

**CONSULTATION ON MODERN WORKPLACES**

Extending the right to request flexible working to all:

Impact assessment

MAY 2011

<b>Title:</b> <b>Extending the right to request flexible working to all</b> <b>Lead department or agency:</b> <b>BIS</b> <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> BIS0281
	<b>Date:</b> 11/5/2011
	<b>Stage:</b> Consultation
	<b>Source intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> Andrew Death/Sheila Honey

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

The labour market has seen more diverse forms of working in recent decades including an expansion of flexible working which has been shown to benefit employers and employees as well as wider society. While much of this is determined directly between employer and employee the introduction of the right to request flexible working for parents of young children (in 2003), for carers (in 2007) and for parents of older children (in 2009) has contributed to this culture change. Importantly as access to flexible working isn't always even across groups the legislation to date has ensured that employers in scope now have a duty to consider this request. Now, the Government has committed to extending the right to request to all employees, raising awareness of the benefits and ensuring that requests for flexible working from additional employees will be considered fairly.

### What are the policy objectives and the intended effects?

Flexible working has many benefits for both employer and employee; however, flexible working is not available to all groups evenly. The Government wishes to address this market failure and help promote a culture where flexible working is available to everyone and has a wide take-up.

Flexible working supports a number of other Government commitments including the promotion shared parenting; reducing child poverty; supporting older workers; and benefit reforms.

### What policy options have been considered? Please justify preferred option (further details in Evidence Base)

- Do nothing
- Non regulatory approach: Awareness raising and create a non statutory Code of Practice to encourage flexible working for non- parents and non-carers
- Regulatory Approach: *[preferred option]* extending the right to request flexible working to all employees.

**When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?**

It will be reviewed  
01/2015

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

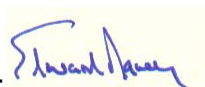
Yes

**SELECT SIGNATORY 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 SELECT SIGNATORY:



Date: 16 May 2011

# Summary: Analysis and Evidence

# Policy Option 1

## Description:

Extending the right to request flexible working legislation to cover all employees using a Statutory Code of Practice

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £222.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£17.1m	£53.4m	£476.9m

### Description and scale of key monetised costs by 'main affected groups'

Additional procedural costs to employers of £29.9m (including £6.2m admin burden) plus £23.5m in costs of making adjustments to working patterns and one off familiarisation costs of £17.1m. Average annual is an average taken over a ten year period.

### 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 (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Negligible	£82.1m	£669.4m

### Description and scale of key monetised benefits by 'main affected groups'

Average benefit to employers from higher productivity (£55.0m), lower labour turnover (£11.8m) and reduced absenteeism (£2.5m) over a period of ten years (total £69.3m) plus savings from moving to statutory code of practice (£12.8 m). Subsequent years include benefits accrued from the previous year's new working arrangements this leads to a total net present value of benefits over the 10 years of £669.4m. An annual breakdown of the benefits are contained within this IA.

### Other key non-monetised benefits by 'main affected groups'

Better work-life balance for employees and improved family life, increased labour supply, improved health and wellbeing.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Cost-Benefit figures and admin burden totals are based on working assumptions about the likely take-up rates and 'deadweight requests' as well as assumptions regarding retention recruitment and absenteeism benefits to non parents. To calculate the total benefit value over ten years, it has been assumed that there is a policy effect of 3 years.

For OIOO purposes, cost of accommodating requests and benefits through productivity are seen as indirect, leaving a net total cost to business of £4.8m per year.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: £6.2	AB savings: £12.8	Net: £6.6	Policy cost savings:	No

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Great Britain				
From what date will the policy be implemented?	01/04/2011				
Which organisation(s) will enforce the policy?	Tribunals Service				
What is the total annual cost (£m) of enforcement for these organisations?					
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	Yes				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b>		<b>Non-traded:</b>		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	<b>Costs:</b> 0%		<b>Benefits:</b> 0%		
Annual cost per organisation (excl. Transition) (Constant Price)	<b>Micro</b> £8	<b>&lt; 20</b> £28	<b>Small</b> £64	<b>Medium</b> £212	<b>Large</b> £3,962
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...	<b>Impact</b>	<b>Page ref within IA</b>
<b>Statutory equality duties<sup>1</sup>?</b> <u>Equality and Human Rights Commission: General guidance</u>	Yes	39
<b>Economic impacts</b>		
Competition? <u>Competition Impact Assessment</u>	Yes	37
Small firms? <u>Small Firms Impact Test</u>	Yes	38
<b>Environmental impacts</b>		
Greenhouse gas assessment? <u><a href="http://www.defra.gov.uk/environment/index.htm">http://www.defra.gov.uk/environment/index.htm</a></u>	No	
Wider environmental issues? <u>Guidance has been created on the Defra site</u>	No	
<b>Social impacts</b>		
Health and well-being? <u>Health: Health Impact Assessment</u>	No	
Human rights? <u>Ministry of Justice: Human Rights</u>	No	
Justice?	No	
Rural proofing? <u>Commission for Rural Communities</u>	No	
<b>Sustainability?</b> <u>Defra: Think sustainable</u>	No	

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Implementation).

No.	Legislation or publication
1	<i>About Time: Flexible Working</i> in November 2001, <a href="http://www.delni.gov.uk/taskforce_proposals.pdf">www.delni.gov.uk/taskforce_proposals.pdf</a>
2	<i>Work and Families: Choice and Flexibility – A Consultation Document</i> , published February 2005, URN 05/847
3	Section 80(G)(1)(b) of the <i>Employment Rights Act 1996</i>
4	<i>The Third Work-Life Balance Employees Survey</i> , March 2007, Employment Relations Research Series No.58
5	<i>The Third Work-Life Balance Employers Survey</i> , December 2007, Employment Relations Research Series No.86
6	<i>Imposing a Duty on Employers to Seriously Consider Requests for Flexible Working from the Parents of Young and Disabled Children</i> , 2002 Compendium of Regulatory Impact Assessments, Employment Relations Research Series No. 40, <a href="http://www.berr.gov.uk/files/file11440.pdf">www.berr.gov.uk/files/file11440.pdf</a> ,
7	<i>Extending the scope of the right to request flexible working (Full)</i> , 2006 Compendium of Regulatory Impact Assessments, Employment Relations Research Series No. 74, <a href="http://www.berr.gov.uk/files/file38874.pdf">www.berr.gov.uk/files/file38874.pdf</a>
8	<i>Health of Children and Young People</i> , ONS 2004
9	<i>Caring and Flexible Working</i> , Karen Elsmore, DWP Research Summary Series, July 2009
10	<i>Work and Life; How business is striking the right balance</i> , British Chambers of Commerce (2007)
11	<i>Attitudes to flexible working and family life</i> , Houston, D. and Waumsley, J (2003), . Joseph Rowntree Foundation.
12	<i>CIPD recruitment, retention and turnover: annual survey 2009</i> , CIPD, <a href="http://www.cipd.co.uk/">www.cipd.co.uk/</a>
13	<i>Working life: employee attitudes and engagement</i> , Truss, C., Soane, E. and Edwards, C. (2006). Chartered Institute of Personnel and Development research report London.
14	<i>Smaller organisations and flexible working arrangements</i> , Dex, F and Scheibl, F (2002),. Joseph Rowntree Foundation/Policy Press.
15	ONS Labour market statistics Q4 2009
16	<i>United Kingdom National Accounts - Blue Book 2009</i> , ONS 2009, <a href="http://www.statistics.gov.uk/statbase/product.asp?vlnk=1143">ww.statistics.gov.uk/statbase/product.asp?vlnk=1143</a>
17	<i>Findings from the survey of Employment Tribunal Applications 08</i> , Employment Relations Research Series No 107, BIS, <a href="http://www.bis.gov.uk/assets/biscore/employment-matters/docs/10-756-findings-from-seta-2008.pdf">http://www.bis.gov.uk/assets/biscore/employment-matters/docs/10-756-findings-from-seta-2008.pdf</a>
18	Flexible Working (Procedural Requirements) Regulations 2002
19	Annual Survey of Hours and Earnings (ASHE) 2009, ONS
20	<i>CBI Employment Trends Survey 2008</i> , CBI, London, 2009
21	<sup>1</sup> <i>Maternity rights and mothers' employment decisions</i> , La Valle, I.; Clery, E; and Huerta, M (2008) , DWP Research Report No 496.
22	<i>The Future of Work: Individuals and workplace transformation</i> , Holmes K., Ivins C., Yaxley. D, Hansom J., Smeaton D, (2007) , Equal Opportunities Commission
23	<i>IRS flexible working survey 2010: take-up and employee requests</i> , Charlotte Wolff, March, 2010, IRS

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### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	17.1									
<b>Annual</b>	53.4	53.4	53.4	53.4	53.4	53.4	53.4	53.4	53.4	53.4
<b>Total annual</b>	70.5	53.4	53.4	53.4	53.4	53.4	53.4	53.4	53.4	53.4
<b>Transition</b>										
<b>Annual</b>	49.0	69.6	87.0	87.5	88.0	88.0	88.0	88.0	88.0	88.0
<b>Total annual</b>	49.0	69.6	87.0	87.5	88.0	88.0	88.0	88.0	88.0	88.0

\* For non-monetised benefits please see summary pages and main evidence base section

# Summary: Analysis and Evidence

# Policy Option 2

## Description:

**Create a non-statutory Code of Practice** to encourage employers to consider requests for flexible working from all employees

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -£38.6

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£13.9m	£24.3m	£221.1m

### Description and scale of key monetised costs by 'main affected groups'

Additional procedural costs to employers of £16.7m (including £3.2m admin burden) plus £7.6m in costs of making adjustments to working patterns and one off familiarisation costs of £11.6m. Average annual is an average taken over a ten year period. In addition there will be £2.25m for Awareness Raising campaign. Transition cost consists of one off familiarisation costs of £11.6m plus half of the awareness raising campaign in year one and half the awareness raising campaign in year two.

### 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 (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Negligible	£30.5m	£259.7m

### Description and scale of key monetised benefits by 'main affected groups'

Average benefit to employers from higher productivity (£17.8m), lower labour turnover (£11.8m) and reduced absenteeism (£815,300). Productivity and reduced absenteeism benefits are cumulative (see Chart 2) over a period of ten years the average benefit totals £30.5m. Subsequent years include benefits accrued from the previous year's new working arrangements this leads to a total net present value of benefits over the 10 years of £259.7m.

