belgium	I	Italy	SF	Finland
CAN	Canada	IRE	Ireland	SW	Sweden
D	Germany	L	Luxembourg	UK	United Kingdom
DK	Denmark	N	Norway	USA	United States of America
ES	Spain	NL	Netherlands		

UK¹, UK² In the UK the period is split: the first 6 weeks (UK¹) are paid at 90% of earnings and the following 12 (UK²) paid at a flat rate of £60.20, which is equivalent to approximately $\frac{1}{3}$ of the average weekly wage for women.

B¹, B² In Belgium the period is split: the first 4 weeks (B¹) are paid at 82% and the following 11 (B²) are paid at 75%

N In Norway there is no separate provision for paid maternity leave, however, mothers must take 9 weeks of paid parental leave for health reasons.

Parental leave – international comparisons

Country	Parental leave provision
Australia	Unpaid parental leave is for one year, and can be taken by one parent or shared between both parents. To qualify, an individual must have over one year's continuous service with the same employer.
Austria	Parental leave is for up to two years from the time of birth or can be used to reduce hours, subject to employer's agreement until the child is four. Leave can only be transferred once between parents. A flat-rate allowance is available for working couples during parental leave. This is funded by the State. Parents must have been employed at least 52 weeks in the previous 24 months (or 26 weeks in 12 months if parent is under 25) to claim the allowance. Those who do not meet the eligibility criteria may claim half the benefit.
Belgium	Each parent is able to take full-time parental leave for three months or to reduce hours for six months up to the child's fourth birthday. Parental leave is paid by the State at a flat rate. If the child is adopted or disabled, leave can be taken during the seven-year period after adoption or until the child is eight.
Canada	Families get a right to parental leave for ten weeks. This is paid by unemployment insurance where the family is eligible for unemployment benefits.
Denmark	Ten weeks of paid parental leave are available to either parent until the child is eight. Fathers are entitled to an additional two weeks. Leave can be extended to 52 weeks with the employer's agreement, as employees have the right to return to the same job. Parental leave is paid by the state at a flat-rate equivalent to unemployment benefit. In addition, 13 weeks of childcare leave is available for parents with children under eight (26 weeks if the child is under one or recently adopted). Childcare leave is paid up to 60% of maximum rate of unemployment benefit.
Finland	Parental leave of 26 weeks can be shared between parents after maternity leave and has to be taken in blocks of at least 12 days. It can also be used to reduce working hours until the child is seven. Parental leave is paid by the State, with the level dependent on previous earnings. Care leave can be taken up to the child's third birthday, in blocks of at least one month. There is a basic payment of a home care allowance for care leave.
France	Parental leave of up to three years from the time of birth is available to families, if they have had one year's service with the same employer. This can be extended by one year if the child is ill or disabled. Parental leave can be used to work half-time. This leave is unpaid, although a flat-rate state benefit is available to parents with at least two children.

Country	Parental leave provision
Germany	Parental leave of up to three years from the time of birth can be taken by either parent or shared, or three years after adoption of a child, if the child is under eight when adopted. It can be alternated up to three times. This leave is unpaid, unless family income falls below a certain level, when they become eligible for a state benefit until the child's second birthday. They are also able to work up to 19 hours per week for another employer while on leave, provided that the new employer is not a competitor or previous employer.
Greece	Parental leave is available until the child is two and a half or by collective agreement until the child is three and a half. To be eligible, employees must have over one year's service and work for a firm with more than 50 employees. Employees on parental leave have to pay social security contributions while on leave. Employers may refuse leave if it has been claimed by more than eight per cent of the workforce during the year.
Ireland	Ireland gives each parent 14 weeks' unpaid parental leave per child until the child is five.
Italy	Parental leave of ten months is available for each parent to be taken at any time until child is eight (extended to eleven months if the father takes at least three months). This is paid by the State at 30% of normal earnings. They can also use parental leave to shorten the working hours by two hours per day during the child's first year.
Luxembourg	Each parent is entitled to six months' full-time leave, or 12 months' part-time leave until the child is five. A flat-rate benefit can be paid to one parent.
Netherlands	Parents are allowed to take six months' leave until the child is a maximum of eight years old. Parents are entitled to reduce their working hours for a period of six months at any time until the child's eighth birthday. This reduction in hours is unpaid, unless reduced hours take a lone parent below social assistance level. Employees must have worked for their employer for one year prior to taking parental leave. From 2001, there will be tax incentives for employers who pay for the leave at 70% or more of previous earnings.
New Zealand	Unpaid parental leave of up to one year can be taken by families. Parents must have been employed by the same employer for at least 12 months, working at least ten hours per week. Parents taking up to four weeks' leave have a statutory right to return to their previous job. However, if an employer decided the job is a key position, then the employee has no right of return, although any similar jobs arising in the following 6-month period must be offered to the employee.
Norway	Parental leave of up to 52 weeks is available to families, although four weeks of this must be taken by the father. This leave is paid by the state at 100% of wages for 42 weeks or 80% of wages for 52 weeks. If the parent was unemployed prior to taking parental leave, they receive a daily minimum benefit. Parents are allowed to use some of their parental leave to reduce working hours until the child is at school.

