

BERR

Department for Business
Enterprise & Regulatory Reform

**CONSULTATION ON
IMPLEMENTING THE
RECOMMENDATIONS OF IMELDA
WALSH'S INDEPENDENT REVIEW**

Amending and Extending the Right to
Request Flexible Working to Parents
of Older Children

AUGUST 2008

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Introduction

In April 2003, the Government introduced a right for those with parental responsibility for children under six (or 18, if disabled) to request flexible working, with a statutory obligation on their employers to consider such requests seriously.

In the light of the success of the law Government built on that success by extending its scope to include carers of adults from 6 April 2007.

The Prime Minister announced on 6 November 2007 that the Government had decided that the time was right to extend the right further, this time to parents of older children. In recognition of the fact that there would be a range of views on the age to which the cut-off should be raised, Ms Imelda Walsh, HR Director of J Sainsbury plc, was appointed to lead an independent review to consider both this question and that of whether the increase should be staged.

Ms Walsh published her review on 15 May 2008. Her principal recommendations are that:

- The age cut-off for an older child should be 16 and under; and
- The increase should be made in a single step and not staged.

Ms Walsh also made the following recommendations:

- Business would benefit from increased information and guidance about dealing with flexible working requests.
- More work should be done to raise awareness of the right to request flexible working, both among employees and employers.

Further to Ms Walsh's review and in line with the Government's commitment to simplify and reduce the administrative burdens on business where possible, this consultation is also seeking views from respondents on a potential deregulatory measure. We are assessing the merits of replacing the current obligation for the employer to write to notify the employee of *agreement* to the revised working pattern. We propose replacing this obligation with a right to receive this written confirmation only if the employee specifically requests it. The obligation to write would **not** be removed where an employer refuses a request for flexible working. The change would apply to all eligible groups under the right to request flexible working legislation.

This public consultation document, published on 26 August 2008 seeks views on the recommendations by **18 November 2008**. This consultation is relevant to all employers and employees.

How to respond

The closing date for this consultation, by which all responses should be submitted, is 18 November 2008.

When responding, please state whether you are an individual (and in what capacity, for example an employee, parent, carer, employer, etc) or representing the views of an organisation. If responding on behalf of an organisation, please make clear whom the organisation represents and, where applicable, how the views of members were assembled.

Responses, or questions about policy issues raised in the document, should be submitted to:

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An electronic version of the document can be found at www.berr.gov.uk/files/file47434.pdf
Other versions of the document in Braille, other languages or audio-cassette are available on request.

Impact Assessment

We have produced a partial Impact Assessment (see Annex D) setting out estimates of the costs and benefits of the proposals and options within this consultation.

Confidentiality

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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A copy of the Code of Practice on Consultation is at Annex A on page 12.

Summary of questions

Q1. Having regard to the existing guidance and templates available on the Business Link website¹ and to any particular characteristics of parents of children aged 16 and under, what more do you think that Government can do to assist businesses, particularly small businesses, in implementing flexible working arrangements?

Q2. Would you agree that it is sensible to remove the obligation for employers to send a formal letter whenever they approve an employee's request to change their working pattern? Please outline your reasons for why you think this.

Q3. Please consider the partial Impact Assessment (attached at Annex D): we would welcome any comments on its analysis of costs and benefits (see pages 17-21, pages 26-34 & page 39), a key element of which is the analysis that the deregulatory measure would lead to a 65% reduction of the administrative burden associated with this particular information obligation.

¹ www.businesslink.gov.uk/flexibleworking

Extending the right to request to parents of older children

1. The right to request flexible working was introduced in April 2003 following a report² by the Work and Parents Taskforce, led by Professor Sir George Bain. The Taskforce was established by the Government with the remit of developing the detail of legislation to give parents of young children a right to request flexible working and to have that request seriously considered by their employers.
2. One of the principal questions which the Taskforce had to consider was the age at which a child would most benefit from the immediate presence of a parent.
3. The Taskforce's considered view, in light of the many representations it received and the research available to it, was that the right to request flexible working should initially be introduced for those with parental responsibility of children up to the age of six, or up to the age of 18 for disabled children. The Government accepted this recommendation.
4. It is testament to the success of the legislation that, ever since its introduction in 2003, there have been calls for the scope of it to be extended to other groups of employees. Following a major public consultation³ in 2005, the Government decided that the legislation should be extended to carers of adults: this extension came into effect on 6 April 2007. In '*Success at Work: protecting vulnerable workers, supporting good employers*'⁴, the Government committed to keep the decision of whether or not to extend the right to request flexible working to parents of older children under review. The rationale for this targeted approach has been to widen the scope of the regulations at a manageable speed for business, rather than requiring them to adapt to wholesale change overnight.
5. Calls for the scope of the law to be extended have, nevertheless, continued (with parents of all or older children the clear focus of attention). On 6 November 2007, the Prime Minister announced that the Government had decided to extend the right still further, this time to parents of older children. The Government was, however, conscious that stakeholders would hold a range of views as to what the new age cut-off should be. The Secretary of State for Business, Enterprise and Regulatory Reform therefore asked Ms Imelda Walsh, HR Director of J Sainsbury plc, to lead a review to consider this question and make recommendations. He also asked her to consider whether the increase should be made in a single step or whether there would be any advantage in phasing it in. The detailed Terms of Reference of the review are at Annex B.
6. In carrying out her review, Ms Walsh used the report of the Work and Parents Taskforce as a starting point. The research available to the Taskforce showed that there was a considerable level of demand for flexible working from parents with children of all ages. This view was supported by employers who already offered flexible working to their employees. They reported that most requests from parents to work flexibly were associated with the child's birth, when the child started school around five, and when they changed school at 11. They also reported, however, that there were still a significant number of requests received from parents of children at other ages.
7. Another view expressed by respondents to the Work and Parents Taskforce was that the age cut-off should be linked to a stage in the child's education. Ms Walsh agreed with this view. In considering what a higher age cut-off should be she therefore focused on significant points in a child's schooling, where they may need more help and support from one or both parents, rather than considering arbitrary cut-off points simply for presentational, or economic reasons.

² Published as *About Time: Flexible Working* in November 2001.

³ *Work and Families: Choice and Flexibility – A Consultation Document*, published February 2005, URN 05/847.

⁴ *Success at Work: protecting vulnerable workers, supporting good employers*, March 2006, URN 06/1024

Using this as a starting point, Ms Walsh therefore identified the following possible options and invited views from interested parties:

- Children aged 12 and under: this would cover the transition from primary to secondary school;
- Children aged 16 and under: this would allow parents to support their children until the end of their secondary education and GCSEs;
- Children aged 18 and under: this would allow for support until the end of sixth form or vocational training and would be consistent with the existing right for parents of disabled children.

8. The vast majority of the interested parties consulted by Ms Walsh agreed with linking the age cut-off point to significant points in a child's education. Some respondents argued that age 12 is the best option on the grounds that this is the age at which a child makes the transition to secondary school and when the child can safely be regarded as being responsible enough to be left to go home after school and look after him or herself. However, the NSPCC advise that although it depends on the individual child, most children under about 13 are not mature enough to cope with an emergency and should not be left alone for more than a very short period of time. Furthermore, although there is no clear legal position on when children can be left at home on their own, parents can be prosecuted for wilful neglect if they leave a child under 16 unsupervised 'in a manner likely to cause unnecessary suffering or injury to health'⁵.

9. The majority of stakeholders highlighted that educational support is of increasing concern for parents, and argued that the completion of GCSEs or A-Levels were the most natural cut-off points. This narrowed the options down to age 16 and under or 18 and under. The arguments in favour of selecting 18 are that this would be consistent with the current right for a disabled child and would fit with the higher school-leaving age of 18 from 2013. However, as Ms Walsh argued, it is reasonable to regard a person aged 18 as a young adult who can be expected to show a good measure of independence and personal responsibility whether as part of further education, a first full-time job or vocational training. For these reasons, and because she felt there would be more support and understanding, Ms Walsh recommended that the cut-off point age be 16 and under.

10. A subsidiary question which Ms Walsh was also asked to consider in the course of her review was whether the higher age cut-off for a child should be introduced in a single step or whether it might be staged, or phased in, in some way.

11. Ms Walsh received a range of opinions on this question. Most businesses indicated that, as long as they are given enough warning, and the Government produced guidance to cover the change to the law, it would be simpler for both employers and employees if the change was made all at once. Some small business organisations took a different view, arguing that a staged approach would give their members more time to adapt their working practices and alleviate the additional burden on business. On balance, Ms Walsh was persuaded by the argument that what business needs above all is certainty and that this is an argument for one change to the law rather than several. The recommendation in her report is therefore that the change should not be staged.

12. The Government has accepted these recommendations in full and is now consulting on issues related to the implementation of these changes.

⁵ Children and Young Persons Act 1933

13. Ms Walsh's report highlighted that although 14 million employees currently work flexibly and that the Government's latest figures⁶ show that men make up 45% of this figure, the evidence also shows that there are some groups who are less likely than others to be aware that they currently have the right to request flexible working. Fathers, for example, are less likely than other employees to know that they have the legal right⁷. The likelihood of making a request is also related to whether an employee is already working full- or part-time. Nearly twice as many part-time employees have made a request to change their working pattern as those working full-time⁸. There is also anecdotal evidence to suggest that awareness among carers of adults could also be improved. Ms Walsh therefore recommended that Government play a more active role in raising awareness of the right, both among employees and employers.

14. In response, the Department for Business, Enterprise and Regulatory Reform (BERR) and the Government Equalities Office will be launching a campaign this year to increase awareness of the right among both employees and employers, targeted at the groups highlighted by Ms Walsh. The campaign will focus on raising awareness of both the individuals' right to request flexible working and helping business understand how to handle employees' requests through more effective use of tools and advice available on www.businesslink.gov.uk/employingpeople and on www.direct.gov.uk/flexibleworking. Activities will be spread over 12 months encompassing media opportunities, Ministerial events and making use of publications to reach the various target audiences.

15. The Government intends to introduce changes to the age cut-off in time for implementation in April 2009. Plans to increase awareness amongst both employers and employees, and the improved guidance that will be rolled out (see Section A which outlines the Department for Business, Enterprise and Regulatory Reform (BERR) Employment Law Guidance Programme) by April 2009 should give both companies and individuals sufficient time to prepare for these changes. However, we also welcome any views on this issue.