### Other key non-monetised benefits by 'main affected groups'

Better work-life balance for employees and improved family life, increased labour supply, improved health and wellbeing.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Cost-Benefit figures and admin burden totals are based on working assumptions about the likely take-up rates and 'deadweight requests' as well as assumptions regarding retention recruitment and absenteeism benefits to non parents. To calculate the total benefit value over ten years, it has been assumed that there is a policy effect of 3 years.

For OIOO purposes, cost of accommodating requests and benefits through productivity are seen as indirect, leaving a net total cost to business of £5.4m.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB: £3.2	AB savings: £ 0	Net: - £3.2	Policy cost savings: - £3.2		No

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			Great Britain		
From what date will the policy be implemented?			01/04/2011		
Which organisation(s) will enforce the policy?			Tribunals Service		
What is the total annual cost (£m) of enforcement for these organisations?					
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			Yes		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>		<b>Non-traded:</b>
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> 0%		<b>Benefits:</b> 0%
Annual cost per organisation (excl. Transition) (Constant Price)	<b>Micro</b> £3.5	<b>&lt; 20</b> £13	<b>Small</b> £30	<b>Medium</b> £97	<b>Large</b> £1805
Are any of these organisations exempt?	No	No	No	No	No

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<b>Statutory equality duties<sup>2</sup>?</b> <u>Equality and Human Rights Commission: General guidance</u>	Yes	39
<b>Economic impacts</b>		
Competition? <u>Competition Impact Assessment</u>	Yes	37
Small firms? <u>Small Firms Impact Test</u>	Yes	38
<b>Environmental impacts</b>		
Greenhouse gas assessment? <u><a href="http://www.defra.gov.uk/environment/index.htm">http://www.defra.gov.uk/environment/index.htm</a></u>	No	
Wider environmental issues? <u>Guidance has been created on the Defra site</u>	No	
<b>Social impacts</b>		
Health and well-being? <u>Health: Health Impact Assessment</u>	No	
Human rights? <u>Ministry of Justice: Human Rights</u>	No	
Justice?	No	
Rural proofing? <u>Commission for Rural Communities</u>	No	
<b>Sustainability?</b> <u>Defra: Think sustainable</u>	No	

<sup>2</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.



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23	<i>IRS flexible working survey 2010: take-up and employee requests</i> , Charlotte Wolff, March, 2010, IRS

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The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	12.8	1.1								
<b>Annual</b>	24.3	24.3	24.3	24.3	24.3	24.3	24.3	24.3	24.3	24.3
<b>Total annual</b>	37.1	25.4	24.3	24.3	24.3	24.3	24.3	24.3	24.3	24.3
<b>Transition</b>										
<b>Annual</b>	19.7	26.4	32.0	32.2	32.4	32.4	32.4	32.4	32.4	32.4
<b>Total annual benefits</b>	19.7	26.4	32.0	32.2	32.4	32.4	32.4	32.4	32.4	32.4

- For non-monetised benefits please see summary pages and main evidence base section

# Evidence Base (for summary sheets)

## Problem under consideration

Flexibility in the workplace is about developing modern working practices to fit the needs of the 21st century. Both employers and employees can gain from flexible working opportunities as both parties have the ability to organise their working arrangements in ways that suit them. This can enable organisations to adapt to changing business conditions and individual employees to better balance their work and private life.

Many of the challenges facing society; reducing the deficit, increasing employment and decreasing benefit dependency relies, in part, on enabling more access to - and better functioning of - the labour market. In the current financial climate, any actions that can be taken to aid recovery clearly have value. Dismantling some of the barriers to work for people with caring responsibilities, enabling flexible retirement so older workers can gradually decrease their working hours and enabling those working below their potential due to lack of quality part-time or flexible work to fully utilise their skills, will have a positive impact on the economy.

Flexible working is a label for a wide range of working practices, including part-time, flexi-time, compressed hours, and working from home. Flexible working is essentially an agreement between an employer and employee for the employee to work in way that best fits their other responsibilities whilst also ensuring that the job gets done. It has tangible benefits for both the individual and employer.

For businesses, holding onto experienced and skilled staff is important in maintaining quality and containing costs. Offering flexible working can help retain staff and widen the talent pool, so employers are able to recruit people with more skills; it can also increase commitment and loyalty of staff members. This can in turn translate into improved productivity and by extension improved profitability.

For employees, flexible working allows them to better balance their work life with their family responsibilities. In today's society, both men and women want to find a balance between work, family and caring responsibilities.

The current right to request flexible working has enabled many parents and carers to integrate their work and family responsibilities. However because of the current right to request restrictions, it has created the cultural belief that flexible working is only of benefit to parents and carers and consequently for women, as they continue to deliver the majority of the caring role. As a result some groups of employees are concerned that working flexibly is not for them and will harm their career prospects, and so are less likely to apply.

This culture also means that many businesses aren't recognising the benefits of flexible working, do not offer it for all employees equally and are not considering flexible working when they advertise jobs.

Opening up flexible working to all employees will address this market failure, change the cultural perceptions around flexible working, and create more flexible working opportunities.

## Rationale for Intervention

Recent surveys have shown that flexible working is increasing and many employers and employees are recognising the benefits it brings. However, flexible working is not increasing evenly and certain groups of employees are less likely to work flexibly, less likely to make requests and less likely to have their requests accepted. Flexible working is most concentrated amongst women and mothers and at lower level jobs. Flexible working is often seen as a concession to employees and illustrates a reduced commitment to the workplace. It is the Government's objective that the benefits of flexible working should be available to all.

BERR's Third Work Life Balance employee survey<sup>3</sup> (WLB3) found that women were more likely than men to have made a request over the previous two years, 22% compared with only 14% of men. The survey also showed that men were less successful in making a request. Sixty-six per cent of female workers had their requests fully agreed to, compared with 53% of male workers. The employee survey also showed that women were more likely than men to work in high flexibility organisations whilst workers in manufacturing, construction and other services were more likely to work in low flexibility organisations. The third Work Life Balance Employer Survey<sup>4</sup> reported that take-up of flexible working is

<sup>3</sup> *The Third Work-Life Balance Employees Survey*, March 2007, Employment Relations Research Series No.58

<sup>4</sup> *The Third Work-Life Balance Employers Survey*, December 2007, Employment Relations Research Series No.86

higher in workplaces with more female than male employees for all flexible working time arrangements. For example, part time work is reported to be used in 65 per cent of workplaces with more male employees than female compared to 90 per cent of workplaces with more female employees than male.

The more recent Fair Treatment at Work Survey<sup>5</sup> examines employees' knowledge of employers' legal obligations. The right to request flexible working for parents of children was identified by only 54% of employees (a small increase on the 2005 figure). The figure was only 35% for the right to request for carers. The survey also identified areas where employees had experienced problems at work. Problems relating to the number of hours or days worked or asking the employer about working more flexible hours were among the more commonly cited problems (ranking 6<sup>th</sup> and 7<sup>th</sup> identified by 6% of respondents). The most common was with pay cited by 10% of respondents.

The right to request flexible working provides significant benefits to employers including increased productivity, reduced absenteeism and reduced staff turnover. These benefits are explored further in the benefit section of this document.

Whilst employers who have embraced flexible working have seen these benefits, many employers have told the Department for Business through informal consultation that the reason they do not provide the ability to work flexibly is because they are not aware of the benefits it can bring, or believe that the benefits are restricted to parents, carers or lower level jobs. Rectifying this information failure and changing cultural expectations is the main policy aim of this initiative.

In addition, flexible working is frequently perceived as a benefit for parents; or more often a benefit for mothers, because they are often the primary carer. To rectify this, the Government has committed to *'extend the right to request flexible working to all employees, consulting with business on how best to do so.'*<sup>6</sup> This extension will increase the awareness of flexible working amongst employers and employees empowering more individuals to work flexibly and increase flexible working amongst all groups and levels of jobs.

The current right to request is restricted to parent and carers, however flexible working can be used to support people for many reasons, including supporting individuals who wish to undertake voluntary activities.

Small changes to working patterns or hours of work can enable employees to accommodate their responsibilities outside of work. Many individuals have caring responsibilities but do not meet the narrow definition in the current flexible working legislation.

- Grandparents are a traditional support mechanism for parents who need help with childcare in order to return to work; but as older individuals increasingly need to have longer working lives we need to help people to maintain this support.
- Big society means that we need more people to give their time and expertise to support their community. Many individuals will only be able to do this if they can secure greater flexibility from the other responsibilities in their life.
- An ageing society means that more people than ever before will have caring responsibilities, and will be looking for support from many different places. Friends and neighbours can help with caring for people, without their working patterns getting in the way.

Flexible working isn't just a benefit for employees. Employers are able to negotiate with their employees to use flexible working practices to extend their operating hours, through staggered start and finish times; or respond to peaks and troughs in demand, by allowing employees to work fewer hours during quiet periods and more in busy periods.

Flexible working enables more people to participate in the workplace and supports a number of the Government's key policies:

- **Child Poverty.** Enabling low income households to utilise the earning power of both parents (or in single parent households sole earning power), without the need for expensive childcare can help families out of poverty.
- **Single parents.** DWP have recently announced that single parents will be required to seek work when their child is 5. However parents are allowed to restrict their job search to school hours only. The availability of flexible jobs is critical to the success of this policy.

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<sup>5</sup> *Fair Treatment at Work Report: Findings from the 2008 survey*, Ralph Fevre, Theo Nichols, Gillian Prior And Ian Rutherford, Employment Relations Research Series No. 103, **BIS September 2009**.

<sup>6</sup> The Coalition: our programme for Government (2010).

- **Carers.** The UK relies on individuals to care for their relatives and loved ones, to avoid the need for the NHS to take on full-time caring responsibility. However if a carer is unable to remain in employment, then they will be dependent on benefits to maintain the caring role. Increasing the availability of flexible working will enable more individuals to remain in employment whilst caring.
- **Older workers.** Many employees are choosing to work for longer but employees and employers will continue to have discussions about retirement. Flexible working is an option to enable people to stagger their retirement instead of creating a 'cliff edge' retirement. It can also help employers to manage the transition.
- **Encouraging Shared Parenting.** Shared parenting means involving both parents in the care of a child. The current right to request flexible working is targeted to parents and carers, which many people interpret as women. Making flexible working a mainstream practice will remove this interpretation and encourage more fathers to use it, enabling a greater sharing of the childcare responsibility.