Country	Parental leave provision
Portugal	Six to twenty four months of parental leave are available with the first 98 days being paid maternity leave. The remainder of parental leave is unpaid. It can be taken until the child is three years full-time or 12 part-time. It can be increased to three years on the birth of a third child. Parental leave is available to all employees who have worked for their current employer for more than six months.
Spain	Parental leave is a family right. Unpaid parental leave can be taken up to the child's third birthday if taken on a full-time basis or used to reduce working hours up to half time until the child's sixth birthday if taken part-time. Employees taking parental leave have the right to return to their previous job during the first year; otherwise, they can return to an equivalent job.
Sweden	Parental leave of a period of 12 months is available to parents, one month of which must be taken by each parent. Parental leave is paid by the state for 360 days at 80% of earnings (subject to upper earnings limit) and 90 days at a flat-rate, if the parent has been employed for at least 270 days before childbirth or if not more than 30 months have elapsed since the birth of an earlier child. Leave can be taken on either a full-time or part-time basis, reducing working hours to six hours per day until their child is eight years old. There is no benefit for the related loss of earnings.
USA	Each individual has the right to 12 weeks' unpaid leave for family and medical leave, including parental leave. To qualify, they must have worked 1,250 hours in the last year and have been employed for at least one year in a firm with more than 50 employees.

ANNEX D: CURRENT ENTITLEMENTS

The following provides some basic details of employment law. It does not attempt to be comprehensive, and it should not be taken as an authoritative statement of the law.

Maternity leave

All pregnant employees are entitled to 18 weeks' ordinary maternity leave (OML), regardless of length of service.

Women who have completed one year's service with their employer are able to take additional maternity leave (AML), which starts at the end of OML and finishes 29 weeks after the birth (counting from the Sunday of the beginning of the week in which the baby was born).

Contractual benefits

- During OML, women are entitled to the benefit of their normal terms and conditions of employment (except for terms relating to remuneration), throughout the 18-week leave period. Most women will be entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) for this period.
- During AML, the employment contract continues and an employee is entitled to the benefit of certain terms and conditions of her employment, for example, compensation in the event of redundancy and notice period.
- The entitlement to four weeks' paid annual leave under the Working Time Regulations is not affected by maternity leave.
- In cases where it is not reasonably practical for a woman's employer to take her back in her original job after AML, she must be offered a

suitable and appropriate alternative vacancy with terms and conditions as to remuneration which are no less favourable than those of her previous position at the date of her return. Failure to offer suitable alternative employment, where available, may be regarded as constructive unfair dismissal.

- A woman who believes she has been unfairly dismissed because she has taken maternity leave can apply to an employment tribunal.

Protection from dismissal and detriment

- If a pregnant employee is dismissed for any reason connected with her pregnancy, childbirth or because she took maternity and/or parental leave, she can make a complaint to an employment tribunal.
- Women are also protected from suffering a detriment at work because of their pregnancy, childbirth or the fact that they have taken maternity and/or parental leave. An employee can complain to an employment tribunal if she believes she has suffered a detriment on any of these grounds.

Statutory Maternity Pay

Pregnant employees who meet the qualifying conditions based on their length of service and average earnings are entitled to receive from their employers up to 18 weeks' SMP.

Qualifying conditions

- A woman must have 26 weeks' continuous service by the 15th week before her expected week of childbirth.
- A woman must have average weekly earnings in the 8 weeks up to and including the qualifying week above the lower earnings limit (LEL) for the payment of National Insurance (NI) contributions (£67 a week from April 2000).

Levels and length of payment

- For employed women, paid for a maximum of 18 weeks.
- 6 weeks at 90% of her average weekly earnings.
- 12 weeks at £60.20 (April 2000).

Reimbursement level

- Employers recover 92% of the SMP they pay by deducting it from their next payment of NI contributions and PAYE to the Inland Revenue.
- Small employers (those whose total NI liability is £20,000 or less in the previous tax year) may recover 105% (April 2000) of the SMP they pay.

Maternity Allowance

Women who do not qualify for SMP may qualify for MA. This is paid by the Benefits Agency and is based on the women's recent NI contribution level.

Qualifying conditions

- For employed women who do not qualify for SMP, the self-employed and recently employed.
- A woman must have been employed or self-employed in at least 26 weeks of the 66 weeks ending with the week before the expected week of childbirth (the test period).
- She must also earn at least £30 a week on average.