16. In the case of *Coleman v Attridge Law* the European Court of Justice (ECJ) judgment of Thursday 17 July 2008 ruled that member states are required to prohibit discrimination and harassment towards people who are associated with someone of a particular age, sexual orientation, religion or belief, or with a disability. This ruling has implications for UK family-friendly policy such as the right to request flexible working. In the Walsh Review Ms Walsh recommended that the right to request flexible working should be extended to parents of children aged 16 and under and set out clear reasons for why 16 is an appropriate age cut-off. The ECJ ruling is currently being assessed as to its full implications but as part of this consultation the Government welcomes any representations or comments on the impact of this ruling.

⁶ The *Third Work Life Balance Survey of employers*, December 2007

⁷ According to the *Third Work Life Balance Survey of Employees*, 2006, 53% of male employees are aware of the right, compared to 60 per cent of female employees.

⁸ According to the *Third Work Life Balance Survey of Employees*, 2006, 28% of those working part-time versus 15% of those working full-time had made a request to change their working pattern.

Section A: Information and improved guidance

17. Access to flexible working arrangements has made an important difference to millions of employees. Many employers recognise that flexible working improves retention and some acknowledge additional productivity benefits too. This is borne out by recent research⁹ which found that the majority of flexible workers, co-workers of flexible workers and managers of flexible workers reported that there was either a positive impact or no impact on individual performance.

18. However, Ms Walsh's review found that many employers would appreciate more help and guidance about how to introduce flexible working as they are concerned about the impact on their business and the customers they serve. Despite having heard about the potential benefits, they are understandably cautious about how to go about introducing flexible working arrangements in their own organisations.

19. Ms Walsh therefore recommended that the Government consider how it can better assist and offer practical encouragement to businesses implementing these changes. She suggested that employer representative bodies, with Government support, could assist in the sharing of good practice and ideas.

20. One such method of Government working to deliver improved guidance to employers is being delivered through BERR's Employment Law Guidance Programme. The guidance programme is tasked with achieving administrative burdens reductions of £365m per annum. by May 2010 associated with complying with employment law obligations. The guidance programme promotes clear messages designed to eliminate duplication of effort and over-compliance by employers.

21. The guidance programme is also improving and promoting guidance and time- and money-saving tools on the 'Employing People' pages of the Business Link website¹⁰. These cover key employment law obligations. The programme has provided a number of new online tools on the Business Link website and key messages are being delivered through a variety of channels. Direct marketing and email campaigns have introduced the guidance and tools to over one million SMEs. During 2008/09, BERR will be streamlining and improving the guidance on employment law by migrating content from the BERR website onto the Business Link website. This approach has been welcomed by employers.

22. The programme is also working closely with the Acas helpline, Business Link Advisors and other advice-providers. In addition, to deliver the changes in employer behaviour that are needed the guidance programme is working with a range of stakeholder delivery partners to help test guidance and tools and to support the inclusion of the key messages through their business channels such as newsletters, website links and events.

Question

Having regard to the existing guidance and templates available on Business Link¹¹ and to any particular characteristics of parents of children aged 16 and under, what more do you think that Government can do to assist businesses, and particularly small businesses, in implementing flexible working arrangements?

⁹ 'Flexible Working and Performance', Cranfield University School of Management, April 2008

¹⁰ www.businesslink.gov.uk/employingpeople

¹¹ www.businesslink.gov.uk/flexibleworking

Section B: Deregulatory measures

23. The Government is committed to simplifying and reducing where possible the administrative burdens on business. We would therefore welcome comments from respondents on the merits of replacing the current obligation for the employer to write to notify the employee of *agreement* to the revised working pattern. We propose replacing this with a right to receive this written confirmation only if the employee specifically requests it.

24. As part of the current statutory process required for an employee to request a flexible working pattern there is an obligation for the employer to write to notify the employee of agreement to the revised pattern. This proposed change would remove the need for an employer to write to confirm agreement and reflects our understanding that most employers are increasingly handling requests informally. The obligation to write would not be removed where an employer refuses a request for flexible working.

25. Evidence from the Third Work-Life Balance Survey suggests that 80per cent of requests are made informally and 20per cent formally. Furthermore the acceptance rate of requests at first stage is 87per cent, with the overall acceptance rate, including appeals, rising to 88per cent. As stated above, the aim of the deregulatory measure would be to remove the requirement to notify the employee in writing of an acceptance of that request unless the employee specifically requests it. The attached Impact Assessment works on the assumption that 25per cent of – instead of all – the requests accepted will still request written notification of acceptance. The gross effect on admin burdens across all types of request (formal and informal) and all types of decision (accepted or rejected) is a 65per cent reduction. It should be noted that the anticipated reduction is an aggregate estimate across all requests and not per individual. The attached Impact Assessment contains further detail and analysis.

26. To keep the right to request process as straightforward as possible for both employers and employees it is important to ensure consistency throughout the legislation in order to minimise confusion. Therefore the change would apply to all groups eligible under the right to request flexible working legislation.

27. The extension of the right to request flexible working to parents of children aged 16 and under is planned for introduction in April 2009. We would aim to implement this deregulatory measure at the same time. If this was not possible we would seek to do this at the earliest opportunity but it would not have the effect of delaying the introduction of the extension.

Question

Would you agree that it is sensible to remove the obligation for employers to send a formal letter whenever they approve an employee's request to change their working pattern? Please outline your reasons for why you think this.

Annex A

The Consultation Code of Practice criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available online at:

www.berr.gov.uk/files/file47158.pdf

Annex B

Terms of Reference of Imelda Walsh's independent review

On 6 November 2007, the Prime Minister announced the Government's intention to extend the right to request flexible working to parents of older, teenage children.

At the same time, he said that he had appointed Imelda Walsh, HR Director of J Sainsbury plc, to carry out an independent review. The review will consider how the current right to request should be extended to parents of older, teenage children, and the upper age limit of a child which should apply.

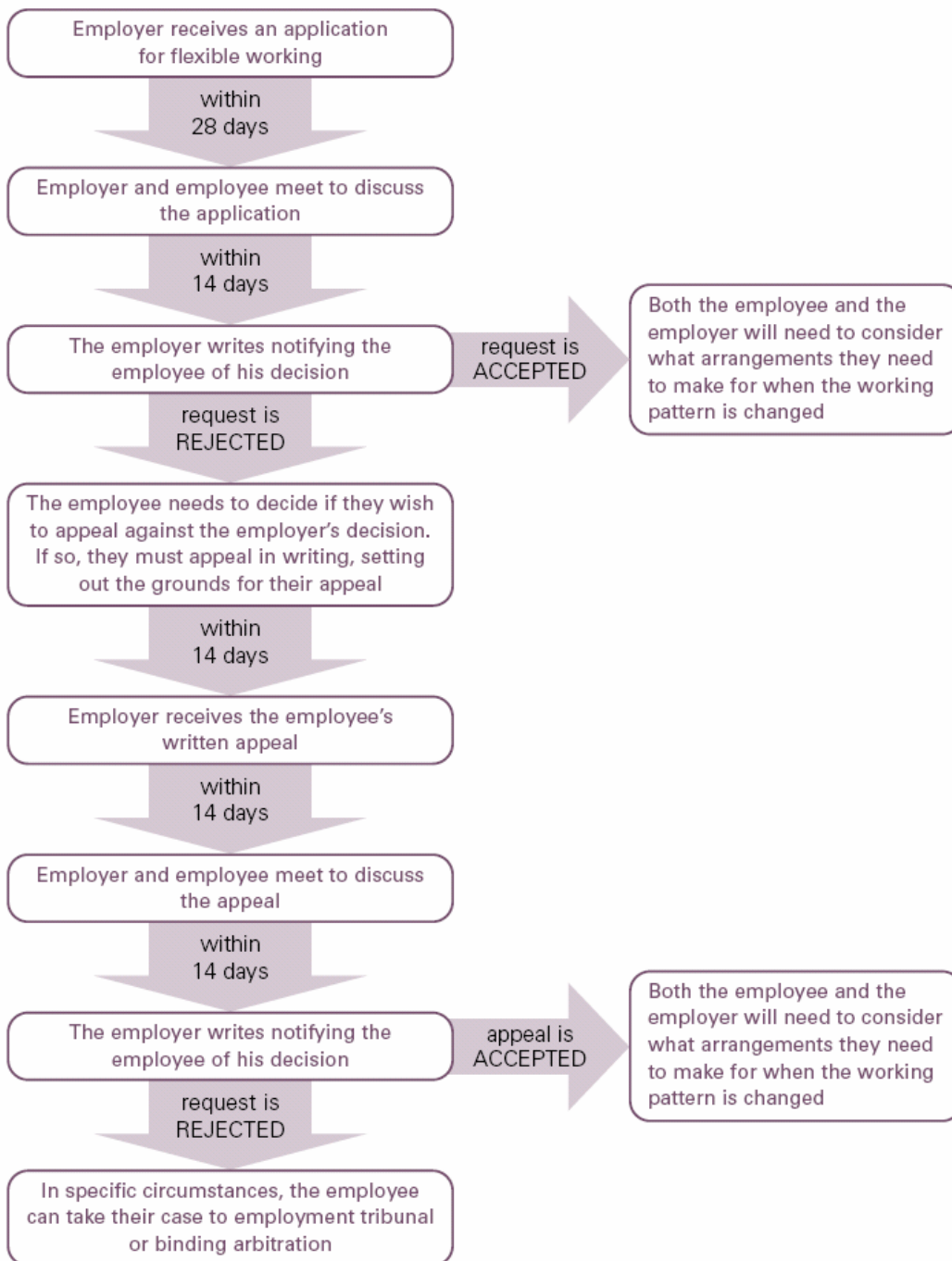
The review will involve business representatives, unions, parents groups and other interested parties in considering the options for change.

The reviewer will make recommendations to the Secretary of State for Business, Enterprise and Regulatory Reform in spring 2008.

A secretariat of BERR officials will support the independent reviewer in developing recommendations.

Annex C

Summary flowchart of process



Annex D

Partial Impact Assessment

Summary: Intervention & Options

Department /Agency: BERR	Title: Implementing the Recommendations of Imelda Walsh's Independent Review and Amending and Extending the Right to Request Flexible Working to Parents of Older Children	
Stage: Consultation	Version: FINAL	Date: 06 August 2008
Related Publications: Consultation document and Recommendations of Imelda Walsh's Independent Review		

Available to view or download at:

www.berr.gov.uk/files/file47434.pdf

Contact for enquiries: Tim Harrison/Alan Martin

Telephone: 0207 215 5799/1123

What is the problem under consideration? Why is Government intervention necessary?

