

TRANSPARENCY OF FAMILY FRIENDLY POLICIES

RESPONSE TO THE GOVERNMENT'S CONSULTATION ON FLEXIBLE WORKING AND FAMILY RELATED LEAVE & PAY POLICIES

Effective transparency will help more people access the flexibilities they need and allow employers to reap the benefits of an inclusive workforce

The CBI welcomes the opportunity to contribute to the government's consultation on proposals to support working families. The CBI is the UK's leading business organisation, speaking for some 190,000 businesses that together employ around a third of private sector employees. Businesses are committed to providing great flexible working and family related policies for their employees. They recognise that it's important for employees to be able to balance their commitments in and outside of the workplace, as part of creating a more prosperous society.

In addition to an employee's right to request flexible working, many employers offer informal flexible working arrangements to their employees, as well as going beyond the statutory minima for family-related leave and pay. This supports trust in business as the public consistently cite treating their people well as the primary way for firms to improve their reputation.¹ Transparent, accessible family friendly policies also help businesses attract the right people. This is important because CBI members increasingly say that access to people and skills is one of their biggest concerns. As a result, businesses recognise that an inclusive workforce gives them a competitive advantage over others. Businesses can therefore support transparency that is designed to improve access to family friendly policies as an effective way to widen the pool of people they attract and build inclusive workplaces. That's why over half (54%) of businesses are introducing or extending flexible working opportunities to their employees, as well as two-fifths (42%) introducing or improving their family friendly policies.²

Increasing transparency not only helps raise people's awareness of the policies that are available to them, it also helps accelerate business' progress towards reaching their diversity and inclusion goals. CBI members have made significant progress over the last few years as they increasingly view policies fostering diversity and inclusion as an important route to unlocking productivity and the potential of their employees. Almost half (47%) see higher staff engagement as a benefit of inclusive workplaces, and more than two thirds (71%) see engagement as leading to improvements in productivity and performance.³ Improving clarity and understanding of flexible working and family friendly policies will help to maintain this momentum. To achieve it, businesses support a new requirement to publish their flexible working and family friendly policies to increase prospective employee's awareness of their policies, better enabling them to access the flexibilities they need. Employers believe this would be more effective than requiring business to assess and state in the advert whether a job can be done on a flexible basis.

Publishing flexible working and family related policies supports inclusive workplaces

Businesses believe that publishing their policies will help create more inclusive workplaces and many businesses voluntarily do so already. Nearly all businesses (98%) say that they benefit from inclusive workplace practices, most frequently citing an increased ability to attract and retain employees (60%) and an

¹ CBI, Everyone's Business Tracker: Public Attitudes Report, 2018

² CBI/Pertemps, Employment Trends Survey, 2018

³ Ibid

increase in skills and capabilities (50%).⁴ Greater transparency is likely to open up the attractiveness of jobs to a wider pool of people. This is desirable for businesses, the vast majority of whom highlight access to skills (83%) and labour supply (60%) as the primary threat to UK labour market competitiveness.⁵

Mandatory publication on a company website and a central portal will help employees find out more about the policies on offer...

A company's website is the most helpful and appropriate place for prospective employees to find out more about business' flexible working and family friendly policies and decide whether a particular job is right for them. Any mandatory requirement needs to be enforced and business believes that a central portal would be the most effective mechanism to do so.

Collating policies also better enables businesses to benchmark their policies against competitors. Given that 81% of people are more likely to choose an employer that offers a more flexible working package, businesses want to ensure that their policies are as competitive as possible.⁶ Collation would also help prospective employees make job decisions by improving their ability to compare policies. It is the CBI's expectation that this will incentivise businesses to improve their flexible working and family-friendly policies. A similar impact has been seen with gender pay gap reporting - since legislation requiring employers to disclose the pay difference between their male and female employees was introduced, transparency has had a positive role in shining a light on gender diversity and encouraging further business-led-action.

Instead of the government's proposal to create a facility on the Gender Pay Gap Reporting Portal for organisations to disclose their policies, businesses would support the introduction of a new reporting portal. Businesses want to ensure that family related and flexible working policies are accessible to everyone. Employers have done a lot of work to ensure that flexible working policies aren't designed with just mothers in mind as there's been an increasing demand for flexible working from fathers and carers and many other workers in recent years. Given the government's focus on encouraging fathers to take on a larger share of childcare duties, supporting people to live and work well for longer in an ageing population, and managing employee's phased return to work after a period of sickness, the government must be careful not to gender these policies by linking them to the gender pay gap portal.

...but employers need the flexibility to produce policies tailored to their workplace

While businesses support mandatory publication of their policies, they do not support the content of what is published being mandated. What an employer can offer is dependent on several factors such as the sector, job role and market type. For example, a rail company can offer an employee in their corporate services team opportunities to work from home or flexible start and finish times, whereas this might not be possible for employees hired as train drivers. Employers must be able to tailor the content of their policies to ensure it's relevant to their business. To best attract and retain people and skills, businesses also need the ability to tailor their policies to what their workforce wants and needs. This is best understood through workplace consultation and key to business' retention of talent - meaning that any requirement to standardise the information that businesses are required to publish in their policies is problematic.