## Policy Objectives

Increase the availability and uptake of flexible working to enable individuals to manage their work alongside other commitments and to help employers realise the benefits flexible working can have on their business.

To provide all employees with the same access to flexible working as are available to parents and carers, whilst ensuring that businesses have the flexibility to refuse requests on business grounds.

Remove the cultural expectation that flexible working only has benefits for parents and carers, encouraging wider take-up and demand.

## Options Identification

This impact assessment considers three options

- Do nothing
- Non regulatory approach: Non statutory code of practice with supporting publicity campaign
- Regulatory extension to the right to request flexible working

### (i) Do nothing

The coalition Government is committed to increasing the availability of flexible working as a feature of delivering Government policies to support parents, carers and older workers, and reducing child poverty. Doing nothing would not increase the availability of flexible working.

### (ii) Non-regulatory approach: Non-statutory code of practice with supporting publicity campaign.

A non-regulatory approach to stimulating flexible working would be to create a non-statutory code of practice to encourage employers to offer increased flexible working to their employees and to highlight good practice. The non-statutory code would cover all employees without caring or parental responsibilities, as the existing regulations would continue to govern flexible working requests from parents and carers.

The non-statutory code would not be able to enforce the right to request flexible working for non parents and non carers. Traditionally codes of practice are used to govern single sector compliance, or processes where interaction with a regulating body is involved, requiring employers to sign up to the principles of the code when they operate in the sector, or in their interactions with the regulator. Neither of these are true for flexible working, where every sector of the UK economy needs to be covered and no central reporting is required. Because of this the code would essentially become a good practice guide on flexible working. Many good practice guides already exist, including from the Businesslink.gov website. However these have not been successful in creating the significant change to flexible working desired by the Government.

Without extensive publicity it is unlikely that many employers would become aware of the code. Because of the voluntary nature of the code the publicity campaign would need to be significant in order to create

a step change in attitudes towards flexible working and a significant increase in availability of flexible working.

We would therefore need to run a broad audience and sustained marketing campaign aimed at both employees and employers. Changing cultural attitudes would take time, suggesting on past experience the need to run the campaign for between 18 months and 2 years. It would need to include high profile and sustained PR activity, stakeholder engagement, regional and sector based networks and best practice forums, a programme of conferences, sector specific activities, online activity (such as search optimisation and banner advertising) and radio and other forms of advertising. Alongside this the campaign should be piloted and evaluated effectively to ensure it has maximum impact; these activities would add to the costs.

In 2002 the then DTI ran a similar campaign to promote the benefits of work life balance costing in the region of £2.25m. It is difficult to assess the direct effect of this campaign, because it was accompanied by the introduction of the right to request flexible working for parents of children under 6. Although we haven't fully costed a campaign of this nature, it is likely that a campaign of a similar scale and cost would be required, depending on the profile Ministers would want to give this campaign alongside other Government priorities.

Even a sustained and extensive campaign is unlikely to have the significant impact on employment culture sought by this policy, and a major challenge would be reaching and convincing those who are resistant to change - which promotion campaigns will always struggle to achieve without the pressure of change in the operating environment of businesses. We therefore believe that this is not cost effective in the current economic climate, where the UK Government has pledged to freeze marketing spend for the foreseeable future.

Alongside these difficulties, a non statutory code of practice added to the existing legislative provisions will create additional complexity to flexible working requests. Employers will need to identify whether the employee is requesting flexible working using the statutory procedure or under the code of practice before they process the request. Additionally, maintaining the difference in status of requests between the statutory requests of parents and carers and the voluntary code of practice requests from non parents and non carers will do nothing to address the stigma attached to requests from non parents and non carers.

For the calculations in this IA under a non-statutory code of practice for those without caring responsibilities, we have assumed that the take-up of right will be half that of the legislative extension; due to the reduced awareness of the code of practice and the lack of enforceability (details on the assumptions used for estimating take-up are provided in the assumptions section below). Thus new requests will fall from 123,000 under a legislative extension to 62,000 under a non-statutory code of practice. We have also assumed that in the absence of a statutory code the number of requests accepted at the first stage will fall from 78% to 50% since employers will not have to give requests detailed consideration. It has also been assumed that the number of requests that are taken to appeal will fall to 13% from 25% because employees are likely to feel their case is weaker. Under these assumptions the number of new working arrangements, that is existing employees who switch to flexible working, is estimated to fall from 98,000 to 32,000 and the costs fall from £53.4m to £24.3m. The benefits would also fall, on an annual basis from £82.1 to £30.5m.

### ***(iii)Regulatory extension to the right to request flexible working [Preferred option]***

The Government has committed to *'extend the right to request flexible working to all employees, consulting with business on how best to do so.'*<sup>7</sup>

The intention of the proposed legislation is to ensure that employers give serious consideration to requests for flexible working arising from all employees irrespective of whether they are parents or carers.

The duty to consider will thereby encourage dialogue between employers and employees about how the demands of life can be accommodated without damaging business performance.

The right to request flexible working has increased the availability and take-up of flexible working since its introduction in 2003. We believe this further extension to the right will sustain and encourage further increases in flexible working. In addition, there is some evidence to suggest that businesses are positive

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<sup>7</sup> The Coalition: our programme for Government (2010).

about the extension. HR professionals taking part in the 2010 IRS flexible working survey, agreed that the right should be extended to all employees<sup>8</sup>.

A number of surveys have been undertaken just prior to and since the introduction of the right to request flexible working in 2003. Whilst comparing the results is sometimes difficult due to changes in methodology and differences in the questions asked; these can provide some indication about the effect of the legislation.

The most direct evidence is based around the introduction of the new right to request for parents of young and disabled children in 2003. Surveys conducted before and after the introduction provide a clear indication of the effect the introduction of the policy may have had. We also discuss below results from later flexible working and work-life balance surveys though here it is important to note that these were conducted prior to the extension of the right to request flexible working to carers (in 2007) and parents of older children (in 2009). BIS has commissioned the Work Life Balance Survey of employees 2011 which will form a baseline for future evaluation of these later policy stages.

#### *Impact of the 2003 legislation*

The Second Work Life Balance Survey was a telephone survey of employees undertaken in January to March 2003 before the April 2003 introduction. This asked respondents whether they had made a request to change how they regularly worked over the last two years. This found that 17 per cent of employees had done so, equating roughly to 8.5% per year. At the end of 2003 the first Flexible Working Survey asked respondents whether they had made a request since the introduction of the new right in April (about 6 to 9 months). This found that 13% of all employees had made a request. The figure for parents with a child under the age of 6 was 24%. This suggests that there was an increase immediately after the introduction of the right.

#### *Further research*

The second Flexible Working Survey was then undertaken in early 2005 prior to any further extensions. This returned to the original question format of asking about the previous 2 years. This survey found that requests were around 14% over two years (7 % per year). The Third Work Life Balance survey undertaken in 2006 before to the extension to carers showed requests running at around 17% over two years.<sup>9</sup>

These results suggest that the introduction of the right to request in 2003 resulted in a marked increase in the number of requests initially but that this increase may have tailed off to some extent as the initial demand was met. This proposed extension to the right will encourage further increases in flexible working although this IA has assumed much more modest increases in take-up of only 1% for the extension to all employees (explained further in the assumptions section below).

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**Table 1. Survey results on Requests to work Flexibly**

Employees	All Employees over %	Parents of children under 6 %
Work Life Balance 2 (Jan – Mar 2003) (requests over 2 years)	17	24
Flexible Working Survey 1 (Sept – Nov 2003) (requests in last 6 to 9 months)	13	24
1 Flexible Working Survey 2 (Jan 2005) (requests over 2 years)	14	22
Work Life Balance 2 (Feb – Mar 2006) (requests over 2 years)	17	24

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<sup>8</sup> 43% of the 162 respondents “strongly agree that the right to request flexible working should be extended to all, and 40% “agree”, leaving just 17% who disagree.

<sup>9</sup> The small differences between these later surveys could be the result of differences in survey methodology, sampling and question design and it is difficult to conclude whether the fall is due to an actual fall in requests.

Employees	All Employees over %	Parents of children under 6 %
Source: Work Life Balance and Flexible Working Surveys		

**Alongside the regulatory approach we will engage with business leaders on flexible working through working groups** – DWP convened a Family Friendly Working Hours Taskforce at the end of 2009. The membership of this Taskforce included a number of business leaders and business representatives and made recommendations aimed at increasing the availability of flexible working. We will continue to engage with employers and business leaders to encourage more flexible working.

*Consideration of other approaches: Small business exemption*

We have considered exempting small business from this extension to ensure that we do not overload business, especially small business, with regulation. This policy supports employees to remain in work and creates a culture change where flexible working is recognised as good for business and good for employees. The right to request flexible working aims to provide support to individuals to balance their work and personal commitments.

The Third Work Life Balance Employer survey found that small firms were less likely than larger firms to provide flexible working for their employees. Seven per cent of the smallest workplaces (5 to 9 employees) had no forms of flexible working. Virtually all firms employing over 100 employees had some form of flexible working available to employees. Small firms were also less likely to have had requests to work flexibly. Only 28 per cent of the smallest workplaces had received requests compared with 94% of the largest workplaces. It is therefore important to ensure that small businesses are included within the regulations to drive the culture change across the labour market.

If small firms were excluded from the extension, we have estimated that this would reduce new and additional requests by 37,000. The overall annual costs would fall by £16.2m from £51.6m to £35.4m. The benefits would also fall by £20.5m, from £78.4m to £57.9m.

Based on this we believe that small businesses can also benefit from flexible working, and individuals working in small businesses should also be able to request flexibility in their work.

**Costs and Benefits**

Cost and benefit estimates are provided for [preferred] regulatory extension to the right to request flexible working for all employees. This includes the removal of the statutory procedure and the new right being accompanied by a code of practice.

An analysis is then provided of the cost savings in handling requests for those already eligible, as a result of the introduction of a code of practice to replace the statutory procedure. Since the new right will no longer have information requirements there will be savings in the admin burden. This IA goes on to estimate the costs and benefits of extending the right to request to non parents.

Estimates have been made of the non-statutory code of practice and publicity campaign and presented above.

**1. Background**

Since April 2009, the law provides those with caring responsibility for children aged 16 and under 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 carers, 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 and carers 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 refused<sup>10</sup>.