Levels and length of payment

- Paid for a maximum of 18 weeks. Rate is based on earnings.
- Women earning on average at least the LEL for NI contributions which applies at the start of her test period get standard rate MA, £60.20 a week (April 2000).
- Women earning below the LEL which applies at the start of the test period but at least £30, get 90% of their average weekly earnings (subject to a weekly maximum payment of £60.20).

When SMP and MA start

Working women can start their maternity benefits at any time from the eleventh week before their expected week of childbirth right up to the birth. However, if they fall sick with a pregnancy-related illness in the six weeks before the week the baby is due, their maternity benefits (and leave) will start automatically.

Parental leave

Parental leave is the right to take time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children and strike a better balance between their work and family commitments. The leave is unpaid.

Employees who have a baby or who adopt a child on or after 15 December 1999, and who have completed one year's qualifying service with their employer by the time they want to take the leave, are entitled to parental leave. Both mothers and fathers can take parental leave.

- Employees get 13 weeks in total per child which can be taken up to the child's fifth birthday.
- In adoption cases parental leave can be taken during the five years after the child is first placed for adoption with the family (or until the child's eighteenth birthday if that comes sooner).

- In the case of a child with a disability parental leave may be taken until the child's eighteenth birthday (for the purposes of parental leave, a disabled child is one for whom Disability Living Allowance has been awarded).

The fallback scheme

Employers and employees can agree their own procedures for taking parental leave, through workforce or collective agreements or through individual arrangements.

Otherwise the fallback scheme applies:

- Leave must be taken in blocks or multiples of one week.
- In all cases a maximum of four weeks' parental leave a year can be taken in respect of any individual child.
- 21 days' notice must be given to the employer.
- The employer can postpone the leave for up to six months where the business would be particularly disrupted if the leave were to be taken at the time the employee requested. But parental leave cannot be postponed where the employee gives notice that he/she will take it immediately after the time the child is born or is placed with the family for adoption.

Returning to work after parental leave

If an employee takes a period of parental leave which does not exceed four weeks, the employee is entitled to return to the same job unless, in the case of a woman, the leave is taken at the end of AML. In that case or when parental leave exceeds four weeks, the employee is entitled to return to a suitable and appropriate job with terms and conditions which are no less favourable than those of the previous job.

Time off for dependants

From 15 December 1999, all employees have the right to take a reasonable period of time off work to deal with emergencies involving a dependant and not to be dismissed or victimised for doing so.

A dependant can be the spouse, partner, child or parent of the employee, or someone who lives with the employee as part of their family. A person who reasonably relies on the employee to provide assistance or make arrangements will also be considered a dependent in cases of illness, injury or where existing care arrangements break down.

The new right enables employees to deal with an unexpected or sudden problem and make any necessary longer term arrangements in circumstances where:

- a dependant falls ill or has been involved in an accident or assaulted, including where the victim is hurt or distressed rather than injured physically
- a dependant is having a baby
- care arrangements for a dependant who is ill or injured need to be made
- a dependant has died; for example to make funeral arrangements or to attend a funeral
- there is an unexpected disruption or breakdown in the care arrangements of a dependant; for example when a child minder or nurse fails to turn up
- there is an incident involving the employee's child during school hours; for example, if the child has been involved in a fight or is being suspended from school.

There is no set limit to the amount of time off which can be taken. In most cases, the amount of leave will be one or two days at the most, but this will depend on individual circumstances, although an employee may be able to take a longer period of leave under other arrangements with the employer.

- Employees must tell their employer, as soon as practicable, the reason for their absence and how long they expect to be away from work.
- There is no limit on the number of times an employee can be absent from work under this right. However, the right is intended to cover genuine emergencies.

ANNEX E: CURRENT CASE LAW FOR PART-TIME WORKING

Described below are short summaries of cases that have reached the courts when assessing the grounds for refusing a request to work part-time.

The first two cases summarise fairly well the general principles adopted by the courts. The remainder have been classified in accordance with the grounds the tribunals have based their decision upon.

There is some overlap as the tribunals may have taken several grounds into consideration. Each case revolves on its own facts and there is no black and white rule in case law which determines whether an employee should be allowed to return to work on a part-time basis. Neither is the list exhaustive.

The European Court of Justice (ECJ) case of *Bilka-Kaufhaus v Webber von Hartz* (1987). ECJ established that a requirement to work full-time must correspond to a real need on the part of the employer and must be appropriate and necessary to achieve the objective in question. Although this case does not deal with the right to return to part-time work, the principle applies equally to cases which do.

The case of *Hampson v The Department of Education and Science* (1989). The Court of Appeal established that when assessing justifiability one must make "an objective balance between the discriminatory effect of the condition and the reasonable need of the party who applies the condition".

Needs of the undertaking

Briggs v North Eastern Education and Library Board (1990) Northern Ireland Court of Appeal (NICA).