Extending the right to request flexible working to parents of older children will introduce greater fairness and equity amongst working parents. Following the introduction of the right to request flexible working for parents of children under six and of disabled children under 18 in 2003 and the extension of the policy to cover carers of sick and disabled adults in 2007, the Government is looking to extend the scope of the law to parents of children aged 16 and under. Although flexible working arrangements exist for many parents of older children, a significant proportion would still benefit from legislation enabling them to request flexible working and having their employer consider such requests seriously.

What are the policy objectives and the intended effects? To provide parents of children aged 16 and under with the same choices in balancing work and childcare responsibilities through flexible working as are available to parents of children under six and disabled children, whilst ensuring that businesses have the flexibility to refuse requests on business grounds. Although there are costs to employers in terms of procedure and making adjustments to working arrangements, these are estimated to be outweighed by the benefits to firms resulting from savings in recruitment costs, lower staff turnover and absenteeism and increased productivity and profits. Employees via an increase in take-up of flexible working are expected to benefit from a better work-life balance.

What policy options have been considered? Please justify any preferred option.

The Government accepted the recommendations of the Walsh Review that the right to request should be extended to parents of children aged 16 and under. The Government is now consulting on measures to assist business with implementation as well a deregulatory measure to reduce associated admin burdens.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? BERR regularly conducts baseline surveys of employees and employers to establish the effects of employment policy aimed at improving work-life balance. Forthcoming surveys that will assist monitoring and evaluation include the 2010 Workplace Employer Relations Survey. This survey will also contribute to an assessment in 2010 of the success, or otherwise, of the proposed policy extension.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Pat McFadden, Minister of State for Employment Relations and Postal Affairs Date: 06 August 2008

Summary: Analysis & Evidence

Policy Option: 1	Description: Baseline case - extend to parents of children aged 16 and under
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Additional procedural costs, including admin burdens, to employers of £26m plus £43m in costs of making adjustments to working patterns			
	One-off (Transition)	Yrs				
	£ 0	0				
	Average Annual Cost (excluding one-off)					
	£ 69m	10	Total Cost (PV)		£ 574m	
Other key non-monetised costs by 'main affected groups' It is assumed that the extension of the existing law will have negligible implementation costs. An outline of implementation measures can be found in Section D						

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'. Savings to employers from higher productivity (£64m), lower labour turnover (£21m) and reduced absenteeism (£6.1m)			
	One-off	Yrs				
	£ 0	0				
	Average Annual Benefit (excluding one-off)					
	£ 91m	10	Total Benefit (PV)		£ 757m	
Other key non-monetised benefits by 'main affected groups' - better work-life balance for employees, increased labour supply, improved health and wellbeing and positive environmental impacts environmental impact. Potential admin burden savings via simplification of the law (the full IA will examine this benefit further).						

Key Assumptions/Sensitivities/Risks. Cost-Benefit figures and Admin Burden totals based on working assumptions produced for this IA and also draw on previous Flexible Working IAs. Final impact assessment will include updated information on likely take-up of flexible working and 'deadweight requests'. Hence cost-benefit values will be revised.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 183m	NET BENEFIT (NPV Best estimate) £ 183m
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What is the geographic coverage of the policy/option?					GB
On what date will the policy be implemented?					April 2009
Which organisation(s) will enforce the policy?					Tribunals Service
What is the total annual cost of enforcement for these organisations?					£ tbc
Does enforcement comply with Hampton principles?					Yes
Will implementation go beyond minimum EU requirements?					No
What is the value of the proposed offsetting measure per year?					£ N/A
What is the value of changes in greenhouse gas emissions?					£ N/A
Will the proposal have a significant impact on competition?					No
Annual cost (£-£) per organisation (excluding one-off)		Micro £12	Small £108	Medium £601	Large £2296
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ 11.2m	Decrease of	£ 0	Net Impact £ 11.2m increase

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2 (Summary of 2a, 2b and 2c below)	Description: Baseline case for extension to parents of older children plus implementation assistance and summary of effect of deregulatory measure across all flexible working strands
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Additional procedural costs (including admin burdens), to employers of £18.2m plus £43m in costs of making adjustments to working patterns for extension to parents of older children
	One-off (Transition)	Yrs	
	£ 0	0	
	Average Annual Cost (excluding one-off)		
£ 61m	10	Total Cost (PV) £ 509m	
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'. Savings to employers from higher productivity (£64m), lower labour turnover (£21m) and reduced absenteeism (£6.1m) from extension to parents of older children. Plus admin burdens reductions totalling £19.8m from deregulatory measure for parents of younger children and carers.
	One-off	Yrs	
	£ 0	0	
	Average Annual Benefit (excluding one-off)		
£ 111m	10	Total Benefit (PV) £ 922m	
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks. Cost-Benefit figures derived from previous flexible working IAs and working assumptions regarding procedural costs. Admin Burden figures use baseline calculations compiled for relevant admin burden exercises assessing different stages of development of right to request flexible working policy (see individual summary sheets)

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 413m	NET BENEFIT (NPV Best estimate) £ 413m
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What is the geographic coverage of the policy/option?		GB		
On what date will the policy be implemented?		April 2009		
Which organisation(s) will enforce the policy?		Tribunals Service		
What is the total annual cost of enforcement for these organisations?		£ tbc		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		N/A		
What is the value of the proposed offsetting measure per year?		£ N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro £10	Small £91	Medium £505	Large £1930
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)		
Increase of £ 3.8m	Decrease of £ 111.7m	Net Impact		£ 107.9m decrease

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2a	Description: Parents of older children – baseline case plus deregulatory measure and implementation assistance
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Additional procedural costs (including admin burdens), to employers of £18.2m plus £43m in costs of making adjustments to working patterns			
	One-off (Transition)	Yrs				
	£ 0	0				
	Average Annual Cost (excluding one-off)					
	£ 61m	10	Total Cost (PV)		£ 509m	
Other key non-monetised costs by 'main affected groups' It is assumed that the extension of the existing law will have negligible implementation costs.						

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'. Savings to employers from higher productivity (£64m), lower labour turnover (£21m) and reduced absenteeism (£6.1m)			
	One-off	Yrs				
	£ 0	0				
	Average Annual Benefit (excluding one-off)					
	£ 91m	10	Total Benefit (PV)		£ 757m	
Other key non-monetised benefits by 'main affected groups' - better work-life balance for employees, increased labour supply, improved health and wellbeing and positive environmental impacts environmental impact. Potential admin burden savings via simplification of the law (the full IA will examine this benefit further).						

Key Assumptions/Sensitivities/Risks. Cost-Benefit figures and Admin Burden totals based on working assumptions produced for this Impact Assessment also draw on previous Flexible Working Impact Assessments.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 248m	NET BENEFIT (NPV Best estimate) £ 248m
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What is the geographic coverage of the policy/option?					GB
On what date will the policy be implemented?					April 2009
Which organisation(s) will enforce the policy?					Tribunals Service
What is the total annual cost of enforcement for these organisations?					£ tbc
Does enforcement comply with Hampton principles?					Yes
Will implementation go beyond minimum EU requirements?					N/A
What is the value of the proposed offsetting measure per year?					£ N/A
What is the value of changes in greenhouse gas emissions?					£ N/A
Will the proposal have a significant impact on competition?					No
Annual cost (£-£) per organisation (excluding one-off)		Micro £10	Small £91	Medium £505	Large £1930
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ 3.8m	Decrease of	£ 0	Net Impact £ 3.8m increase

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2b	Description: Parents of younger children - deregulatory measure and implementation assistance
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' No additional costs for this policy area over and above those identified in original IA (see footnote 6 in main text below)		
	One-off (Transition)	Yrs			
	£ 0	0			
	Average Annual Cost (excluding one-off)				
	£ 0m	10	Total Cost (PV)	£ 0m	
Other key non-monetised costs by 'main affected groups'					

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'. Using current estimates for admin burdens unit costs the deregulatory measure would reduce burdens to business from £19m to £6.6m, a reduction of £12.4m		
	One-off	Yrs			
	£ 0	0			
	Average Annual Benefit (excluding one-off)				
	£ 12.4m	10	Total Benefit (PV)	£ 103m	
Other key non-monetised benefits by 'main affected groups' -					

Key Assumptions/Sensitivities/Risks. Cost-Benefit figures derive from unit cost estimates in 2006 IA on the extension to carers along with revised estimates regarding admin burdens and procedural costs. These update estimates used in the baseline calculations compiled for 2005 Admin Burden calculation exercise estimating costs attributable under right to request flexible working legislation in force at the time.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 103m	NET BENEFIT (NPV Best estimate) £ 103m
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What is the geographic coverage of the policy/option?				GB	
On what date will the policy be implemented?				April 2009	
Which organisation(s) will enforce the policy?				Tribunals Service	
What is the total annual cost of enforcement for these organisations?				£ tbc	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)		Micro £0	Small £0	Medium £0	Large £0
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ 0	Decrease of	£ 89m	Net Impact	£ 89m decrease

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2c	Description: Carers- deregulatory measure and implementation assistance
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' No additional costs for this policy area over and above those identified in original IA (see footnote 6 in main text below)		
	One-off (Transition)	Yrs			
	£ 0	0			
	Average Annual Cost (excluding one-off)				
	£ 0m	0	Total Cost (PV)	£ 0m	
Other key non-monetised costs by 'main affected groups'					

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'. Using current estimates for admin burdens unit costs the deregulatory measure would reduce burdens to business from £11.3m to £3.9m, a reduction of £7.4m		
	One-off	Yrs			
	£ 0	0			
	Average Annual Benefit (excluding one-off)				
	£ 7.4m	10	Total Benefit (PV)	£ 62m	
Other key non-monetised benefits by 'main affected groups' -					

Key Assumptions/Sensitivities/Risks. Cost-Benefit figures derive from unit cost estimates in the 2006 IA on the extension to carers along with revised estimates regarding admin burdens and procedural costs. These update the admin burdens figures used in baseline calculations compiled for Simplification Plan assessment exercise in relation to extension of flexible working to carers.

Price Base Year 2008	Time Period Years 10	Net Benefit Range (NPV) £ 62m	NET BENEFIT (NPV Best estimate) £ 62m
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What is the geographic coverage of the policy/option?					GB				
On what date will the policy be implemented?					April 2009				
Which organisation(s) will enforce the policy?					Tribunals Service				
What is the total annual cost of enforcement for these organisations?					£ tbc				
Does enforcement comply with Hampton principles?					Yes				
Will implementation go beyond minimum EU requirements?					N/A				
What is the value of the proposed offsetting measure per year?					£ N/A				
What is the value of changes in greenhouse gas emissions?					£ N/A				
Will the proposal have a significant impact on competition?					No				
Annual cost (£-£) per organisation (excluding one-off)			Micro £0	Small £0	Medium £0	Large £0			
Are any of these organisations exempt?			No	No	N/A	N/A			

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ 0	Decrease of	£ 22.7m	Net Impact £ 22.7m decrease

Key: Annual costs and benefits: Constant Prices (Net) Present Value

A: Strategic overview

Existing Government initiatives

The right to request flexible working was introduced in April 2003 following a report¹² by the Work and Parents Taskforce, led by Professor Sir George Bain. The Taskforce was established by the Government with the remit of developing the detail of legislation to give parents of young children a right to request flexible working and to have that request seriously considered by their employer.