### *Take-up of flexible working*

BERR's Third Work Life Balance employee survey (WLB3) showed that over the last two years, 17 per cent of employees had 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.

Of those making a request, this was most common amongst parents with dependant children under 6 years at 24%, whilst 19% of parents with children aged between 6 and 18 had made a request and 17% of employees with no dependent children.

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 (78 per cent) requests were accepted outright, 17 per cent said that they had their request refused and 5 per cent were awaiting a decision. Of those whose request was refused, 25 per cent went on to appeal.

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).

### *Availability of Flexible working*

The availability of flexible working can be measured using the Work Life Balance Employer survey. The survey found that at least one of the six types of flexible working arrangement was available for employees to use in 95 per cent of workplaces and had been used by an employee in the last 12 months in 85 per cent. Eighty-four per cent of workplaces had two or more flexible working arrangements available. Only four per cent of workplaces had none. The majority of these (71 per cent) said that this was because flexible working arrangements were not compatible with the nature of their business.

All employers were asked whether they would consider a request to change a working pattern from *any* employee. A small number (8%) said they would not. Of those who would not consider a request to change a working arrangement 13 per cent reported that they would not consider a request from managers and the same proportion that no groups of staff would be considered.

Where flexible working arrangements were available, the Work Life Balance Employer survey asked employers whether they placed any restrictions on the types of employees who were eligible to use them. For each of the five flexible *working time* arrangements covered (i.e. excluding home-working), four in ten employers who provided these arrangements said that not all employees were eligible. Eligibility restrictions were least common for working reduced hours for a limited period. Part-time working was least likely to be universally available, with 38 per cent of establishments reporting that some employees would not be eligible.

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<sup>10</sup> 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.

Despite flexible working being so widespread, the evidence shows that there is still a proportion, albeit a small one, whom would still benefit from the right to request and need the encouragement the right provides to consider flexible working with their employers.

## **2. Eligibility**

To be eligible to make a request under the current right for children age 16 and under, 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 caring responsibility for a child aged under 17
- 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.

Under the new right, only the general criteria will apply.

## **Assumptions**

### *1. 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 2008 for parents of children aged 6 to 16 and in 2010 for those with caring responsibility for children aged 17 and under<sup>11</sup>.

For the calculations of costs and benefits, the parents of 17 year olds are now included along with employees with no caring responsibilities. For benefits calculations, they are treated separately since the benefits were assumed to be slightly greater for this group than employees with no caring responsibilities. This is dealt with in more detail in the following sections.

### *2. Take-up of flexible working arrangements and deadweight*

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. We saw earlier that a large proportion of employers in the WLB3 employer survey indicated that they already provided flexible working to all their employees. It is not straightforward to estimate the deadweight effect.

The original IA produced in 2002 assumed that of all parents with children aged between 0 and 5 who were eligible under the new right, 20% (31% of mothers and 13% of fathers) would make a request of which 7% would be deadweight. The Third Work Life Balance Survey (WLB3) found that 24% of parents

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<sup>11</sup> 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](http://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](http://www.berr.gov.uk/files/file38874.pdf), and *Amending and Extending the Right to Request Flexible Working to Parents of Older Children*, March 2009, and *Extending the Right to Request Flexible Working to Parents of Children aged 17*, October 2010.

with children aged 0 to 5 (38% of mothers and 11% of fathers) had made a request to work flexibly over the last 2 years. For this IA we have assumed that the overall take-up will be similar to that found in WLB3 survey (assuming requests are spread evenly over two years) but that a larger proportion of this take-up can be seen as deadweight since employers are far more familiar with the flexible working and evidence suggests that they are providing it for all employees irrespective of their parental or caring status. Hence we have assumed that 17% of requests by mothers and 4.5% by fathers are deadweight for non parents.

When the extension of the right to carers was introduced, it was estimated that there were 1.8 million eligible carers for the new right. Of these it assumed that 35% would make a request and of these, 11% would be deadweight and 24% would be new requests. More recent survey evidence suggests that this might be an overestimate. Data from the Department of Work and Pensions<sup>12</sup> shows that 24% of employees with caring responsibility had made a request to work flexibly over the last two years which are more in line with those seen amongst parents of 0 to 5 year olds. This IA has therefore assumed that the take-up and deadweight rates for carers will be the same as those of parents of children aged 0 to 5 since their demand for flexible working is likely to be quite high. We have assumed for carers that deadweight will be 17% for female employees and 4.5% for male employees.

Again, using data from WLB3 we have estimated the level of requests that would have occurred from the other groups of employees in the absence of any policy change (the deadweight). The WLB3 data was collected in 2007 when parents with a youngest child aged 6 to 11 and 12-17 were not covered by the legislation on right to request flexible working nor were non-parents or those with no caring responsibility.

This showed that 23% of mothers who are employees and have a youngest child aged 6-11 made a request to change how they regularly work over the last two years. If requests were spread evenly this equates to 11.5% a year. The equivalent figure for fathers is 6%. For parents who are employees and have a youngest child aged 12-17, the figures are 12% and 7% a year.

Similarly, data from WLB3 showed that 20% of women who are employees with no dependent children made a request to change how they regularly work over the last two years. This equates to 10% a year and the equivalent figure for male employees is 7%.

We assume that employees with no dependent children and parents with a youngest child aged 6 to 11 and 12-18 will make requests (in the absence of legislation) to the same extent as the WLB3 results. Whilst this is not perfect, it is the best available evidence we have. The deadweight rate therefore for mothers is assumed to be 11.5% and 6% for parents of 6 to 11 year olds, 12% and 7% for those who have a youngest child aged 12 to 17, the same for parents of 17 year olds and 10% and 7% for female and male employees with no dependent children.

The 2009 IA on extension for parents of children aged 6 to 16 did not make additional calculations for parents of disabled children. It stated that based on ONS data and BERR evidence, the number of disabled children under 18 was estimated in 2008 to be less than 7,000. Since this was a relatively small proportion of all children the impact on the cost and benefits estimates would be negligible. For the purposes of this IA they have not been included as a separate group<sup>13</sup>.

It is possible these rates are a slight overestimate of take-up since some of these arrangements could have been negotiated during the recruitment process. It has been assumed that for the purpose of this IA that these numbers would be very small given the WLB survey asked all employees whether they had made a request irrespective of their length of service.

Details are provided in Table 2 below.

### *3. New requests in addition to deadweight*

It is very difficult to estimate the precise number of additional requests to work flexibly in addition to deadweight. For those employees who are parents of children aged 0 to 5 we have assumed that the overall take-up rate remains the same as the take-up in the WLB3 survey but that the majority is

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<sup>12</sup> *Caring and Flexible Working*, Karen Elsmore, DWP Research Summary Series, July 2009. DWP placed a module of questions in the BMRB Omnibus survey in May 2008 on flexible working. Result of 3,000 respondents were published in a short paper ‘

<sup>13</sup> 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.

deadweight with only 2% for mothers and 1% for fathers being additional requests. These assumptions have been applied to those employees who are carers since we have very little evidence about their take-up rates.

For the other groups of employees we have taken the WLB3 take-up rates as the equivalent of the deadweight (i.e. those requests which would take place in the absence of legislation) and assumed that that overall take-up will increase for these employees. We therefore estimate on a cautious basis that additional take-up (over and beyond deadweight) will be a 2 percentage point increase for mothers and a 1 percentage point increase for fathers in take-up rates.

For non parents or those with no caring responsibility we have assumed a slightly more cautious approach and estimated that the new right will result in a 1 percentage increase in requests. This small proportion of additional requests reflects the fact many businesses currently provide flexible working and that this legislation is targeting those groups of employees who are less likely to work flexibly, less likely to make requests and less likely to have their requests accepted.

Details are provided in Table 2 below

**Table 2. Estimated take-up and deadweight rates for employees covered by the right**

Employees	Estimated Deadweight %		Estimate take-up %	
	Females	Males	Females	Males
Parents of children aged 0 - 5	17	4.5	2	1
Carers	17	4.5	2	1
Parents of children aged 6 - 11	11.5	6	2	1
Parents of children aged 12 - 17	12	7	2	1
Parents of children aged 17	12	7	2	1
Employees with no dependent children or caring responsibilities	10	7	1	1

Source: BIS estimates from Work Life Balance Survey.

#### 4. Estimated eligibility and new working arrangements

Table 3 below shows the number of eligible employees, number of new requests and the estimated number of new working arrangements per annum expected from employees, by parental or caring responsibilities.

**Table 3. Estimated number of eligible parents and of new working arrangements\***

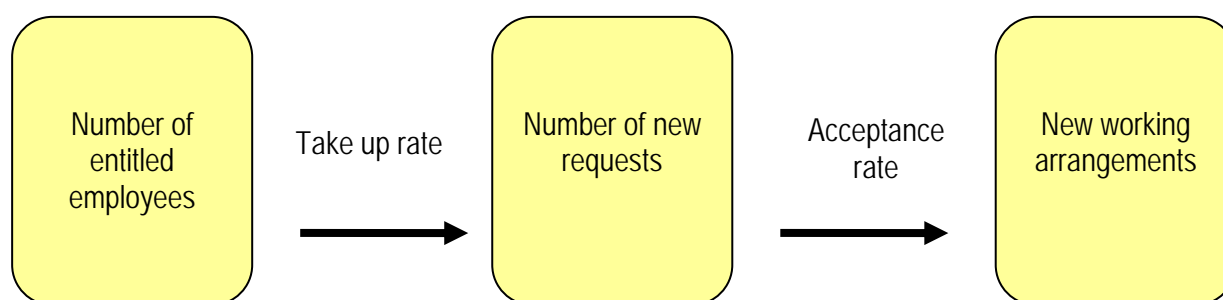
Scope of law	Number of entitled employees (millions)	Number of additional requests (000s)	Number of additional deadweight requests (000s)	Number of additional new requests (000s)	Additional number of new working arrangements p.a.* (000s)

	Number of entitled employees (millions)	Number of additional requests (000s)	Number of additional deadweight requests (000s)	Number of additional new requests (000s)	Additional number of new working arrangements p.a.* (000s)
<b>Scope of law</b>					
Parents of children aged 0 to 5	3.9	451,000	395,000	56,000	45,000
Parents of children aged 6 to 11	2.5	261,000	223,000	38,000	30,000
Parents of children aged 12 to 16	2.6	300,000	251,000	40,000	32,000
Parents of children aged 17	0.29	33,000	29,000	4,600	3,600
Carers	1.8	247,000	218,000	29,000	23,000
Employees with no dependent children or caring resp.	11.9	1,116,000	997,000	119,000	94,000
<b>Total</b>	<b>22.9</b>	<b>2,400,000</b>	<b>2,120,000</b>	<b>290,000</b>	<b>227,000</b>

Source: LFS Q2 2010, BIS estimates. \*Excluding deadweight requests Figures have been rounded. Total may not sum to individuals parts due to rounding

The chart below illustrates the relationship between entitled employees and number of new working arrangements. New working arrangements refer to when an existing employee switches to flexible working.