This case has a persuasive value. Mrs Briggs was a teacher who had been promoted upon the condition that she would assist with extra curricular activities, namely badminton coaching. She later adopted a child and could no longer pursue activities after school hours. The school refused to let her teach at lunchtime because there was not enough time for the pupils to eat, play badminton and get back to class. The NICA ruled that this was not discriminatory as the badminton coaching in the lunch hour would not be of full advantage to the girls whom it was intended to benefit.

Muir v Sealink UK Limited (1984) Employment Tribunal (ET). This is a case where an employee's original hours of work were from 8:55 to 16:45. The peak hours of her job were in the afternoon. However, her hours of work were changed from 7:30 to 14:45 for a year before her maternity leave because of a computer backlog. She asked to return to work on this basis. Her employers refused. They argued that those hours of work were only a temporary measure adopted to deal with the problems caused by the backlog. The backlog problem had been resolved and they needed her to work at peak hours. The tribunal held that Mrs Muir's original working hours were her contractual working hours. Her employers had shown good reasons to justify their requirement that she should work those hours.

Need to work fixed hours

Oddbins Ltd v Robinson (1996) Employment Appeals Tribunal (EAT). The EAT held that a manageress of Oddbins was entitled to ask to work fixed hours despite the terms of her contract which stipulated that she would be required to work "such hours as may be necessary". The tribunal heard evidence from "New Ways to Work" and found that the company's objections were weak. The company had failed to consider jobsharing with an open mind. The business needs did not outweigh the effect of the refusal to allow Mrs Robinson to work fixed hours.

Terms of contract

Home Office v Holmes (1984) EAT. A single mother who worked for the Immigration and Nationality Department (a part of the Home Office) asked to return on a part-time basis after the birth of her second child. There were 250 people working in her department at the time. The Home Office refused on the basis that there were no part-time posts available at her grade within the Department. In the Home Office's opinion, she only had the right to return on the same contractual terms as before, i.e. on a full-time basis. The EAT upheld the tribunal's decision. The Department could accommodate part-time work. In reaching this decision the EAT said "it is easy to imagine other instances, not strikingly different from the present case, where the result would not be the same. There will be cases where the requirements for full-time staff can be shown to be sufficiently flexible as arguably not to amount to a requirement or condition at all. There will be cases where a policy favouring full-time staff exclusively within a particular grade or department is found to be justified. There will be cases where no actual or no sufficient detriment can be proved by the employee. All such cases will turn upon their own particular facts". The fact that she was working on a full-time basis when she lodged her complaint with the tribunal did not undermine her case.

Size of the undertaking

In *Barrett v George Hotels Ltd* (1987) ET, Mrs Barrett's request to work part-time was refused on the basis that the efficiency of the business would be affected. The tribunal upheld the refusal, holding that "this was an office employing only three persons, each fully occupied in his or her own work, and unable to cover for each other, quite unlike a large government department".

Supervisory/disciplinary concerns

In *Clymo v Wandsworth London Borough Council* (1989) EAT, a librarian wanted to job share with her husband once she came back from adoption leave. Her husband's position in the library was of a lower grade. The Council offered them to share the lower grade position. The Council argued that her position could not be shared because "junior staff needed one constant supervisor, so as to know who to report to and because of the dangers of playing off joint managers". The branch librarian controlled a substantial budget. The Council also argued that a proper recruitment procedure would need to be held if she was to job share. It would not be fair for her husband to be promoted this way. The EAT upheld the decision.

In *Ogilvie v Ross and Hall* (1999) ET, the head veterinary nurse of an animal hospital was allowed to return to work on a part-time basis. After a few months, it became clear that discipline amongst the other nurses was slacking. The tribunal held that she should return to full-time hours.

Efficiency

Greater Glasgow Health Board v Carey (1987) EAT. A health visitor wanted to return to part-time work after having a child. She asked to work only on certain days of the week. The health board accepted her request for part-time work but insisted that she should work half a day every day. Mrs Carey wanted to work alternate days. The EAT upheld the tribunal's decision that there was no indirect discrimination on the basis that the

health board needed to maintain administrative efficiency of its service to its patients. The pattern of work was necessary for the continuity of patient contact. In *Nelson v Chesterfield Law Centre* (1995) EAT, a woman was refused the right to job share on the basis that her position involved close collaboration with a colleague. Further division was not desirable.

Effect on team work

Abbey Textiles Limited v Burgess (1997) EAT. A machinist was refused a request to return on a part-time basis on the grounds that her manager thought that part-time work and job sharing were not compatible with team working. The EAT upheld the tribunal's decision. Mrs Burgess could still be an effective member of the team. Her work was flexible in the sense that she did not need to use a particular machine. If she could not attend a team meeting, her colleagues could tell her what had been discussed. Furthermore the meetings were held at different times of day. She was therefore likely to be able to attend most of them.