One of the principal questions which the Taskforce had to consider was the age at which a child would most benefit from the immediate presence of a parent.

The Taskforce's considered view, in light of the many representations it received and the research available to it, was that the right to request flexible working should initially be introduced for those with parental responsibility for children up to the age of six, or up to the age of 18 for disabled children. The Government accepted this recommendation.

Ever since its introduction in 2003, there have been calls for the scope of it to be extended to other groups of employees. Following a major public consultation¹³ in 2005, the Government decided that the legislation should be extended to carers of adults: this extension came into effect on 6 April 2007.

Implications for Administrative Burdens

The 2005 PwC Admin Burdens measurement exercise identified a number of information obligations associated with the Flexible Working (Procedural Requirements) Regulations 2002. As the current policy proposals would be implemented in a similar fashion, these would result in additional administrative burdens for employers. These are detailed in section E below on Costs and Benefits. However, the consultation document will explore the potential for introducing deregulatory measures (discussed in more depth below).

Article I. B: The issue

In the Queen's Speech in November 2007 the Prime Minister announced that the Government had decided to extend the scope of the right to request to those with parental responsibility for older children. This will introduce greater fairness and equity amongst working parents.

Imelda Walsh, HR Director of J Sainsbury plc, was appointed to lead an independent review to consider the questions of where the age cut-off of an older child should be set for this purpose; and whether the extension should be staged.

Consultation

Within Government

These proposals have been developed in consultation with the following Government departments: the Department for Work and Pensions, the Government Equalities Office and the Department for Children, Schools and Families.

Article II. Public consultation

This partial impact assessment will accompany a public consultation on the issue in August 2008.

¹² Published as *About Time: Flexible Working* in November 2001.

¹³ *Work and Families: Choice and Flexibility – A Consultation Document*, published February 2005, URN 05/847.

Since the announcement of the Walsh Review there has been an intensive programme of stakeholder engagement, involving meetings with trades unions, parents' bodies, personnel organisations and business representatives. As Imelda Walsh's own background is in big businesses (Barclays and Coca Cola, as well as Sainsbury's), she has been particularly keen to obtain the views of small businesses.

C: Objectives

To provide those with parental responsibility for children aged 16 and under with the same choices in balancing work and childcare responsibilities through flexible working as are available to those with parental responsibility for children under six and disabled children under 18, whilst ensuring that businesses have the flexibility to refuse requests on business grounds. Although there are costs to employers in terms of procedure and making adjustments to working arrangements, these are estimated to be outweighed by the benefits to firms resulting from savings in recruitment costs, lower staff turnover and absenteeism and increased productivity and profits. Employees via an increase in take-up of flexible working are expected to benefit from a better work-life balance.

Background

Since April 2003, the law provides those with parental responsibility for children under six or disabled children under 18 the right to apply to work flexibly, with a statutory duty on employers to consider such requests according to a set procedure.

The law is designed to meet the needs of parents and employers, particularly small employers. It aims to facilitate discussion and encourage both the employee and the employer to consider flexible working patterns, and to find a solution that suits them both.

The law does not provide an automatic right for parents to work flexibly. This reflects the reality of the workplace where there will sometimes be circumstances when an employer is unable to accommodate an employee's desired work pattern. There are eight business grounds specified in legislation under which a request can be refused¹⁴.

BERR's Third work-life balance employee survey¹⁵ showed that over the last two years, 17 per cent of employed parents made a change in how they regularly work for a sustained period of time. Twenty-two per cent of women said that they had made a request to change the way that they work in the past two years as compared to 14 per cent of men. Women made up 57 per cent of all those requesting a change.

There were also significant differences by work status: 28 per cent of those who were working part-time at the time of the research had approached their employer to request a change in their working pattern within the past two years. This compares to 15 per cent of full-time workers.

Employees were able to cite a range of ways that they might have submitted their request to work flexibly. The most common approach was to make the request in a face to face meeting or discussion.

¹⁴ Section 80(G)(1)(b) of the Employment Rights Act 1996 list the following eight grounds for refusal of a request for flexible working:

- Burden of additional costs.
- Detrimental effect on ability to meet customer demand.
- Inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- Detrimental impact on quality.
- Detrimental impact on performance.
- Insufficiency of work during the periods the employee proposes to work.
- Planned structural changes.

¹⁵ The Third Work-Life Balance Employees Survey, March 2007, Employment Relations Research Series No.58

This was mentioned by 83 per cent of those making a request. Meanwhile, 18 per cent made the request by letter or on a form, four per cent by email and three per cent on the telephone.

In most cases, requests were either fully (60 per cent) or partially (18 per cent) agreed to. Women were more likely than men to be successful in making a request: 66 per cent of female workers had their requests fully agreed to, as compared to 53 per cent of male workers.

In the large majority of cases (87 per cent) requests were accepted outright; however, 13 per cent said that they had only had their request to change the way that they worked agreed once they had negotiated or appealed against an original employer decision.

Over half of all employees interviewed (56 per cent) were aware of the new right. A higher proportion of parents with children aged under six (65 per cent) were aware of the right to request than were other employees (53 per cent).

D: Options identification

The Walsh Review was set up to consider to what age the extension of the right to request flexible working should apply. Imelda Walsh set out three different ages which she considered were significant stages in a child's education. A view which the vast majority of the interested parties agreed. The three cut-off ages considered were:

- children aged 12 and under: this would cover the transition from primary to secondary school;
- children aged 16 and under: this would allow parents to support their children until the end of their secondary education and GCSEs;
- children aged 18 and under: this would allow for support until the end of sixth form or vocational training and would be consistent with the existing right for parents of disabled children.

Some respondents argued that age 12 is the best option on the grounds that this is the age at which a child makes the transition to secondary school and when the child can safely be regarded as being responsible enough to be left to go home after school and look after him or herself. However, the NSPCC advise that although it depends on the individual child, most children under about 13 are not mature enough to cope with an emergency and should not be left alone for more than a very short period of time. Furthermore, although there is no clear legal position on when children can be left at home on their own, parents can be prosecuted for wilful neglect if they leave a child under 16 unsupervised "in a manner likely to cause unnecessary suffering or injury to health"¹⁶.

The majority of stakeholders highlighted that educational support is of increasing concern for parents, and argued that the completion of GCSEs or A-Levels were the most natural cut-off points. This narrowed the options down to age 16 and under or 18 and under. The arguments in favour of selecting 18 are that this would be consistent with the current right for a disabled child and would fit with the higher school-leaving age of 18 from 2013. However, as Ms Walsh argued, it is reasonable to regard a person aged 17 or 18 as a young adult who can be expected to show a good measure of independence and personal responsibility whether as part of further education, a first full-time job or vocational training. For these reasons, and because she felt there would be more support and understanding, Ms Walsh recommended that the cut-off point age be 16 and under.

The Government has accepted the recommendation to raise the age cut-off to parents of children aged 16 and under and is looking at how best to implement this with the aim of introducing the changes from April 2009. On this basis this impact assessment looks at the costs and benefits of extending the right to those with parental responsibility for children aged 16 and under.

Option 1: Baseline case - extend to parents of children aged 16 and under

The Government has accepted the recommendations put forward by Imelda Walsh to extend the right to request flexible working legislation to those with parental responsibility for children aged 16 and under. An analysis of the costs and benefits of implementing these recommendations is contained in Section E below.

Option 2: Extend to parents of children aged 16 and under and introduce Implementation and deregulation measures

The Government wants to implement the change in the law in the most cost effective way for employers and Government. The Department will be consulting with business so that costs can be minimised. In line with the Government's agenda to simplify regulation wherever possible, the public consultation will also seek views from stakeholders on potentially removing some information obligations falling on firms. Section E contains more details under 'administrative burdens'.

¹⁶ Children and Young Persons Act 1933

E: Analysis of options

Costs and Benefits

The analysis of costs and benefits is conducted in two parts below.

- **PART 1:** First of all, cost and benefit estimates are provided for the extension of the current policy to cover parents of children aged 16 and under. It should be noted that this impact assessment is considering the *marginal* effect of extending the right to request to parents of older children. Clearly parents of children under six and of disabled children under 18 will already be covered by the legislation and hence are not included in the estimates of eligible parents discussed below¹⁷.
- **PART 2:** Following on from this, the cost-benefit analysis will address directly the areas that are currently subject to consultation, namely
 - a) the introduction of a deregulatory measure and
 - b) implementation assistance to business.

PART 1: Extending the age limit to cover those with parental responsibility for children aged 16 and under

Eligibility

To be eligible to make a request under this right, a person must satisfy the following criteria:

General

- Be an employee
- Have worked for their employer continuously for 26 weeks at the date the application is made
- Not be an agency worker or a member of the armed forces
- Not have made another application to work flexibly under the right during the past 12 months

Parents

- Be the parent, or have parental responsibility for a child aged 16 or under
- Have responsibility for the upbringing of the child and be making the application to enable them to care for the child
- Be either:
 - the mother, father, adopter, guardian, special guardian, foster parent or private foster carer of the child or a person who has been granted a residence order in respect of a child; or
 - married to or the partner or civil partner of the child's mother, father, adopter, guardian, special guardian, foster parent or private foster carer or of a person who has been granted a residence order in respect of a child.

Assumptions

Earlier impact assessment work

The methodology adopted for estimating the costs and benefits associated with the extension of the right to request flexible working follows closely and builds upon that used for the development of earlier policy in this area. Specifically this relates to impact assessment work carried out in 2002 for those with parental responsibility for young children and in 2006 for carers of adults¹⁸.

¹⁷ For instance, where employed parents have one child aged 5 and one aged 9 they would already be covered by the law and so are not counted here.