**Figure 1. Relationship between entitled employees and number of new working arrangements**



Source: BIS

As indicated above, based on evidence from the Work Life Balance Surveys, estimates of deadweight and take-up have been made broken down by gender. Based on these estimates we calculate that the new right to all employees (including parents of 17 year olds) will result in 2.4 million requests (around 9% of eligible employees) but that of these we estimate that the majority will be deadweight, and the remainder (290,000) will be *additional* requests. Non parents represent 118,754 of these new requests and 29,000 come from parents of 17 year olds.

Also based on the Work Life Balance survey we have made assumptions about the number of requests that are successful. The survey found that 78 per cent of requests were accepted at the first stage. This may be an underestimate since in the employee survey five per cent of requests were yet to be decided. Also, employer data suggests that acceptances are higher. For example, in the Work Life Balance Employer survey 90 per cent of employers indicated that they accepted all requests. We have taken a

cautious approach and assumed in this impact assessment that 78 per cent of requests are successful. These rates varied very little by whether or not employees had caring responsibilities.

The Work Life Balance employee survey found that of those employees whose request was denied, 25 per cent went on to appeal. Of those only 2 per cent are successful. The same percentages have been used in this IA. Details are provided in Table C1 in Annex C. Of the 119,000 new requests from employees with no caring responsibility it is estimated that 94,000 will lead to new working arrangements.

## Benefits

### Research evidence

A number of research studies have been carried out in recent years which have sought to measure the impact on employees and/or employers as a result of flexible working arrangements. This includes research commissioned by BIS as well as by business organisations.

#### (i) Benefits to business

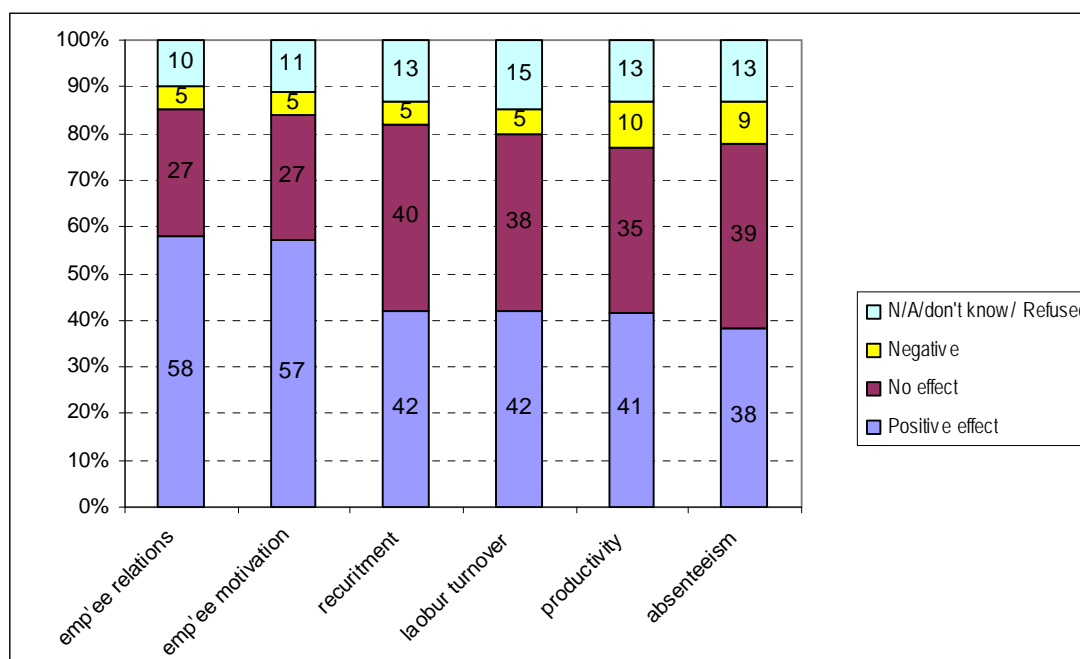
Since the introduction of the right to request flexible working a number of surveys of businesses have been undertaken exploring their perceptions of the benefits. These are summarised briefly below.

#### Third Work-Life Balance Employer Survey (BIS)

The Third Work Life Balance Employer survey asked respondents about the effect flexible working practices had on employees and human resource management. For each of six criteria, employers were asked whether they thought flexible working and leave arrangements had a positive, negative or no effect. Details are shown in Chart 1 below.

Over half of workplaces felt that flexible working had had a positive effect on employee relations and motivation and commitment at the workplace. Just over 40 per cent felt effects on recruitment, labour turnover and productivity had been positive whilst 38 per cent perceived a positive effect on absenteeism.

**Chart 1: Employers' perceived effects of flexible working (WLB 07)**



Source: BIS Third Work-life Balance Employers Survey (2007)

More recently, the CBI Employment Trends Survey (2009) also explored the impact of flexible working on businesses. Employers were asked about the impact on their business of granting requests to work flexibly, the clear majority (69 per cent) of employers saw a positive impact of flexible working on employee relations, with only a few (four per cent) noting a negative impact. Recruitment and retention had also been affected positively as a result of employers offering more diverse working patterns – with 63 per cent noting a positive impact.

In addition, 41 per cent of employers reported a positive correlation between granting requests to work flexibly and absentee rates, and 30 per cent noted improved productivity. The figures for absentee rates and productivity show a slight increase on the 2008 survey results. In 2008, 38% of employers believed the right to request flexible working had had a positive impact on their business. A further 52% said that the impact had been neutral.

#### *British Chambers of Commerce*

A British Chamber of Commerce survey<sup>14</sup> of employers found that over 70 per cent of respondents noted some or significant improvement in employee relations as a result of offering flexible working arrangements compared with only 26 per cent who noted no improvement.

#### *IRS Employment Review*

Flexible working surveys conducted by IRS Employment Review in 2009 and 2010 found that the majority of businesses surveyed cited improved retention (73% of employers), flexibility of cover (65%) and increased employee engagement (63%). In addition, saving on costs have become a well-recognised benefit of flexible working with almost half the organisations (42%) witnessing this advantage.<sup>15</sup>

#### *(ii) Benefits to employees*

Employees report a range of benefits from flexible working. In the WLB employee survey, almost nine in ten employees (89 per cent) working flexibly believed there were positive consequences of working this way, while just 6 per cent said there were none. Amongst the most frequently cited positive consequences of taking up flexible working were having free time in general (34 per cent) and having more time to spend with family (33 per cent). Some employees also mentioned having more time to be able to spend on other activities such as completing a course/studying. There were other responses that referred to 'convenience/flexibility' aspect of working flexible arrangement such as avoiding rush hours, suiting childcare arrangements or attending appointments.

Some employees also mentioned various aspects of their lives improving as a result of taking up flexible working arrangements. The responses included 'improved relationships', 'not suffering from as much stress', 'improved health', 'improved work-life balance' and 'enjoying work more/being happier'.

It has also been found that flexible workers (33 per cent) were significantly more likely than non-flexible workers (22 per cent) to be very satisfied with their current working arrangements<sup>16</sup>. Employees who were using some form of flexible working were more committed to their employer and reported better psychological health.<sup>17</sup>

A CIPD survey<sup>18</sup> found that employees who are satisfied with their work-life balance and those who are able to work flexibly are more engaged with their work than those who are dissatisfied or not working flexibly. It found that those on flexible contracts tend to be more emotionally engaged, more satisfied with their work, more likely to speak positively about their organisation and less likely to quit than those not employed on flexible contracts.

In a qualitative study of SMEs, employees of those organisations which offered flexible working valued their employers' approachability, and expressed appreciation of the fact that their employer would listen

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<sup>14</sup> *Work and Life; How business is striking the right balance*, British Chambers of Commerce (2007)

<sup>15</sup> *IRS flexible working survey 2010 and 2009*, Charlotte Wollf, IRS.

<sup>16</sup> *The Third Work Life Balance Employee Survey*, Hooker, H., Neathey, F., Casebourne, J. and Munro, M. (2007). Department for Business, Innovation and Skills, Research series No. 58.

<sup>17</sup> *Attitudes to flexible working and family life*, Houston, D. and Waumsley, J (2003), . Joseph Rowntree Foundation.

<sup>18</sup> *Working life: employee attitudes and engagement*, Truss, C., Soane, E. and Edwards, C. (2006). Chartered Institute of Personnel and Development research report London.

to their requests with an open mind and a flexible outlook. Employees said that flexibility made good business sense, promoted motivation and effort, and deserved a reciprocal response.<sup>19</sup>

Finally, 89 per cent of all employees thought that 'having more choice in working arrangements improves workplace morale'.<sup>20</sup>

### Analysis of Benefits.

Using the findings from above our analysis of the benefits that may result from the extension of the right to request flexible working have been calculated for:

- 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.

It is likely that these benefits will be realised for subsequent years. This assessment also examines the potential stream of benefits from employees working flexibly from previous years as a result of successful additional requests to work flexibly.

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

Where flexible working enables employees to remain in the labour market, there will be benefits in terms of reduced staff turnover costs and increased skill retention. There may be broader savings to employers through reduced turnover. At present, many working have some form of flexible working pattern, but to achieve this, a proportion will have had to change their job. Employees may leave their jobs for others with more flexible working patterns but which may be lower paid or lower skilled.

As indicated above many employers report experiencing a positive impact of flexible working on recruitment and retention of employees. The 2009 CBI Employment trends survey asked employers about the impact of granting requests for flexible working specifically in regard to recruitment and retention. 63 per cent said that flexible working practices had a positive effect on recruitment and retention.<sup>21</sup>

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 £6,315<sup>22</sup>.