Training needs

Tabbemor v Prudential Insurance Company (1996) ET. Mrs Tabbemor's employers agreed to let her return on a part-time basis. However, they requested her to attend a three-week residential retraining course before returning to work. She refused to do so. The company arranged for a trainer to come over to Mrs Tabbemor's place of work. Mrs Tabbemor would have had to take various assessment tests very soon after she returned to work because of the limited availability of the tutors. She complained that her revision would have to begin before she returned from maternity leave. The tribunal considered that the retraining request was justified and that Mrs Tabbemor's employers had done all that could have reasonably been expected to accommodate her.

Suitability of the position for job sharing

Burston v Superior Creative Services Limited (1985) ET. Mrs Burston worked in a senior position as an export manager. She spent three days a week working on the sales aspect of her job and for the other two days she focused on general administration. When she returned from maternity leave she asked to reduce her working week from five to three days. Her employers refused on the grounds that before she went on maternity leave, the sales levels were unsatisfactory. They wanted her to spend more time on this area. Her employer could not reasonably have been expected to recruit a part-time replacement for the administration side of the job as her duties could not be so clearly split.

Continuity of service essential

Eley v Huntley Diagnostics Limited (1996) EAT. In this case a telephonist/ receptionist was refused part-time work on the basis that client continuity would be affected. Her company manufactured medical equipment which it sold over the telephone like a telesales business. Her role as a receptionist was vital to the functioning of the company and her salary was a reflection of her status. Her position could not be shared because customer continuity had to be maintained. Furthermore it would have cost the company too much to train someone else to cover the hours she would not be working because the business was so technical.

Costs to and resources of the employer

Bullen v HM Prison Service (1996) EAT. The prison governor had no problem with job sharing in principle. However he/she was concerned that unless a job sharer could be found his/her staffing budget would be reduced as a consequence. No one wanted to share the job. The governor then proposed a restructuring package but this was rejected by other members of staff. The EAT upheld the tribunal's decision that the focus

should be on the financial and administrative needs of this particular prison rather than the resources of a prison service as a whole because of the remote location of the prison.

Resources of employee

In *Sykes v JP Morgan* (1999) ET, a woman's claim for indirect discrimination failed on the basis that she admitted that she was able to comply with the requirement to work from 9:00 to 18:15. She was a high earner and had full-time nanny working for her. The tribunal held "... Nor is there any authority in support of the proposition that a woman may claim indirect discrimination where she is able, in practice, to comply with the requirement or condition but chooses not to do so, as opposed to a woman who is suffering physical or financial hardship".

Ability to comply with the requirement to work full-time

The tribunal held in *Burston v Superior Creative Services Ltd* (1995) ET found that it was not necessary for an employee to show that it was absolutely impossible for her to comply with the requirement/condition. All she needs to show is that she finds full-time work demanding and exhausting in view of her childcare commitments and that she is not able to continue working full-time.

Opposition in principle to job sharing/part-time work

Hicks v North Yorkshire County Council (1985) Central Office of Employment Tribunals. The Council refused to split a teaching post in two. It argued that it may be difficult for the school to find a suitably qualified part-time teacher in the area. The tribunal found that the Council's objection was simply a matter of principle against part-time teachers. They had not had any problems in the past to find suitable part-timers to cover for absent teachers.

Nature of adjustments required

In *Guthrie v Royal Bank of Scotland plc* (1986) ET, a bank's refusal to allow a woman to return to part-time work on the basis that it was not their practice to do so because it would disrupt the working arrangement was not deemed a valid ground for refusal by the tribunal because only a minor adjustment was required.

No need for job sharing policy

In *Robertson and Griffith v Strathclyde Regional Council* (1986) ET, the Council refused to allow job sharing until a policy was agreed with the trade union and put into operation. Lengthy negotiations which had started three years earlier were still going on. In the meantime, the Council authorised part-time work in certain offices. As a result the tribunal held the Council's refusal was not justifiable.

Defective procedure

Marshall v Governing Body of Langtree Community School and Devon County Council (2000) ET. Mrs Marshall was unable to return to her head teacher post full-time following a period of maternity leave. She asked to return on a job share basis. During her maternity leave, an Ofsted inspection had identified the school as one with serious weaknesses and as a result the Governors argued that firm and consistent leadership was necessary to resolve the issues. This could only be provided through a single person. The ET held that the Governors' failure to consider whether the post could be undertaken on a part-time basis meant that they had not justified the requirement to work full-time. Mrs Marshall had therefore been discriminated against. It noted however that had the Governing Body considered the part-time working condition, as well as the job share option, it might have been able to show that its decision was justifiable.