¹⁸ See respectively *Imposing a Duty on Employers to Seriously Consider Requests for Flexible Working from the Parents of Young and Disabled Children*, 2002 Compendium of Regulatory Impact Assessments, Employment Relations Research Series No. 40, www.berr.gov.uk/files/file11440.pdf, and *Extending the scope of the right to request flexible working (Full)*, 2006 Compendium of Regulatory Impact Assessments, Employment Relations Research Series No. 74, www.berr.gov.uk/files/file38874.pdf

Take-up of flexible working arrangements and deadweight

Take-up of the extended right to request flexible working is likely to differ between mothers and fathers and also by current working pattern. Those who already have 'flexible' working patterns (such as part-time or flexi-time) may be more or less likely to request a change to working patterns than people with what appear to be 'non-flexible' working patterns. For this reason, the assumptions used to construct estimates of take-up are disaggregated by sex, full-time/part-time status and by whether the employed parent has some identifiable 'flexible' working pattern. The detail of the analysis is set out in Annex C.

We have assumed that some requests will be regarded as 'deadweight' i.e. requests that would have occurred in the absence of any policy change. It is not straightforward to estimate the deadweight effect. Annex C presents some illustrative estimates of deadweight requests.

This impact assessment uses data from the Second Work-Life Balance Survey¹⁹ to estimate take-up rates and degree of deadweight requests. It may be possible for the final impact assessment to update these assumptions based on results from the Third Work-Life Balance Survey. This could change the level of costs and benefits. However, any changes to the degree of take-up or deadweight requests will not alter the ratio of costs to benefits.

In addition, for this partial impact assessment we consider a linear relationship between both the costs and the benefits of extending the right to request flexible working and the age of the child.

It is likely that the take-up initially rises and then tapers off as the age of the child increases. The scope for parents to request to work flexibly is likely to decrease with a child becoming older and more independent. We are looking to examine this relationship further using the Third Work-Life Balance Survey.

Accounting for disabled children aged under 18

The existing legislation covers disabled children aged under 18 and hence these are not included in the current analysis. See footnote no.7 below for further details.

BENEFITS

A number of benefits have been identified that may result from the extension of the right to request flexible working.

The principal benefits to business of the proposals are:

- Reduced vacancy costs and increased skill retention
- Increased productivity and profits
- Reduced absenteeism rates

These are considered in detail in this impact assessment and estimates of the associated monetised benefits are set out in the tables below.

Wider benefits

We also recognise that there are likely to be wider benefits of this policy, namely:

- Better work-life balance for employees
- Increased labour supply due to availability of more flexible working opportunities
- Improved health and wellbeing
- Positive environmental impact²⁰

At this stage, these benefits have not been quantified, but, where the data allow, further analysis will be carried out with a view to presenting these in the final impact assessment.

¹⁹ The Second Work-Life Balance Employees Survey, March 2004, Employment Relations Research Series No.27

²⁰ For instance a reduction in commuting as a result of enabling more employees to work from home

Estimated eligibility and new working arrangements

Table 1 below shows the number of eligible parents, number of new requests and the estimated number of new working arrangements per annum expected from parents of older children²¹.

Table 1. Estimated number of eligible parents and of new working arrangements*

Scope of law	Number of entitled employees ('000s)	Number of additional entitled employees ('000s)	Number of new requests ('000s)	Number of additional new requests ('000s)	New working arrangements ('000)	Additional number of new working arrangements p.a. ('000)
Parents of children aged six and under	3,512	-	503	-	441	-
Parents of children aged 16 and under	8,005	4,493	811	308	711	270

Source: LFS Q2 2007, BERR estimates. *Rounded to nearest 1000

The chart below illustrates the relationship between entitled employees and number of new working arrangements.



To be eligible to request to work flexibly parents should be employed for more than 6 months and have a child aged 16 and under. As discussed above for the purpose of this IA, we have used data from the Second Work-Life Balance Survey to estimate take-up rates and degree of deadweight requests, and are examining the robustness of the data from the Third Work-Life Balance Survey with a view to updating this. Further assumptions underpinning the estimated number of new working arrangements can be found in Tables C1 to C3 in the Annex.

1. Reduced vacancy costs and increased skill retention

Where flexible working enables parents to remain in the labour market, there will be benefits in terms of reduced staff turnover costs and increased skill retentions. There are no reliable figures on the cost to fill a post that becomes vacant. In order to find a suitable measure, for the purposes of this IA, we have assumed a cost of £5,276²².

There may be broader savings to employers through reduced turnover among the parents of older children. At present, many working parents have some form of flexible working pattern, but to achieve this, a proportion will have had to change their job. Parents may leave their jobs for others with more flexible working patterns but which may be lower paid or lower skilled.

²¹ The calculations for table 1 and the following tables include parents of disabled children; these, however, are already covered by the law. Following ONS 2004 Health of Children and Young People report and BERR calculations the number of disabled children under 18 is estimated to be in 2008 less than 7,000, hence a relatively small proportion of all children and consequently negligible impact on the costs and benefits estimates. ONS report used two separate sources of data, data from the General Household Survey and data from Family Fund and Trust's register of applications.

²² Since 2004 CIPD have carried out an annual survey on recruitment and turnover covering between 715 and 905 UK organisations. The survey asked about the costs of labour turnover and costs of recruitment. Relatively few organisations provided information on the cost of overall labour turnover - hence its unsuitability here - whereas a much higher number responded to the cost of recruitment. In order to obtain an estimate of the cost of labour turnover we assumed for 2007 the same mark up of cost of labour turnover over the cost of recruitment as in 2005. We then apply an annual growth rate of 4per cent to the 2007 figure.

In 2007 CIPD estimates a labour turnover rate of 18.10per cent²³ and 9.7per cent²⁴ of individuals who left their place of employment to either have - or to look after their - children. To estimate the effect of the policy it is assumed that the introduction of a right to request flexible working for parents of older children will prevent 5per cent of employees leaving their jobs to look after family members. The cost of filling a post that becomes vacant is assumed to be £5,276. The savings made through lower recruitment costs are presented in the table below.

Table 2. Estimated savings in recruitment costs as a results of lower labour turnover

Scope of law	Estimated number of employees who leave their job to have or look after children* (000s)	Estimated number of employees who decide to remain with their existing employer as a result of the scope of law being extended * (000s)	Additional employer savings in recruitment costs as a result of extending scope of law **
Parents of children aged 6 and under	62	3	-
Parents of children aged 16 and under	141	7	£21m

Source: LFS Q2 2007 and BERR estimates. * rounded to nearest 1000. ** rounded to nearest million.

2. Increased productivity and profits

Evidence has shown that flexible working arrangements can have a beneficial effect in terms of increased productivity, output and ultimately profits.

BERR's third Work Life Balance Survey found that 12per cent of employers thought that flexible working and leave arrangements had a negative effect and 47per cent reported positive effect²⁵, with the remainder reporting no impact²⁶. Overall 36per cent of firms reported a net positive impact on productivity²⁷. BERR's Third Work Life Balance Survey is based on responses from 1,456 managers. In addition to asking managers what the effects of flexible working had been on productivity at the establishment they were also asked about the perceived effects of flexible working on employee relations, motivation and commitment, recruitment, labour turnover and absenteeism. For the most part, employers thought that flexible working and leave arrangements had a positive effect or no effect on employees and human resources management at the establishment. At least around four in ten employers thought that flexible working and leave arrangements had a positive effect on each of the six criteria. Relatively small proportions perceived these practices to have a negative effect.

Table 3 presents the estimated increase in profits as a result of employees being more productive after a request for flexible working is accepted. Here we have assumed that 36per cent of new working arrangements will result in an increased level of productivity for employees who adopt a new working arrangement.

A further assumption was made that a notional level of 5per cent output gain would be achieved for the 36per cent of new working arrangements that result in increased productivity²⁸. A 5per cent level was chosen because employers must have realised a significant rise in productivity to report that flexible working has had a positive impact on their firm. A further assumption was made that improved productivity leads to higher output. It was then assumed that 14.2per cent of the increased output will

²³ CIPD, Recruitment and turnover survey 2007

²⁴ CIPD, Recruitment and turnover survey 2007. In 2007 18per cent of people left their job to have or look after their children. This is a quite big increase with respect to previous years with no apparent reason. For the Regulatory Impact Assessment analysis we took the average of the last three years.

²⁵ This assumes that the magnitude of average productivity gains is broadly similar to the magnitude of losses. Further research will be carried out to investigate this and the results will be presented in the final impact assessment.

²⁶ We assumed that the 13per cent of employers that did not answer or refused to answer perceived the same effect on productivity as those who did answer.

²⁷ 47.2per cent-11.5per cent = 35.7per cent~36per cent.

²⁸ To calculate output per worker the following sources and calculation have been used. In October-December 2008 there were 25,329 employees (MGRN) (source: ONS Labour market statistics February 2008). To get a figure for May 2008 we assumed a change on quarter of 0.6per cent as for previous quarter. UK output in 2004 was £2,151,833m (ONS Blue Book 2006). To get to 2008 figure we apply an average growth rate of 2.5per cent.

represent gross profit. The 14.2per cent figure represents the ratio of gross operating surplus to domestic output of product for the entire economy²⁹. The table below presents the increased gross profit as a result of improved productivity.

Table 3. Increased profits as a result of increased productivity - parents of older children

Scope of law	Extra gross profits (Total) p.a.
Parents of children aged 6 and under	-
Parents of children aged 16 and under	£64m

Source: BERR estimates. Figures have been rounded

3. Reduced absenteeism rates

BERR's third work life balance survey also showed that a net of 33per cent of firms report a positive effect on absenteeism as a result of flexible working and leave arrangements³⁰. The CIPD surveyed found that on average the cost of an employee being absent per year is £685³¹. An assumption was made that 33per cent of new working arrangements will result in lower employee absenteeism. For the purpose of this IA, we are using a constant rate of people being absent even though we do recognize that the likelihood to be absent is inversely related to the age of the child. A further assumption has been made that the cost of absenteeism prior to making a request is £658 per year and after a request is accepted the cost of absenteeism falls by 10per cent. It is assumed that the absenteeism cost falls because flexible working allows employees to reduce the incidences of absence per year. Table 4 below presents the savings made by employers as a result of lower absenteeism.

Table 4. Savings in absence costs - parents of older children

Scope of law	Savings in absence costs
Parents of children aged 6 and under	-
Parents of children aged 16 and under	£6.1m

Source: BERR estimates. Figures have been rounded

Summary of quantifiable benefits

The table below provides a summary of the quantifiable benefits adding together the savings in recruitment cost (Table 2), the quantifiable benefits of increased productivity (Table 3) and the quantifiable savings in absence costs (Table 4).