In 2009 CIPD estimated a labour turnover rate of 15.7 per cent. Of the non parents that left their jobs, a proportion left for reasons which may have been prevented by availability of flexible working. The CIPD survey found that 9% of employees left their job for reasons relating to their hours. To estimate the effect of the policy it is assumed that the introduction of a right to request flexible working for non-parents will prevent 1 per cent of employees leaving their jobs. This proportion is half that used in previous IAs relating to parents since the benefit was assumed to be lower for the non-parent group. The savings made through lower recruitment costs are presented in the table below.

For the parents of 17 year olds the percentages are slightly higher. The 2009 the CIPD survey found that of those leaving their jobs, 21 per cent<sup>23</sup> of individuals left to either have - or to look after their - children. To estimate the effect of the policy for this group of employees, it is assumed that the introduction of a

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<sup>19</sup> *Smaller organisations and flexible working arrangements*, Dex, F and Scheibl, F (2002),. Joseph Rowntree Foundation/Policy Press.

<sup>20</sup> Hooker, H., Neathey, F., Casebourne, J. and Munro, M. (2007) *The Third Work Life Balance Employee Survey*. Department for Business, Innovation and Skills, Research series No. 58.

<sup>21</sup> *Employment Trends Survey: Easing Up* Confederation of British Industry (CBI) (2009)

<sup>22</sup> 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. In its latest 2009 survey the average cost of labour turnover per employee was £6,125. This has been uprated to 2010 prices by applying a growth rate of 3% per annum. However, the CIPD figure is based on relatively few organisations providing information on the cost of overall labour turnover.

<sup>23</sup> CIPD, Recruitment and turnover survey 2009. In 2009 21 per cent of people who left their job, did so to have or look after their children. In 2007 the figure was 18 per cent and 27 per cent for 2008.



right to request flexible working for parents of children aged under 18 will prevent 2 per cent of employees leaving their jobs to look after family members.

**Table 4. Estimated savings in recruitment costs as a result of lower labour turnover**

Scope of law	Estimated number of employees who leave their job	Estimated number of employees who decide to remain with their existing employer as a result of the scope of law being extended	Additional employer savings in recruitment costs as a result of extending scope of law
Parents of 17 year olds	9,600	190	£1.2m
Non-parents	167,800	1,700	£10.6m
<b>Total</b>			<b>£11.8m</b>

Source: LFS Q4 2009 and BIS estimates. Figures have been rounded

## 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.

Earlier research<sup>24</sup> comparing the results of the 1998 and 2004 Workplace Employment Relations Surveys in this area found that:

*Workplaces in which the incidence of family-friendly provisions increased over the time period were more likely to be identified by managers as having improved in financial performance relative to others in the field. This finding was consistent while controlling for the effect of market factors and the presence of management techniques potentially associated with improved financial performance. Although the association does not provide evidence of causality, it does counter arguments that adopting family-friendly policies is a luxury that will have negative consequences for financial performance, suggesting instead a compatibility between both outcomes<sup>25</sup>.*

More recent research produced separately by BIS, the CBI and the BCC provide further evidence on the proportions of business reporting a positive impact of flexible working arrangements on firm productivity. The Third Work Life Balance Survey (BIS) found that 12 per cent of employers thought that flexible working and leave arrangements had a negative effect and 47 per cent reported a positive effect, with the remainder reporting no impact<sup>26</sup>. Overall therefore in net terms 36 per cent of firms reported a positive impact on productivity<sup>27</sup>. The Third Work Life Balance Survey was based on responses from 1,456 managers. These findings are supported by later CBI survey results. In addition, research from the British Chambers of Commerce found that 58 per cent of small to medium sized enterprises reported improvement in productivity (46 per cent some improvement, 12 per cent significant improvement).<sup>28</sup>

The methodology we follow to estimate the productivity benefits to business for both parents of 17 year olds and non-parents is therefore based on this net proportion of businesses – 36 per cent - reporting an improvement in productivity. What the research does not shed light on is the magnitude of this productivity gain either overall or how it may be distributed across businesses. Instead we have assumed a notional level of 5 per cent output gain would be achieved for the 36 per cent of new working arrangements (existing employees who switch to flexible working) that result in increased productivity. A 5 per 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.

<sup>24</sup> Whitehouse, G. et al, "Reassessing the 'family-friendly workplace'; Trends and influences in Britain, 1998-2004, BIS Employment Relations Research Series No.76, July 2007.

<sup>25</sup> Ibid. p.4

<sup>26</sup> 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.

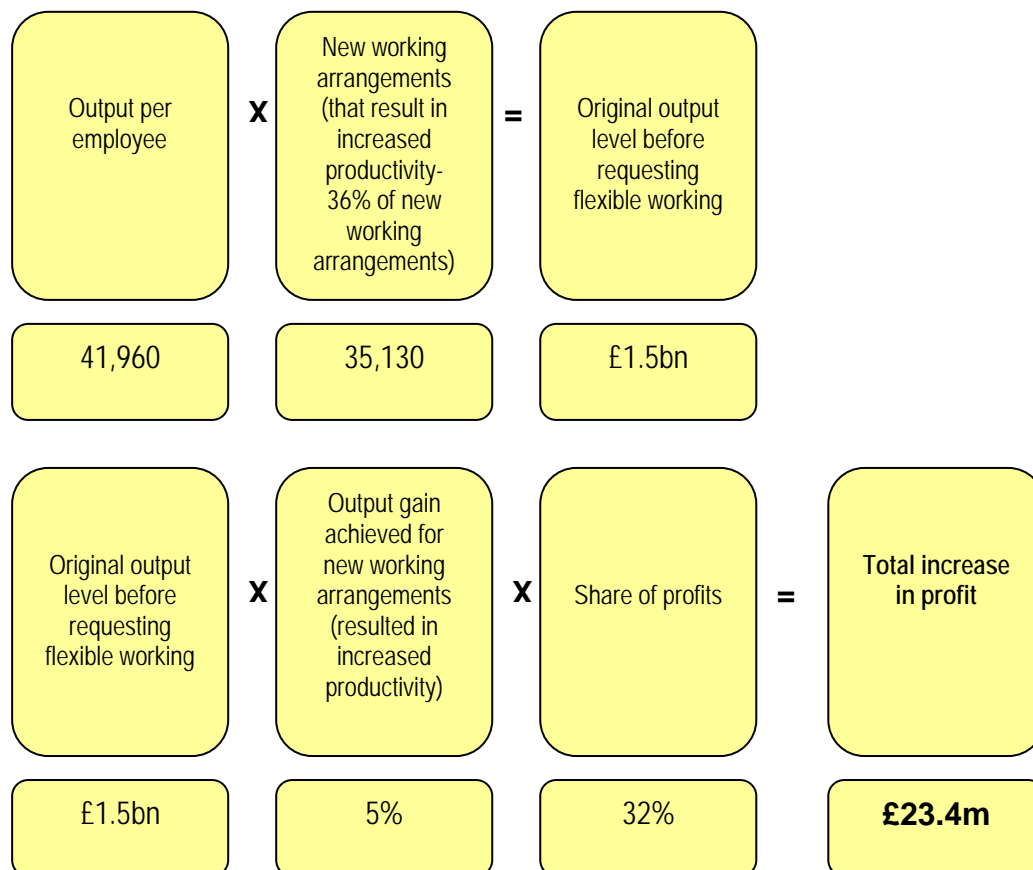
<sup>27</sup> 47.2per cent-11.5per cent = 35.7per cent~36per cent.

<sup>28</sup> British Chambers of Commerce (2007) Work and Life: How Business is striking the right balance.

This increase in productivity would lead to higher output. Using national accounts data we estimate that of this increase in output around 32 per cent is accounted for by gross operating surplus (profits).<sup>29</sup>

Figure 2. below illustrates the methodology used to estimate the impact on profit of parents of 17 year olds and non parent employees being more productive after a request for flexible working is accepted.

**Figure 2. Estimated impact on profits**



Source: BIS estimates. Some figures have been rounded.

Table 5 presents the estimated increase in profits in year one as a result of non parent employees being more productive after a request for flexible working is accepted.

**Table 5. Increased profits as a result of increased productivity for year one\* – Non parent employees**

Scope of law	Extra gross profits (Total) p.a.
New working arrangements	97,600
Arrangements with increased productivity	35,100
Increase in profits	£23.4m

<sup>29</sup> Compensation of employees (wages) accounts for around 60 per cent of gross value added. Gross value added and gross operating surplus are taken from the United Kingdom Economic Accounts: The Blue Book (2009) [http://www.statistics.gov.uk/downloads/theme\\_economy/BB09.pdf](http://www.statistics.gov.uk/downloads/theme_economy/BB09.pdf). See table 2.2

**Total**

£23.4m

Source: BIS estimates. Figures have been rounded. \* subsequent years include benefits accrued from previous years new working arrangements

### 3. Reduced absenteeism rates

BERR's third work life balance survey also showed that a net of 33 per cent of firms report a positive effect on absenteeism as a result of flexible working and leave arrangements<sup>30</sup>. In the later 2009 CBI survey, 41 per cent of employers reported such an effect. The CIPD survey found that on average the cost of an employee being absent per year is £713<sup>31</sup>.

For parents of 17 year olds, an assumption was made that 22 per cent of new working arrangements will result in lower employee absenteeism. This figure represents two-thirds of the work-life balance findings. We have made this adjustment downwards to reflect that parents of older children will have lower levels of absenteeism compared to parents of younger children (but higher than employees with no caring responsibilities) and therefore use of the average effect is not appropriate.

For non-parents it was assumed that 15 per cent of new working arrangements will result in lower absenteeism for employees with no dependent children. This figure represents just under one half of the work-life balance findings. Again this adjustment is to reflect that employees with no caring responsibilities will have lower levels of absenteeism compared to parents or carers.

A further assumption has been made that the cost of absenteeism prior to making a request is £713 per year and after a request is accepted the cost of absenteeism falls by 10 per cent. It is assumed that the absenteeism cost falls because flexible working allows employees to reduce the incidences of absence per year. Table 6 below presents the savings made by employers as a result of lower absenteeism in year one.

**Table 6. Savings in absence costs for year one\* – Non parent employees**

Scope of law	Savings in absence costs – non- parents	Savings in absence costs – parents of 17 year olds
New Working arrangements	94,000	3,600
Arrangements where absence falls (15%)	14,000	802
Saving of 10% on absence costs	£1.0m	£57,000
<b>Total</b>	<b>£1.0m</b>	<b>£57,000</b>

Source: BIS estimates. Figures have been rounded. \* subsequent years include benefits accrued from previous years new working arrangements

### 4. Summary of quantifiable benefits

The table below provides a summary of the quantifiable benefits in year one adding together the savings in recruitment cost (Table 4), the quantifiable benefits of increased productivity (Table 5) and the quantifiable savings in absence costs (Table 6).