Businesses believe that clear guidance is necessary to encourage businesses to produce good quality policies. Helpful guidance should outline what employers should be expected to include, such as the availability of flexible working, approach to place, hours and times of work, approach to informal flexible working, and enhancements to family related leave and pay, so that employers can tailor their policies appropriately. Requiring businesses to publish their policies in a narrative format encourages them to assess and monitor their effectiveness and ensure they are as competitive as they can be. This approach encourages businesses to evaluate and account for their flexible working and family-related policies, going beyond a compliance approach that just requires businesses to demonstrate that they have policies in place. Encouraging such scrutiny has worked well with other narrative formats, such as gender pay gap reporting.

⁴ Ibid

⁵ Ibid

⁶ 'Total Jobs: Hiring Top Talent', 2017, available online at: <https://blog.totaljobs.com/wp-content/uploads/2017/02/Understanding-Talent-3-Hiring-Talent.pdf>

Recommendations:

- Introduce a mandatory requirement for employers (250+ employees) to publish their family related leave and pay and flexible working policies on their website.
- Consider introducing a new reporting portal where businesses must also publish their policies.
- Enable businesses to retain flexibility over the content of their family friendly policies.
- Introduce guidance which sets out what information and level of detail businesses should include in their policies.

Requiring jobs to be advertised as flexible is not the best way to improve access to flexible working

When prospective employees are aware of an employer's flexible working policies they are able to make more informed decisions about whether or not a job is suitable for them. Businesses support taking effective steps to improve people's confidence to make flexible working requests. Despite a statutory right to request flexible working, businesses want more to be done to improve a prospective employee's understanding of their approach to flexible working in order to increase discussion and uptake of flexible working opportunities during the hiring process. But requiring jobs to be advertised as flexible is not the best way to do so. Employers instead want action that encourages more employees to have conversations with their prospective employer about what types of flexible working they need.

A mandatory requirement takes time and money away from other employment initiatives that may have a greater impact for staff...

Assessing and stating in the advert whether a job can be done on a flexible basis is problematic for businesses. Considering every type of flexibility that could be available for every job would require a significant amount of time and incur a large cost that would detract from firms' other employment initiatives. Business supports the government's good work agenda and most invest in initiatives that improve people's experience of work. Doing so requires businesses to prioritise which employment initiatives they believe will have the greatest impact on their workplace and workforce. Many are finding this increasingly challenging due to the rising cost of employment. One CBI member, for example, made the decision a few years ago to invest in contractual parental leave, but national living wage increases have meant that they have still not been able to afford it.

A mandatory requirement to state whether a job can be done flexibly in the advert could also have unintended consequences. Informal methods of recruitment are more popular than traditional; almost three-quarters (73%) of businesses say they use word of mouth and former employees to recruit for roles, compared to 58% who choose to advertise on their own website⁷. This not only suggests that a new requirement would have little impact on a significant proportion of people hired in the UK, it is likely to discourage businesses from using adverts as a means to hire people and further reduce the number of businesses advertising jobs on their website. Promoting transparent recruitment should be the government's aim to ensure good hiring practices and support business' efforts to attract a wide pool of candidates. A new mandatory requirement could also mean that managers responsible for posting job adverts are more likely to

⁷ 'Increasing opportunity, supporting growth: The role of good recruitment in gender diversity', REC, 2018 available online at: https://www.rec.uk.com/_data/assets/pdf_file/0009/470709/REC-Good-Recruitment-in-Gender-Diversity-06.12.18-DIGITAL.pdf

provide a short statement summarising the most popular types of flexibility. This could unintendedly dissuade people from applying for a job if they don't see the type of flexible working they want, even if the employer may offer it.

...and proactive enforcement is not an effective use of government resources

Employers believe that a mandatory requirement would require proactive enforcement. Stating whether a job can be done flexibly in a job advert is likely to be an employer duty, rather than a workers' right. Workers are unlikely to spend time taking a prospective employer that fails in this obligation to an employment tribunal. Businesses are therefore concerned that were this proposal introduced, it would be a law that the government would struggle to enforce. Businesses believe that any form a new requirement could take, whether a generic strapline such as "Happy to talk flex", a short statement, or a link to a published policy, would require the government to audit all job adverts in the UK. In July 2019 there were 812,000 job vacancies in the UK – businesses do not believe that auditing each relevant job advert is an effective use of the government's resource.⁸ Instead they support resources for proactive intelligence-led and risk-based labour market enforcement, including enforcing modern slavery reporting and any new requirement for businesses to publish their flexible working and family friendly policies.

Encouraging conversations between employees and employers is the best way to improve access to flexible working

Businesses believe that government resources would be better spent raising public awareness of the options and benefits of flexible working. Open conversations lead to flexible working arrangements that work best for both the employee and employer. Increasing awareness around their right to request would give employees more confidence to ask about different flexible working opportunities, including during recruitment. Employers want guidance to ensure that their approach to flexible working is as effective as possible. The Recruitment and Employment Confederation's Good Recruitment Charter is a good example of business-led action to improve recruitment practices, including promoting flexible working. If further awareness can be raised amongst employers and employees, open conversations about flexible working are more likely to become the norm and increase overall uptake. Encouraging such conversations also ensures that informal flexible working arrangements are not limited to what employers' state in a job advert. The CBI would be happy to support efforts to improve business' awareness of delivering flexible working opportunities via its communication channels.

Recommendations:

- Do not introduce a mandatory requirement for employers to assess and state in the advert whether a job can be done on a flexible basis.
- Work with businesses to step up public awareness of flexible working options in order to drive open conversations between employers and employees.

⁸ ONS Labour Market Statistics, July 2019