Table 5. Total additional quantifiable benefits - parents of older children

Scope of law	Total additional quantifiable benefits
Parents of children aged 6 and under	-

²⁹ The Gross operating surplus is taken from the United Kingdom Economic Accounts, Q3 2007 Table 12, series ABNF (gross operating surplus). To get the 2008 figure we applied an annual growth rate of 4per cent: $343,510 \times 1.04 = 357,250$. The Domestic Output of products comes from the 2006 Blue Book, an annual growth rate of 4per cent has been applied:

$2,151,833 \times 1.04 \times 1.04 \times 1.04 \times 1.04 = 2,517,340$

$357,250.4 / 2,517,340.3 = 14.2\text{per cent}$.

³⁰ After controlling for those employers that did not answer we have 10.4per cent of employers thinking that flexible working had a negative effect on absenteeism and 43.7per cent thinking that it has a positive effect.

³¹ CIPD, cost of being absence in 2007 £659, we then applied a annual growth rate of 4per cent.

Source: BERR estimates. Figures have been rounded.

COSTS

The principal costs to business of the proposals fall under three headings:

1. Implementation costs of the proposals:
2. Procedural costs arising from exercise of the right to request flexible working:
3. The costs of accommodating such requests (when they are accepted)

These are considered in turn.

1. Implementation costs

The extension of the right to request flexible working would result in one-off Implementation costs for business. These are estimated and discussed in detail in part 3 below. It is assumed that the extension of the existing law will have negligible implementation costs. Firms are already familiar with how to process a request for flexible working. The cost of communicating the change in eligibility to employees will be very little as it is assumed that firms will already have a method of communication in place that will only need updating.

These are one-off costs. Most will be incurred in the period around when the legislation comes into force although in some cases, for example where smaller firms have no eligible employee at the time of implementation, the costs may not occur straight away.

2. Procedural Costs

2.1 Average cost of handling a formal request

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

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

Experience has also shown that as a result of the formal right to request acting to accelerate culture change in the workplace, many applications are considered on a more informal basis, which again significantly reduces the procedural costs.

We estimate 2 hours of employee time, and 3 hours of management time to process a request that is dealt with formally. It is assumed that with requests that are dealt with informally it takes half an hour of employee time and one hour and a half of management time to process the request. Details on the time to process a request are provided in table 6 below. This works out at approximately £65 per request.

It is likely in practice that for 'deadweight' requests, i.e. those where employees are already allowed to work flexibly, the average procedural cost is likely to be much less. Even where flexible working is guaranteed, the cost of any existing procedure for changing working patterns – however informal - must be subtracted. Adopting the methodology used in earlier impact assessments a notional cost of £22 is assumed for each deadweight request

2.2 Average cost of appeal or internal grievance stage

The appeal stage will involve a written statement of appeal by the employee, a meeting (where the employee may be represented) and a written response by the employer. Where requests reach this

stage, it is likely that both employees and managers take more care and attention over their written communications. The meeting may also be longer and more wide-ranging. It is therefore assumed that the average cost is double that of the first stage, namely £130 per request.

2.3 Average cost of external dispute resolution stage

The average cost to an employer of an application to an Employment Tribunal - £4,980³² - is used as a benchmark figure. The cost to the employer excludes any financial or non-financial costs borne by the employee at this stage. Other sources of dispute resolution, e.g. the ACAS arbitration scheme, may be cheaper for both parties.

The total procedural cost per annum is presented in table 7.

2.4 Administrative Burdens

Annex B sets out the PwC administrative burden information obligations associated with the Flexible Working (Procedural Requirements) Regulations 2002³³. This allows us to identify and separate out from the procedural costs, those activities under the current proposals that are likely to impose an information obligation on employers.

It is important to note that not all the procedural costs set out above can be strictly termed as administrative burdens. The associated information obligations such as written notification of the employer's decision relating to the request are a subset of the procedural costs and can largely be estimated on the basis of time taken to complete the relevant tasks. The remainder of the procedural costs are therefore considered to be policy costs.

As the underlying unit cost (i.e. the hourly rate for management and employee time) is the same, the differential is in terms of time commitment. These are set out in the table below.

³² Source Survey of Employment Tribunal Applications 03'

³³ i.e. the introduction of the right to request flexible working for parents of children under 6 and disabled children under 18.

Table 6. Estimated time to process a request[#]

Acceptance stage		unit cost		of which admin burden	
		formal	informal	formal	informal
Average time to processing requests at first stage (accepted)	Management time	3	1.5	1	1
	Employee time	2	0.5	0	0
Average time to processing requests at first stage (rejected)	management time	3	1.5	1	1
	Employee time	2	0.5	0	0
Average time to processing requests at first stage (deadweight request)*	Management time	1	0.5	0.33	0.33
	Employee time	0.67	0.17	0	0
Average additional time per request taken to appeal stage**	Management time	6	3	2	2
	Employee time	4	1	0	0

Source: BERR estimates. * Assumed to be one third of a new request. **Assumed to be the double of a new request .# in hours

In terms of administrative burdens these will fall on employers only and estimates of time required are given in Table 6 above. We assume initially that administrative burden costs apply to all formal and informal requests, although it is reasonable to assume that informal requests may not always result in formal written notification from the employer.

We estimate extending the right to parents of children aged 16 and under will result in 308,000 additional requests³⁴ of which we estimate that 270,000 will be accepted. We have assumed in this impact assessment that 80per cent of requests are informal hence it is likely that only a small proportion of employees will request a written confirmation.

BERR would welcome views on the extent to which employees would request a written confirmation when their request has been accepted.

The resulting costs of administrative burdens (without considering any simplification measures) to employers are presented in table 7 below and reflect the split between formal and informal requests outlined above.

3. Cost of accommodating requests for flexible working

Employers may also face costs in accommodating a request for flexible working. Examples might include re-organising work schedules or adjustments to IT systems (e.g. to permit flexible rostering). In some cases, the potential costs could be more substantial (e.g. if another employee had to be recruited to cover for an employee reducing their working hours). These examples should not be considered as exhaustive.

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

On average the costs of accommodating requests for flexible working might be a week's wages for requests that ask to work part time. For other types of requests we have assumed the equivalent of 1 day's wages to accommodate the request. Another assumption has been made that half of all request are to work part time, hence the average cost of accommodation is 3 days wages. Using average earnings from the 2007 Annual Survey of Hours and Earnings and allowing for 21per cent for non-wage labour costs, this produces costs of £242 for male full-time, £77 for male part-time, £193 for female full

³⁴ Details in appendix C table C4

time and £99 for female part time³⁵. The annual cost of adaptation is assumed to be constant for each of the various proposals because evidence from the LFS suggests that the stock of parents who work flexibly is approximately constant over time.

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

The total procedural costs and the cost of making adjustments to working patterns for the first year are presented in the table below. The last three columns of table 7 below show a) the additional cost to employers per year due to the new law and b) of this the increase in administrative burdens, presented both in 2008 and 2005 prices.

Summary of costs

Table 7 Summary of annual procedural costs and cost of accommodating requests*

	Total procedural cost (£ millions)	Total costs of making adjustments to working patterns (£ millions)	Additional cost to employer (£millions)**	Of which administrative burdens	
				2008	2005
				Prices	Prices***
<i>Scope of law</i>					
Parents of children aged 6 and under	42	77	-	-	-
Parents of children aged 16 and under	68	120	69	12	11.2

Source: Berr estimates *Rounded to nearest million. **This column represents the difference between the total employer cost (procedural cost + cost of adjustment) for the proposed option and current scope of law. *** to compare against 2005 admin burdens baseline

³⁵ All the wage figures above are based on 60per cent of average gross weekly earnings plus 21per cent of non-wage labour costs.

Part 2A: Deregulatory measure

As part of the statutory process required for an employee to request a flexible working pattern there is an obligation for the employer to write to notify the employee of agreement to the revised pattern (see annex B).

The Government is committed to simplifying and reducing where possible the administrative burdens on business. We are therefore seeking comments from respondents to the linked consultation on the merits of replacing the current obligation for the employer to write to notify the employee of *agreement* to the revised pattern with a right to have this written confirmation only if the employee specifically requests it.

This change would remove the need for an employer to write to confirm agreement and reflects our understanding that most employers are increasingly handling requests informally. The obligation to write would **not** be removed where an employer refuses a request for flexible working.

The extension of the right to request flexible working to parents of children aged 16 and under is planned for introduction in April 2009 and we would aim to implement this deregulatory measure at the same time. If this was not possible we would seek to do this at the earliest opportunity but it would not have the effect of delaying the introduction of the extension.

(i) Calculating the effect of deregulation for the extension to older parents

In table 6 above, we set out the underlying unit costs used to calculate both the procedural and separate administrative burdens costs. The results were presented in table 7.

Evidence from the Third Work-Life Balance Survey suggests that 80per cent of requests are made informally and 20per cent formally. Furthermore the acceptance rate of requests at first stage is 87per cent, with the overall acceptance rate, including appeals, rising to 88per cent. On this basis we estimated total admin burdens costs to be **£12m** (in 2008 prices) for the extension of the right to request flexible working to parents of children aged 16 and under.

As stated above, the aim of the deregulatory measure would be to remove the requirement to notify the employee in writing of an acceptance of that request unless the employee specifically requests it. Therefore we assume here that only 25per cent - instead of all - of all the requests accepted will still request written notification of acceptance. The gross effect on admin burdens across all types of request (formal and informal) and all types of decision (accepted or rejected) is a 65per cent saving, or **£7.8m**.

With the deregulatory measure total administrative burdens are estimated to amount to **£ 4.2m**³⁶.

(ii) The effect of deregulation on earlier right to request policies.

The proposed deregulatory measure would apply not only to those covered under the extension of the right to request flexible working but across the whole of the right to request legislation. In aiming to keep the process as straightforward as possible for both employers and employees it is important to ensure consistency throughout the legislation in order to minimise confusion. Furthermore it would not be practicable for business to have the measure apply to only one of the groups eligible for the right to request. Therefore the proposed deregulatory measure will affect all those eligible for the right to request flexible working. The calculations in this Impact Assessment are applicable to each of the relevant groups eligible under the right to request flexible working legislation.

(a) The right to request flexible working for parents of younger children and disabled children under 18

The PWC admin burdens exercise in 2005 estimated the costs of information obligations under the first right to request legislation introduced in 2003. This attributed a cost to business of £137m of this regulation. On this basis, an initial estimate of the saving to employers of removing this obligation (again using the 65per cent reduction identified above) unless an employee specifically requests it is £89m.

³⁶ Corresponding to 3.8m in 2005 prices

More recent estimates suggest that in fact most requests for flexible working are handled informally and that the time taken to fulfil the obligation where it is completed is significantly less than previously assumed. On this basis the cost of the current regulation to business is **£19m** and the saving to employers of removing it unless an employee specifically requests it is **£12.4m**, leaving an actual administrative burden of £6.6m.