<sup>30</sup> 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.

<sup>31</sup> *Absence Management – Annual Survey Report 2009*, CIPD July 2009. The cost of absence in 2009 was estimated by CIPD to be £692, we then applied a annual growth rate of 3per cent to provide a 2010 figure of £713.

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**Table 7. Total additional quantifiable benefits in year one\* - non parents**

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Scope of law	Benefits to non-parents and parents of 17 year olds
Reduced labour turnover	£11.8m
Increased productivity	£23.4m
Reduced absenteeism	£1.1m
<b>Total Benefits</b>	<b>£36.2m</b>

Source: BIS estimates. Figures have been rounded.\* subsequent years include benefits accrued from previous years new working arrangements

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### **5. Sensitivity analysis of assumptions made to estimate benefits**

The table below shows the effect on benefits of changing a particular assumption by 10 per cent. The three most uncertain assumptions used to estimate the benefits were chosen for sensitivity analysis.

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**Table 8. Summary of sensitivity analysis for non parents**

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Benefit	Assumption	+/- 10 per cent change in assumption leads to +/- change in benefit
Savings in recruitment costs as a result of lower labour turnover	1 per cent of non parents (who leave their job due to working hours) do not leave their job	£1,180,000
Increased profits as a result of increased productivity	5 per cent increase in output for workers who increase output	£2,335,000
Savings in absence costs	Cost of absenteeism falls by 10 per cent for new working arrangement where absenteeism is expected to fall	£106,000

Source: BIS analysis. Figures have been rounded

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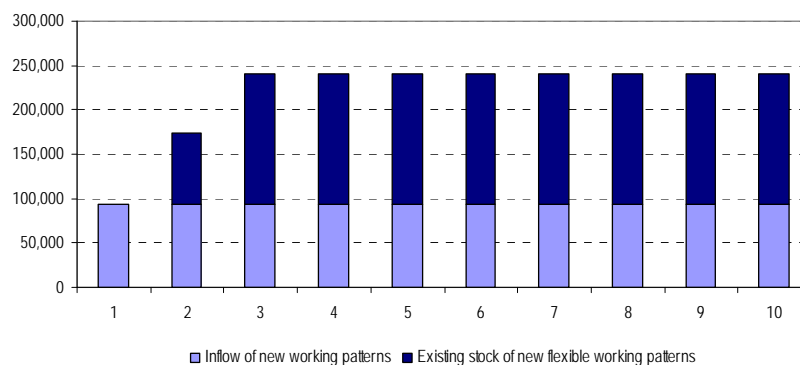
### **6. Aggregation of Benefits**

In calculating the benefits over a ten year period, this impact assessment has attempted to take into account the potential stream of benefits from non parent employees working flexibly from previous years as a result of successful additional requests to work flexibly. For example if employees who adjust their working patterns in year one of the policy are not included in the pool of employees affected in year two this implies that firms only benefit from a single year in the form of reduced absenteeism and improved productivity. This is an extreme assumption as many employees are likely to work for several years after adjusting their working patterns for the same employer. Hence, it is likely that using this approach the net present value of benefits over a 10 year horizon will be an underestimation of the benefits.

One alternative assumption is to cumulatively add up the existing stock of workers who adopt new working patterns to the annual inflow of new working patterns. Using turnover rates from CIPD (and adjusting for reduced turnover as a result of the policy) 15.6% of employees who change their working patterns are assumed to leave their job per annum. To factor in that the magnitude of benefits may diminish over time we arbitrarily assume the policy effect stops after a period of 3 years for non-parents and 5 years for parents of 17 year olds, from the point an employee changes their working patterns. This assumption by definition constrains the anticipated growth in flexibly working as a result of the policy.

Chart 2 below plots the cumulative number of new working patterns for non-parents (annual new inflow of 93,937 plus share of existing stock from the previous year). In year one the total stock of new working patterns equals the annual inflow of new working patterns. For year 2 the stock of workers increases to 173,220. The stock stabilises in year 3 and remains at 240,000 in years 3 to 10 (this is by design and ensures that the stock of flexible workers does not continuously grow). In terms of total levels of employees working flexible in year 10 the total stock will reach around 3 million (the current workers measured in 2010 which is around 2.8 million plus an additional 240,000 because of the anticipated policy effect). This represents a percentage increase of 8.6% over ten years or around 0.8% on an annual compound basis. These assumptions are cautious given the 3% annual compound growth rate in the levels of parents with a youngest child aged under 6 working flexibly since 2003.

**Chart 2. Stock of new flexible working patterns including annual inflow over 10 years**



Source: BIS estimates

Adjusting the benefits stream over 10 years to incorporate inclusion of existing stocks of flexible workers leads to a **net present value of benefits of £553m** over 10 years compared to £406 m based on measuring the benefits on just inflows. These figures exclude the saving from the move to a statutory code of practice for those already covered by the right to request.

It should be noted that the total benefits summed up over ten years is affected by assumptions made on how long the policy effect lasts (in this case we have assumed that the policy effect lasts for 3 years) and the level of benefits in each year. For simplicity we have assumed that the 'unit benefit' (the benefit per new working pattern as a result of the policy) remains constant irrespective of the time elapsed from the date the request was accepted. For example the unit benefit one year on after a request is accepted is the same as two years on and so on. These assumptions made could differ depending on the population group affected.

For parents of 17 year olds, in year one the total stock of new working patterns equals the annual inflow of new working patterns. Between years 2 to 5 the stock of workers increases to 15,000. The stock stabilises in year 5 and remains at 14,809 in years 5 to 10 (this is by design and ensures that the stock of flexible workers does not continuously grow). In terms of total levels of parents with a youngest child aged 17 working flexible in year 10 the total stock will reach 153,365 (the current 140,000 workers measured in 2010 plus an additional 13,365 because of the anticipated policy effect). This represents a percentage increase of 9.5% over ten years or around 0.9% on an annual compound basis. These assumptions are cautious given the 3.0% annual compound growth rate in the levels of parents with a youngest child aged under 6 working flexibly since 2003. Adjusting the benefits stream over 10 years to incorporate inclusion of existing stocks of flexible workers leads to a **net present value of benefits of £34.3m** over 10 years compared to £18.1m based on measuring the benefits on just inflows.

When considering future extensions in the right to request these assumptions will be revisited and when evaluating previous impact assessments on the right to request for parents with younger children or carers of adults these assumptions will again be revisited.

Further details on these calculations are provided in Annex D.

## 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 may result in one-off Implementation costs for business. For this IA however, it is assumed that the extension of the existing law will have small implementation costs. Most 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.

There are however, a small number of firms which do not have experience of flexible working. We have estimated the proportion of those with no experience of flexible working from the Work Life Balance Survey and for these firms, more time has been allowed for familiarisation.

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.

The cost will primarily be in management time. The relevant assumptions are set out in the table below. For all firms time has been valued for HR managers (SOC Code 1145) at half hour, one hour or two hours at £28.13 per hour.

**Table 9: Implementation costs\***

Firm size (number of employees)	Number of firms with flex working	Average management cost (hours)	Number of firms with no flexible working*	Average management cost (hours)	Estimated total cost to business
1-4	596,293	0.5	44,882	1	£9.6m
5-9	221,921	0.5	16,704	1	£3.6m
10-19	121,638	0.5	3,762	1	£1.8m
20-49	58,559	0.5	1,811	1	£0.9m
50-99	18,975	1	190	1	£0.5m
100-199	9,385	1	0	-	£0.3m
200-249	1,950	1	0	-	£0.1m
250-499	3,795	1	0	-	£0.1m
500+	4,470	2	0	-	£0.3m
<b>Total</b>	<b>1,036,986</b>		<b>67,349</b>		<b>£17.1m</b>

Source: BIS estimates based on 2007 SME Statistics (Small Business Service) and Annual Survey of Hours and Earnings 2009 (ONS). \*Proportions taken from 3<sup>rd</sup> Work Life Balance Employer Survey

Note: HR time is valued at £28.13. Figures have been rounded. Total may not sum to individual parts due to rounding.

### 2. Procedural Costs

## *2.1 Average cost of handling a formal request*

Under the current legislation, 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). Since the process is the same for both parents of 17 year olds and non-parents, the costs per request will be the same.

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. Based on estimates from the Work Life Balance Surveys and 2008 ORC Admin Burdens Study (see section 2.4 below)<sup>32</sup>, previous IAs assumed that 80% of requests were handled informally and 20% are managed on a more formal basis.

Under the new legislation, the prescribed procedure will be removed and replaced with a code of practice. It has been assumed in this IA that this will result in a shift towards more informal processes. Thus for the calculations here 90% of requests are dealt with on an informal basis whilst only 10% are handled through formal procedures. This is supported by evidence from the 2008 ORC Admin Burdens Study (see section 2.4 below) which concluded that whilst respondents valued the structure that the legislation provided, some felt it was a bit too formalised and that left to their own devices some would adopt a more informal approach.

Formal requests were estimated to take 2 hours of employee time, and 3 hours of management time. It was 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 taken to process a request are provided in table 10 below. This works out at approximately £55 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 £16.40 for informal deadweight requests and £37.32 for formal deadweight requests is used.

As with the initial request stage, it has been assumed that with a statutory code of practice, more deadweight request will be handled informally. For this IA, 90% of deadweight requests are handled informally.

## *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 £123 per request. Details on the time taken to process an appeal are provided in table 10 below.

As with the first stage, under the new legislation, the prescribed procedure will be removed and replaced with a code of practice. It has again been assumed in this IA that this will result in a shift towards more informal processes. Thus for the calculations here 90% of appeals are dealt with on an informal basis whilst only 10% are handled through formal procedures.

## *2.3 Average cost of external dispute resolution stage*

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<sup>32</sup> *Employment Law Admin Burden Survey 2008*, ORC International December 2008

The average cost to an employer of an application to an Employment Tribunal - £7,400<sup>33</sup> - 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. For this extension the number of requests likely to be taken to external dispute resolution is fairly small – probably less than 150.