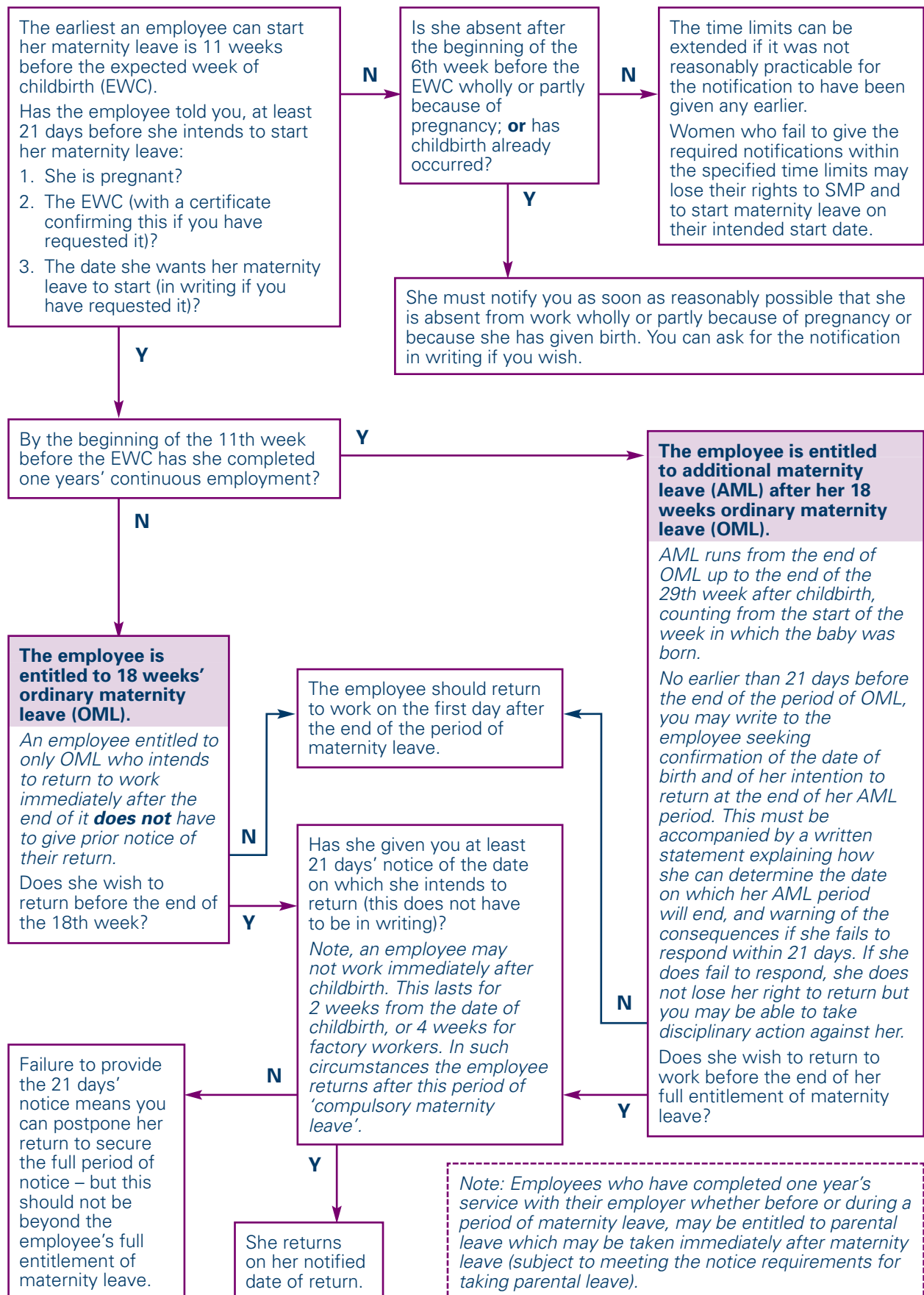
ANNEX F: FLOW CHARTS

Maternity notification procedures – summary flow chart

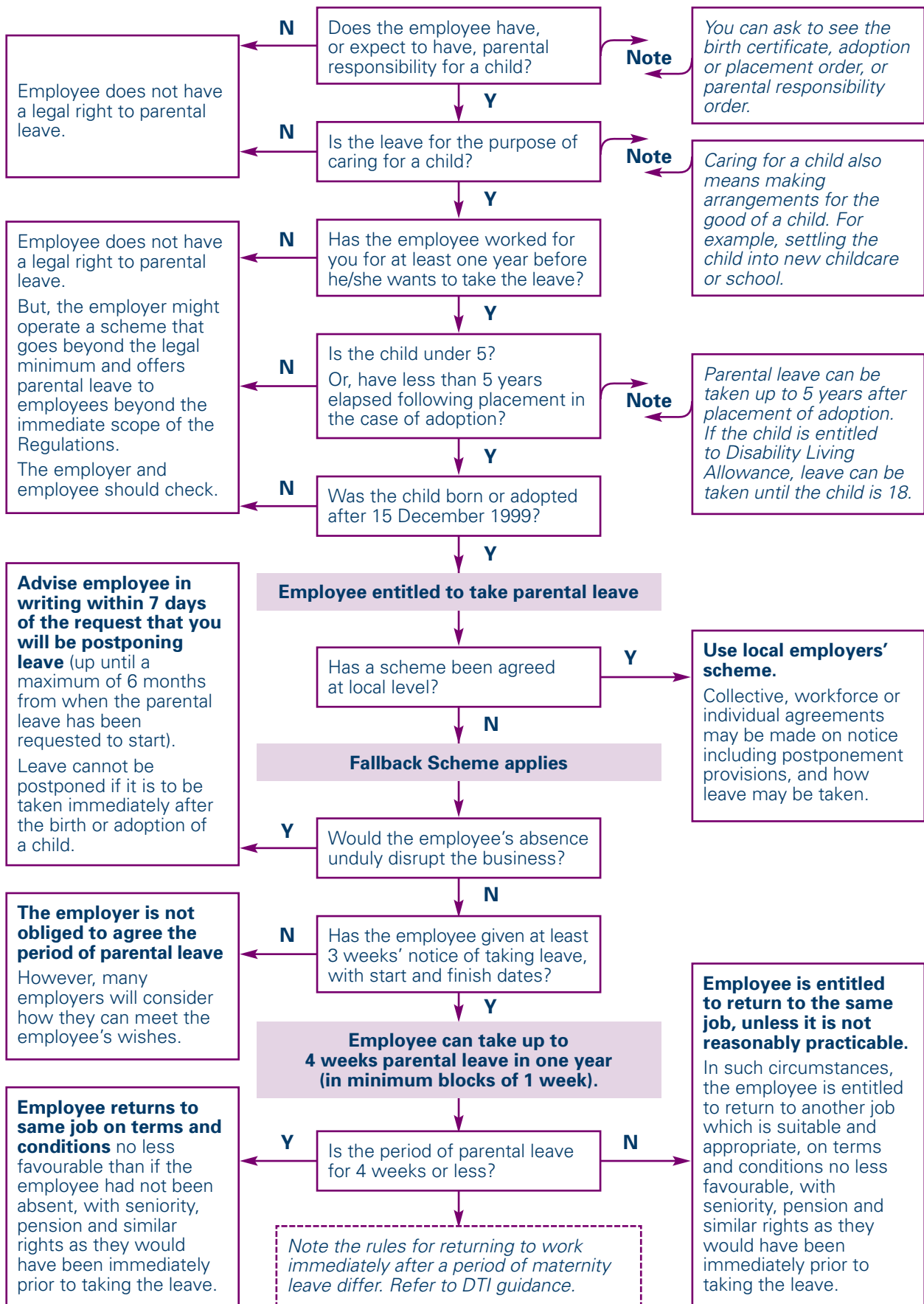
Parental leave – summary flow chart

Time off for dependants – summary flow chart

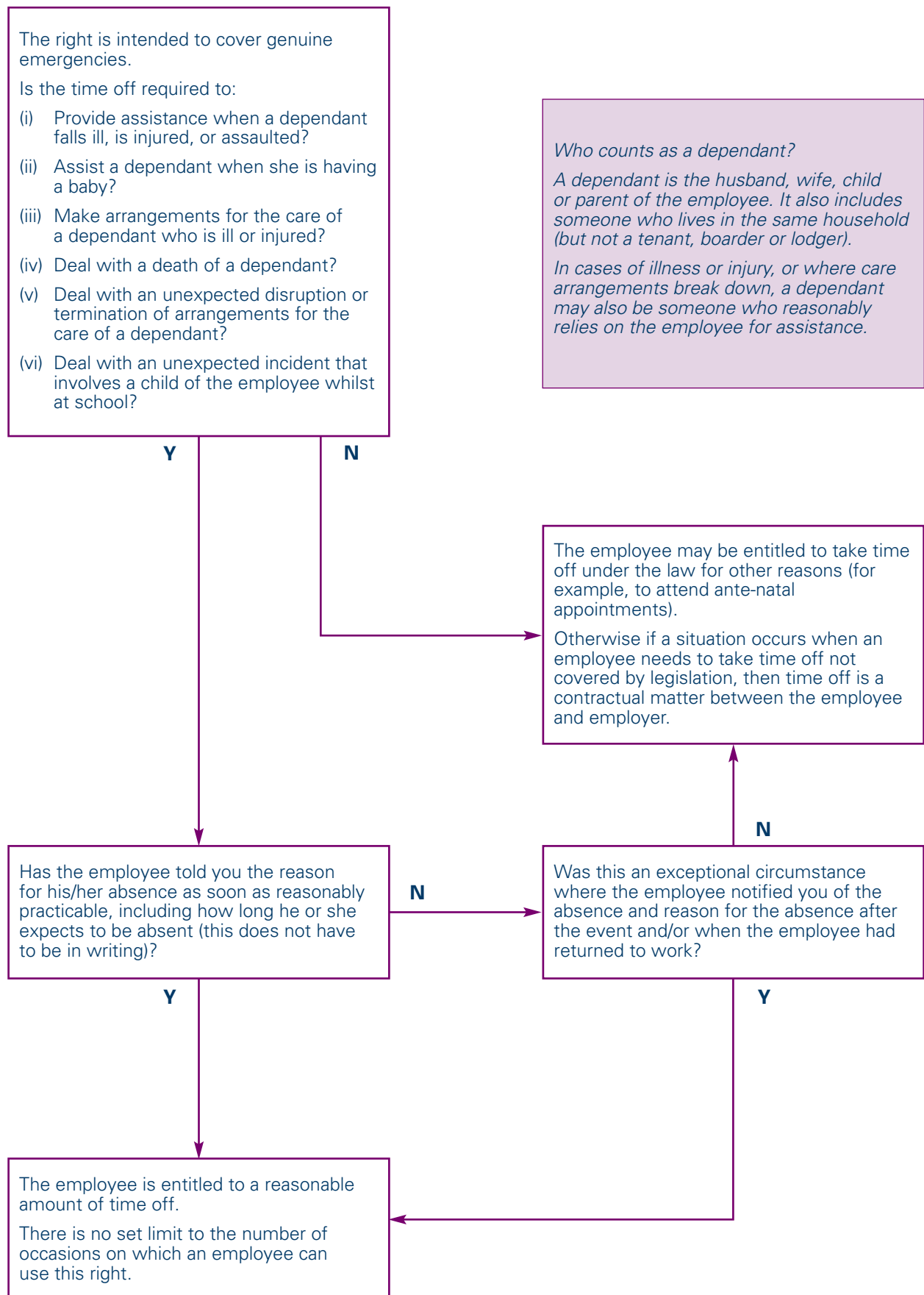
Maternity notification procedures – summary flow chart



Parental leave – summary flow chart



Time off for dependants – summary flow chart



ANNEX G: CONTACT DETAILS FOR INITIATIVES DESCRIBED IN THE TEXT

Listening to Women

Telephone: 020 7273 8880
Website: www.womens-unit.gov.uk

Don't Quit Now Campaign

Telephone: 0845 608 6087
Website: www.dfee.gov.uk/dqn

Sure Start

Telephone: 020 7273 4830
Website: www.surestart.gov.uk

Sure Start Scotland

Telephone: 0131 244 7028
Website: www.scotland.gov.uk

The Family Support Grant Programme