(b) The right to request flexible working for carers of sick and disabled adults

In the final Regulatory Impact Assessment for the extension of the right to request flexible working to carers of sick and disabled adults, it was estimated that administrative burdens costs to employers would total £35m. On this basis, an initial estimate of the saving to employers of removing this obligation (again using the 65per cent reduction identified above) unless an employee specifically requests it is £22.7m.

Recognising that more requests are handled informally and that the current estimates of the time required to fulfil the obligation are lower, using the unit costs from above³⁷ we estimate that the deregulatory measure would reduce administrative burden costs by 65per cent from £11.3m to £3.9m, a saving of **£7.4m**.

³⁷ This extension of the policy came into force in 2007, hence after the 2005 PwC exercise and as such no specific alternative unit cost estimates exist in this case.

Part 2B: Assisting business with implementation

Furthermore, the Government has accepted the recommendation in Imelda Walsh's independent report that the age cut-off point for the legal right to request flexible working should be increased to those with parental responsibility for children aged 16 and under and that this change should be implemented in a single step, rather than a staged introduction, to avoid creating confusion for business and employees. Therefore the focus of the consultation is implementation of this recommendation and simplification of the administrative procedures.

The Walsh Review also recommended that business would benefit from increased information and guidance about dealing with flexible working requests. The consultation asks for views about how this could best be done.

Ms Walsh's report highlighted that evidence shows that some groups of employee are less likely than others to be aware that they currently have the right to request flexible working, in particular fathers and carers of adults. In response, the Department for Business, Enterprise and Regulatory Reform and the Government Equalities Office will be launching a campaign this year to increase awareness of the right among both employees and employers, targeted at the groups highlighted by Ms Walsh. The campaign will focus on raising awareness of both the individuals' right to request flexible working and helping business understand how to handle such requests through more effective use of tools and advice available on BusinessLink.Gov. Activities will be spread over 12 months encompassing media opportunities, Ministerial events and making use of publications to reach the various target audiences.

Information and Improved Guidance

Access to flexible working arrangements has made an important difference to millions of employees. Many employers recognise that flexible working improves retention and some acknowledge additional productivity benefits too. This is borne out by recent research³⁸ which found that the majority of flexible workers, co-workers of flexible workers and managers of flexible workers reported that there was either a positive impact or no impact on individual performance.

However, Ms Walsh's review found that many employers would appreciate more help and guidance about how to introduce flexible working as they are concerned about the impact on their business and the customers they serve. Despite having heard about the potential benefits, they are understandably cautious about how to go about introducing flexible working arrangements in their own organisations.

Ms Walsh therefore recommended that the Government consider how it can better assist and offer practical encouragement to businesses implementing these changes. She suggested that employer representative bodies, with Government support, could assist in the sharing of good practice and ideas.

In the consultation document, the Government is seeking views as to what more Government can do to assist businesses that are implementing flexible working arrangements, having regard to the existing guidance and templates available on BusinessLink.gov.uk³⁹ and to any particular characteristics of parents of children 16 and under.

Calculating the impact of improved implementation assistance

We assume here that additional measures to help business with implementation of the legislation for the extension to parents of older children will have an impact in terms of reducing the time it takes to process a request for flexible working.

From table 7 above we use those procedural costs that are net of admin burdens, hence around £14m in this case, and assume that improved guidance will result in business reducing these costs by 25 per cent, or by **£3.5m**.

³⁸ "Flexible Working and Performance", Cranfield University School of Management, April 2008

³⁹ www.businesslink.gov.uk/bdotg/action/layer?r.l2=1073858926&r.l1=1073858787&r.s=tl&topicid=1073931239

F: Risks

The estimates of costs and benefits presented in this impact assessment are necessarily based upon a number of assumptions, that relate among other things to possible take-up and the procedural costs associated with the right to request flexible working. We will continue to firm up our estimates for the final impact assessment as new data and information become available. This will also contain a full sensitivity analysis.

Further work will also be conducted on measuring productivity gains to test the assumptions made above about the actual extent of these gains.

G: Enforcement

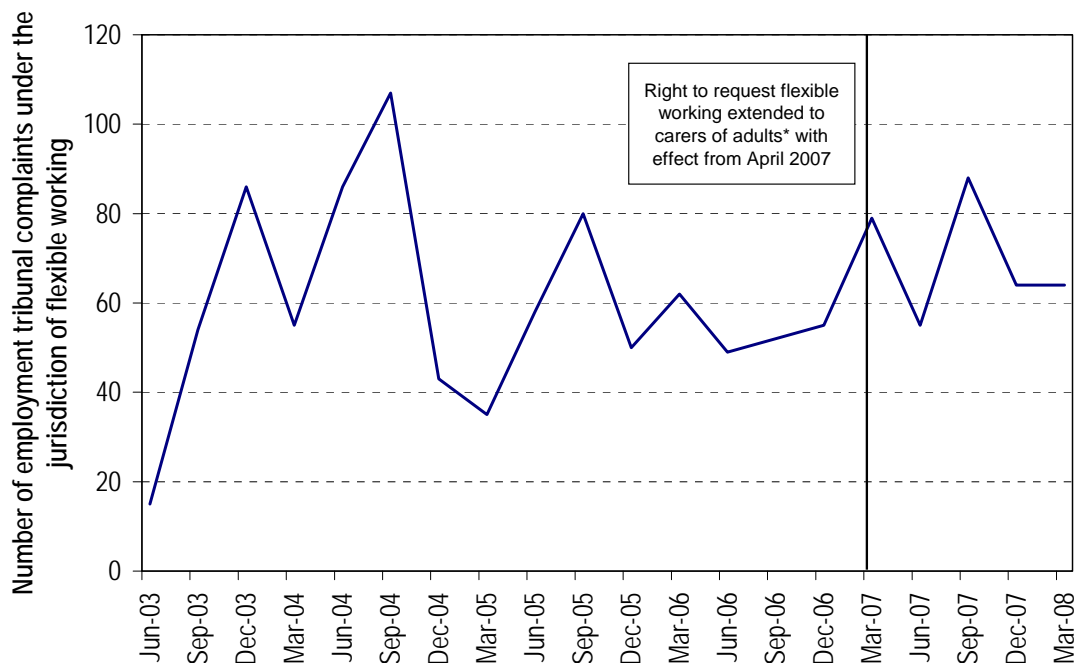
Employees trigger the duty to consider by making a request for flexible working. If the employer rejects the request and the employee is not satisfied with the explanation, he or she can appeal to the employer.

If the employee still does not think the employer has given the matter serious consideration, he/she can seek resolution through an external dispute resolution mechanism and ultimately through an employment tribunal.

The chart below summarises the quarterly data on Employment Tribunal claims since early 2003 when the right to request flexible working was first introduced for parents of young children under six and disabled children under 18.

Overall the number of claims for the flexible working jurisdiction has been relatively small, accounting for less than 0.1per cent of all ET claims over the period. Furthermore following the extension of the right to request to carers of adults in April 2007, there was not a significant increase in claims: in the year to March 2007 there were a total of 235 ET claims, whereas in the year to March 2008 there were 271 ET claims.

Chart 1 – Number of employment tribunal complaints under the jurisdiction of flexible working[#]



Source: Employment Tribunal Service. [#]Great Britain, not seasonally adjusted.* On 6 April 2007 the right to request flexible working was extended to carers of adults. Carer must be or expect to be caring for a spouse, partner, civil partner or relative; or if not the spouse, partner or a relative, live at the same address as the adult in need of care.

We therefore assume that an extension of the right to request to parents of older children will have a marginal effect on the number of ET claims.

H: Recommendation and summary table of costs and benefits

Table 9 presents a summary of the estimated quantifiable costs and benefits for each option.

Table 9. Summary of quantifiable costs and benefits

Scope of law	Annual Costs (£m)	Annual Benefits (£m)
Option 1: Parents of children aged 16 and under	69	91
Option 2: as above plus deregulatory measure and implementation assistance	61	111

Source: BERR estimates. Figures have been rounded

In addition to the benefits quantified above, we also recognise that there are likely to be wider benefits of this policy, such as better work-life balance for employees, increased labour supply due to availability of more flexible working opportunities, improved health and well-being, and positive environmental impacts. Further analysis will be carried out with a view to quantifying and presenting these in the final impact assessment.

I: Implementation

We expect that the amended regulations will be introduced in April 2009. We intend to consult on how best the change in the law can be implemented so that the costs of implementation can be minimised e.g. through providing clear guidance and developing simple procedures for implementation.

J: Monitoring and evaluation

Monitoring and evaluation of the extension of the right to request flexible working will be carried out through surveys of employers and employees. BERR regularly conducts baseline surveys of this nature, with the most recent being the Work-Life Balance Employee Survey carried out in March 2007⁴⁰ and the Work-Life Balance Employer Survey in December 2007⁴¹. Information relating to this area should also be available from the next Workplace Employment Relations Survey (WERS), which will be conducted in 2010. This survey will also contribute to an assessment in 2010 of the success, or otherwise, of the proposed policy extension.

⁴⁰ The Third Work-Life Balance Employees Survey, March 2007, Employment Relations Research Series No.58

⁴¹ The Third Work-Life Balance Employers Survey, December 2007, Employment Relations Research Series No.86

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Annex A: SPECIFIC IMPACT TESTS

1. Competition Assessment

Business sectors affected

The table below shows the number of additional employees by broad sector who would be eligible to request flexible working if the current law was extended to those with parental responsibility for older children. Overall the sectoral impact is likely to be minimal. The distribution of eligible employees across sectors is in fact very similar to the overall distribution of all employees. The main exceptions to this are a) hotels and catering – where there is less likelihood of there being eligible parents, and b) public administration, education and health where there are likely to be disproportionately higher eligibility.

Table A1. Estimated additional eligible employees by business sector as per cent of total employees

	total employees	parents of youngest children aged 6-16
A-B: Agriculture & fishing	1per cent	1per cent
C,E: Energy & water	1per cent	1per cent
D: Manufacturing	14per cent	15per cent
F: Construction	6per cent	5per cent
G-H: Distribution, hotels & restaurants	19per cent	15per cent
I: Transport & communication	7per cent	6per cent
J-K: Banking, finance & insurance etc	16per cent	13per cent
L-N: Public admin, educ & health	31per cent	39per cent
O-Q: Other services	5per cent	4per cent
Workplace outside UK	0per cent	0per cent
total	100per cent	100per cent

Source: LFS Q2 2007

Public – private sector split

Tables A2 and A3 below present estimates of the number of eligible parents, new requests for flexible working and new working arrangements in the public and private sectors respectively.