Telephone: 020 7217 8985
Website: www.homeoffice.gov.uk/cpd/fmpu/fmpu.htm

The Sure Start Maternity Grant

Telephone: 020 7962 8680
Website: www.dss.gov.uk/publications/dss/2000/maternity/index.htm

ParentLine Plus

Telephone: 0808 800 2222
Website: www.parentlineplus.org.uk

New Deal for Lone Parents

Telephone: 0800 868 8688
Website: www.newdeal.gov.uk

Working Families' Tax Credit

Telephone: 0800 597 5976
Website: www.inlandrevenue.gov.uk/wftc/index.htm

The National Strategy for Carers

Telephone: 020 7972 4715
Website: www.carers.gov.uk

Strategy for Carers in Scotland

Telephone: 0131 244 5389

Caring about Carers – A Strategy for Carers in Wales

Telephone: 029 2082 3069

National Childcare Strategy in England

Telephone: 020 7273 4772
Website: www.dfee.gov.uk/childcare

National Childcare Strategy in Scotland

Telephone: 0131 244 7687
Website: www.scotland.gov.uk

National Childcare Strategy in Wales

Telephone: 029 2082 5894

New Opportunities Fund: Out of School Hours Programme

Telephone: 0845 6040555 (England)
0845 6061199 (Wales)
0845 6064567 (Scotland)
0845 6004848 (N. Ireland)
Website: www.nof.org.uk

Childcare Link

Telephone: 0800 0960296
Website: www.childcarelink.gov.uk

Tailored Interactive Guidance on Employment Relations

Website: www.tiger.gov.uk

The Work-Life Balance Challenge Fund

Telephone: 020 7273 5626
Website: www.dfee.gov.uk/work-lifebalance

www.businessadviceonline.org

Telephone: 0114 259 7788
Website: www.businessadviceonline.org

Managing Absences Booklet

Telephone: 020 7273 5352
Website: www.employmentservice.gov.uk/english/about%5Fus/smallbusinesses.asp

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