Table A2: Estimated number of eligible parents, new requests and of new working arrangements in the public sector						
Scope of law	Number of entitled employees (000s)	Number of additional entitled employees (000s)	Number of new requests (000s)*	Number of additional new requests (000s)	New working arrangements ('000s)	Additional number of new working arrangements p.a. ('000s)
Parents of children aged 6 and under	949	-	157	-	137	-
Parents of children aged 16 and under	2555	1606	278	121	243	106

Source: BERR estimates. *Excluding deadweight requests

Table A3 Estimated number of eligible parents, new requests and of new working arrangements in the private sector						
Scope of law	Number of entitled employees (000s)	Number of additional entitled employees (000s)	Number of new requests (000s)*	Number of additional new requests (000s)	New working arrangements ('000s)	Additional number of new working arrangements p.a. ('000s)
Parents of children aged 6 and under	2559	-	346	-	303	-
Parents of children aged 16 and under	5443	2884	533	187	467	164

Source: BERR estimates. *Excluding deadweight requests

The initial analysis of the competition filter is that a detailed competition assessment is not considered necessary (see table A4 below). The proposed legislation will apply to all firms and is unlikely to affect the competitiveness of any particular sector.

Table A4. Competition assessment.

Question: <i>In any affected market, would the proposal..</i>	Answer
..directly limit the number or range of suppliers?	No
..indirectly limit the number or range of suppliers?	No
..limit the ability of suppliers to compete?	No
..reduce suppliers' incentives to compete vigorously?	No

Source: BERR

2. Small Firms Impact Test

The proposed amendment to the regulations would apply to firms of all sizes. Table A5 presents the distribution of estimated eligible parents and compares this to the distribution of all employees by workplace size across the economy. The indication is that small and medium sized workplaces would not be disproportionately affected.

Table A5 Estimated additional eligible employees by size of the company as per cent of total employees

	total employees	parents of youngest children aged 6-16
1-10	20per cent	19per cent
11-19	9per cent	9per cent
20-24	5per cent	5per cent
25-49	14per cent	14per cent
50-249	26per cent	26per cent
250-499	8per cent	8per cent
500 or more	18per cent	19per cent
Total	100per cent	100per cent

Source: LFS Q2 2007. Assuming that the "do not know but under 25" have the same distribution as the 1-10,11-19,20-24 groups, and the "do not know but between 50 and 499" have the same distribution as the group 50-249 and 250-499.

3. Equality Impact Assessment

An initial equality impact assessment suggests there would not be any disproportionate effects by gender, race or disability. This will be supplemented by a full analysis for the final impact assessment.

Table A6 Estimated additional eligibility by ethnicity of employees

	total employees	parents of youngest children aged 6-16
White	92per cent	92per cent
Mixed	1per cent	1per cent
Asian or Asian British	4per cent	4per cent
Black or Black British	2per cent	3per cent
Chinese	0per cent	0per cent
Other	1per cent	1per cent
Total	100per cent	100per cent

Source: LFS Q2 2007

ANNEX B: OUTLINE OF ADMIN BURDEN INFORMATION OBLIGATIONS RELATING TO 2002 REGULATIONS

The table below sets out the administrative burdens information obligations under the Flexible Working (Procedural Requirements) Regulations 2002.

ID	IO Description	Information Metric
30371	<p>Providing an employee with written notice of the decision relating to a request for a contract variation.</p> <p>Specifying in the written notice:</p> <ul style="list-style-type: none"> - the contract variation agreed to and date on which the variation is to take effect, where your decision is to agree to the application; or - the prescribed grounds for refusal where the application is turned down. 	No of requests for a contract variation in relation to flexible working
30411	<p>Notifying the employee, in writing, when you uphold your decision to refuse an application to change working arrangements after the employee has appealed. The notice of your decision should specify the contract variation agreed to and stating the date from which the contract variation is to take effect</p>	No of instances an employer upholds their decision to refuse an application to change working time arrangements after the employee has appealed
30463	<p>Confirming the withdrawal of an application for a contract variation to change working arrangements to the employee in writing in certain circumstances, for example, where the employee has failed to attend meetings.</p>	No of withdrawals of an application for a contract variation to change working arrangements in certain circumstances, for example, where the employee has failed to attend meetings.
30415	<p>Notifying the employee of your decision following a meeting to discuss the appeal.</p> <p>Written notice stating:</p> <ul style="list-style-type: none"> - where you uphold the appeal, the contract variation agreed to and the date from which the variation is to take effect or; - where you dismiss the appeal, the grounds for the decision with a sufficient explanation as to why those grounds apply. 	No of appeals in connection with requested contract variations
30363	<p>Requirement for an employer to notify an employee in writing within 28 days of an application for a contract variation of any agreed variation.</p> <p>Written notice specifying the contract variation agreed to and the date from which it is to take effect</p>	No of instances where an employer agrees to an employee's application for a contract variation to provide for an alternative/flexible working arrangement

ANNEX C: FLEXIBLE WORKING ESTIMATES FOR PARENTS OF OLDER CHILDREN

This impact assessment uses data from the Second Work-Life Balance Survey to estimate take-up rates and degree of deadweight requests. It may be possible for the final impact assessment to update these assumptions based on results from the Third Work-Life Balance Survey. This could change the level of costs and benefits. However, any changes to the degree of take-up or deadweight requests will not alter the ratio of costs to benefits.

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

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

Table C1 disaggregates the eligible group of parents by sex, age of youngest child, full-time/part-time status and whether or not they said they had one of a number of identifiable 'flexible' working patterns.

Table C1: Disaggregation of eligible parents ('000s)

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
0	145	53	112	44	340	66	12	*
1	75	39	157	68	349	70	16	*
2	55	24	127	46	266	56	16	*
3	63	19	123	37	227	48	*	*
4	48	27	92	44	200	41	*	*
5	50	26	70	40	153	28	*	*
6	59	28	93	55	170	33	*	*
7	52	36	77	57	142	37	*	*
8	65	33	83	45	152	29	*	*
9	70	31	85	47	149	31	*	*
10	62	29	80	56	140	34	*	*
11	70	29	61	53	137	34	*	*
12	75	38	72	47	150	34	*	*
13	80	39	62	42	140	36	*	*
14	89	38	60	42	138	37	*	*
15	87	57	73	36	147	36	*	*
16	65	36	47	27	112	25	*	*

Source: LFS Q2 2007. Assuming that the "no answers" and "does not apply" behave as the rest of the population. * = less than 10,000.

Notes: FT/PT = Full-time/Part-time. 'flex' = any of flexi-time, term-time working, job shares, annualised hours, nine-day fortnights and four and a half day weeks and zero hours contract.

Table C2 sets out some illustrative estimates of deadweight requests

Table C2 Illustrative Deadweight assumptions

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
0	0.05	0.3	0.5	0.5	0.05	0.1	0.3	0.3
1	0.05	0.2	0.1	0.1	0.05	0.05	0.05	0.05
2	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
3	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
4	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
5	0.03	0.2	0.05	0.05	0.03	0.05	0.05	0.05
6	0.03	0.2	0.05	0.05	0.03	0.05	0.05	0.05
7	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
8	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
9	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
10	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
11	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
12	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
13	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
14	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
15	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
16	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05

Note: assumed unchanged from previous IA, and assuming that parents of child aged 18 behave as parents of child aged 17

Deadweight is expressed as a proportion, i.e. 3per cent of mothers (and fathers) with a youngest child aged 16 working full-time without any identifiable 'flexible' working pattern are assumed to already make a request for flexible working.

The following principles have been used in deriving these assumptions:

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

Table C3 sets out take-up rates of 'new' (after excluding deadweight) requests for flexible working. New requests is expressed as a proportion i.e. 7per cent of mothers with a youngest child aged 16 working full-time without an identifiable 'flexible' working pattern are assumed to make a new request.

Table C3 Take up rates of "new" requests for flexible working

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
0	0.55	0.4	0.25	0.25	0.15	0.2	0.2	0.2
1	0.25	0.1	0.15	0.15	0.05	0.15	0.05	0.1
2	0.17	0.1	0.15	0.15	0.05	0.05	0.05	0.1
3	0.22	0.15	0.2	0.2	0.05	0.05	0.05	0.1
4	0.17	0.1	0.15	0.15	0.05	0.05	0.05	0.1
5	0.22	0.05	0.2	0.2	0.07	0.1	0.05	0.1
6	0.27	0.1	0.2	0.15	0.07	0.1	0.05	0.1
7	0.17	0.1	0.15	0.15	0.03	0.05	0.05	0.1
8	0.17	0.1	0.15	0.15	0.03	0.05	0.05	0.1
9	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
10	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
11	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
12	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
13	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
14	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
15	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
16	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1

Note: assumed unchanged from previous IA, and assuming that parents of child aged 16 behave as parents of child aged 15

Numbers of requests accepted by employers

Requests can be accepted by employers at a number of stages: when a request is first made; at the appeal or internal grievance stage; and following recourse to external dispute resolution (either an Employment Tribunal or another form of dispute resolution). BERR's third work life balance employee survey showed that 87 per cent of new requests are accepted at first stage and 25 per cent of unsuccessful cases are taken to appeal stage. We assumed that 20 per cent of new requests are accepted at appeal stage, 2 per cent of unsuccessful requests referred to external dispute resolution, of which 20 per cent to be successful.

It is therefore necessary to map the progress of requests through these various stages. This is done in Table C4.

Table C4: Progress of requests through the various stages (000's)

Scope of law	Parents of children under 6	Parents of children aged 16 and under	Additional new requests
1) No. of new requests	503	811	308
2) Proportion accepted at first stage (0.87=87per cent)	0.87	0.87	0.87
3) No. of requests accepted at first stage =1x2	438	705	268
4) Proportion of requests taken to second stage (0.25=25per cent)	0.25	0.25	0.25
5) No. of second stage requests =(1-3)x4	16.4	26.4	10
6) Proportion accepted at second stage (0.2=20per cent)	0.2	0.2	0.2
7) No. of requests accepted at second stage =5x6	3.3	5.3	2.0
8) No. of requests turned down by employer= 5-7	13	21	8
9) Proportion referred to external dispute resolution (0.02=2per cent)	0.02	0.02	0.02
10) No. of additional external dispute resolution cases=8x9	0.26	0.42	0.2
11) Proportion successful at external dispute resolution stage	0.2	0.2	0.2
12) No. of requests accepted at external stage = 10x11	0.05	0.08	0.0
13) No. of requests unsuccessful at external stage = 10-12	0.21	0.34	0.1
14) Total no. of new working arrangements = 3+7+12	441	711	270