This assumption is supported by evidence from Employment Tribunal claims data. Overall the number of claims for the flexible working jurisdiction has been relatively small, accounting for less than 0.1 per cent of all ET claims since the first right to request flexible working was introduced in early 2003. 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. Again, when the right to request was extended to parents of children aged 16 and under, claims rose from 266 in March 09 to 350 in March 2010.

The total procedural cost per annum is presented in table 11.

## 2.4 Administrative Burdens

In 2005, the Better Regulation Executive commissioned PricewaterhouseCoopers (PwC) to undertake a measurement exercise of administration costs incurred by the private sector as a result of all regulation imposed by central government. The Administrative Burdens Measurement Exercise (ABME) formed part of the Government’s wider Administrative Burdens Reduction Programme (ABRP) and the initiative sought to reduce and simplify the administrative burden of undertaken Information Obligations associated with employment regulation compliance. Annex B sets out the PwC administrative burden information obligations associated with the Flexible Working (Procedural Requirements) Regulations 2002<sup>34</sup>.

In 2008, BERR commissioned ORC International to replicate elements of the 2005 ABME study. The 2008 ORC study found a downward shift in the administrative burdens for all the IOs examined. For Flexible working applications the estimate was reduced from £150.6m in 2005 to £21.22m in 2008.<sup>35</sup>

This study focussed on three IOs relating to Flexible working which were:

- Approved/refused a request for flexible working – 30371
- Had an employee appeal your refusal for flexible working – where you have upheld your refusal – 30411
- Withdrawn an employee’s application for flexible working on the basis of their poor behaviour – 30463

In previous IAs these studies have allowed us to identify and separate out from the procedural costs those activities under the current system 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 table 10 below.

**Table 10. Estimated time to process a request<sup>#</sup>**

Acceptance stage	unit cost		of which admin burden	
	formal	informal	formal	informal

<sup>33</sup> Source *Findings from the survey of Employment Tribunal Applications 08*, Employment Relations Research Series No 107, BIS. Estimate is based on the Tribunal system prior to any reform.

<sup>34</sup> i.e. the introduction of the right to request flexible working for parents of children under 6 and disabled children under 18.

<sup>35</sup> *Employment Law Admin Burden Survey 2008*, ORC International December 2008



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	0
	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: BIS 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 10 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. As indicated above we have assumed in this impact assessment that 90 per cent of requests are informal hence it is likely that only a small proportion of employees will request a written confirmation.

The ORC report also explored the use of external goods and services relating to IOs. These largely were made up of using paid sources for information and guidance on employment law. The largest source of information was solicitors followed by accountants and employment consultants. External goods and services also covered expenditure on postage, printing, software, technical equipment and prepared guidance materials.

For flexible working the study found that the use of goods and services was relatively low given that the process was regarded as easy. There was however a higher incidence of external service purchased for refusals and appeals which was consistent with the notion that for more complex labour issues businesses sought bespoke guidance. For the Flexible Working Ios the use of external goods and services amounted to £57.45 for first stage requests and £214 for requests taken to appeal.<sup>36</sup>

Qualitative feedback from the case studies indicated that some businesses liked to consult free advice in the first instance to familiarise themselves with the requirements of an IO and then progress to seek confirmation of the procedure from their paid professional service.

We have assumed that for the new system using a code of practice, the use of external goods and services as set out in the ORC report will no longer be necessary for the first stage of requests which are handled informally. The use of external goods and services remains the same for formal requests and requests taken to the appeal stage.

The resulting costs of administrative burdens to employers are presented in table 11 below and reflect the split between formal and informal requests outlined above.

#### **4. 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.

<sup>36</sup> In calculations these figures have been updated to 2010 prices.

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 of HR time, split between HR manager and HR clerk, for requests that ask to work part time. For other types of requests we have assumed the equivalent of 1 day HR time to accommodate the request. Another assumption has been made that around a quarter of all requests are to work part time, hence the average cost of accommodation is 2 days wages. We have assumed that half a day will be needed by the HR manager and a day and half of clerk time.

Using average earnings from the 2009 Annual Survey of Hours and Earnings and allowing for 21per cent for non-wage labour costs, this produces costs of £98.47 for half a day of HR manager time and £142.77 for a day and half of HR clerk time<sup>37</sup>. 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.

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.

### Summary of costs

**Table 11: Summary of annual procedural costs and cost of accommodating requests\***

Scope of law	Total one-off costs (£ millions)	Total procedural cost (£ millions)	Total costs of making adjustments to working patterns (£ millions)	Additional cost to employer (£millions)	Of which administrative burdens (£ millions)
Non parent employees – new code of practice	17.1	29.9	23.5	53.4	6.2

Source: BIS estimates

### Code of practice – procedural savings

As indicated above in sections 2.1 and 2.4, the new legislation will introduce a code of practice to replace the statutory procedure for handling requests. This will result in savings for employers handling requests for employees already eligible to request flexible working. i.e. all requests from parents or carers.

In order to calculate these savings, the costs have been estimated under the current statutory procedure and under a code of practice for requests from parents and carers. Estimates of the take-up and deadweight for parents and carers were provided in Table 2 and set out in the Assumptions section above. In summary it has been assumed that there will be 1.3m requests per year from parents or carers, of which 1.1m are deadweight and 164,000 are new requests.

Under the new legislation, the prescribed procedure will be removed and replaced with a code of practice. It has been assumed in this IA that the use of a code of practice will result in a shift towards more informal processes. Thus for estimating the costs under a code of practice, 90% of deadweight requests, new requests and appeals are dealt with on an informal basis whilst only 10% are handled through formal procedures as opposed to 20% being handled formally under the current legislation. For those currently covered by the legislation, savings will be made in the time spent on handling requests. For example, where previously 3 hours would be spent by managers and 2 hours by employees, in 10% of requests this is reduced to 1 hour employee time and an hour and a half employer time. This produces a saving of £63 per request or £1m in total of all requests by parents and carers. For appeals, the time is reduced from 6 hours of management time and 4 hours of employee time to 3 hours and 1 hour

<sup>37</sup> All the wage figures above are based on 40per cent of average gross weekly earnings plus 21per cent of non-wage labour costs i.e. total cost of accommodation in days = 0.25 x 5 days + 0.75 x 1 day = 2 days (this equates to (2/5) of a weeks wages).

respectively. This represents a saving of £126 per appeal or £113,000 in total. The saving on deadweight request is £21 per request amounting to £2.3m in total.

We also assumed that for the new system using a code of practice, the use of external goods and services as set out in the ORC report will no longer be necessary for the first stage of requests which are handled informally. The use of external goods and services remains the same for formal requests and requests taken to the appeal stage. Thus, for 90% of initial requests from parents and carers, £62 will be saved on external goods and services per request. This amounts to £9.3m per year for all requests.

The details of the costs under both systems are given in Table 12 below. This suggests that a saving of £12.8m will be made by employers

**Table 12: Summary of annual procedural costs savings\***

Scope of law	Total procedural cost (£ millions)	Total costs of making adjustments to working patterns (£ millions)	Additional cost to employer (£millions)
All employees – current legislation	£47.4m	£31.3	£78.7
All employees – new code of practice	£34.6	£31.3	£65.9
<b>Saving with new code of practice</b>			<b>£12.8</b>

Source: BIS estimates

## 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, deadweight and the procedural costs associated with the right to request flexible working.

## 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.

We saw earlier that the number of claims for the flexible working jurisdiction has been relatively small, accounting for less than 0.1 per cent of all ET claims since the first right to request flexible working was introduced in early 2003. 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. Again, when the right to request was extended to parents of children aged 16 and under, claims rose from 266 in March 09 to 350 in March 2010.

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

## Recommendation and summary table of costs and benefits

Table 12 presents a summary of the estimated quantifiable costs and benefits.

**Table 13. Summary of quantifiable costs and benefits for year one\***

Scope of law	Annual Costs (£m)	Annual Benefits (£m)
Non parent employees & 17 year olds	£53.4	£36.2
One off costs	£17.1	
Annual Procedural savings		£12.8

Source: BIS estimates. Figures have been rounded \* subsequent years include benefits accrued from previous years new working arrangements

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 motivation and commitment

### Equivalent annual costs and benefits over ten years

Table 13 shows the total impact (direct and indirect) to employers. The equivalent annual cost to firms is £55.4 million and the equivalent annual benefit is £81.3 million. Therefore, the net annual total benefit to business is £25.9 million.

**Table 14: Summary of Equivalent Annual Cost and Benefit (Total impact)**

Scope of law	Equivalent annual cost (£m)	Equivalent annual benefit (£m)	Equivalent net benefit (£m)
Non-parent employees	£55.4	£81.3	£25.9

Source: BIS estimates. Figures have been rounded.\*subsequent years include benefits accrued from previous years new working arrangements.

### One in, one out Rule

The Coalition Government Agreement made a commitment to 'cut red tape by introducing a 'one-in, one-out' (OIOO) rule whereby no new regulation is brought in without other regulation being cut by a greater amount. For OIOO purposes only direct costs and benefits to business are counted.

For this consultation the direct benefits to business include reduced labour turnover and reduced absenteeism. Direct costs include procedural costs. Reduced labour turnover and absenteeism benefits are considered direct, because the causal relationship between flexible working and individuals staying with their employer, or needing less emergency leave, is clear. Employees who find the flexibility they need from their employer are less likely to look for another job where the same flexibility might not be available. Similarly where individuals are able to make stable arrangements for care or have the flexibility to manage emergency situations through working from home or other flexibility they are less likely to take emergency absence.

Increased productivity is deemed to be an indirect benefit. Many employers report increased productivity following implementing flexible working, but it is difficult to establish whether flexible working was the only factor behind the increase. It is therefore not to be included for OIOO purposes.

Direct costs to employers consist of procedural costs, because the right to request flexible working states that the request must be seriously considered, and certain processes should be followed to show that consideration. The cost of accommodating accepted requests is an indirect cost because the legislation only gives the right to make a request and have it considered. It does not prescribe how requests should be accommodated. Also, the cost of accommodation is a secondary impact and firms will be able to 'recover' some of these costs in the future (for example ICT investment in laptops for remote working will retain some value for the business (irrespective of whether the laptop is used to assist flexible working).

Table 14 shows the direct impact to firms. The equivalent annual costs to firms will be £31.9 million and the equivalent annual benefit is £27.1 million. Therefore, the net annual direct cost to business is £4.8 million. Regulatory savings to compensate for the additional direct cost to business will be sought.

Compensatory out: The extension to the right to request flexible working will be offset by the reductions in the costs to business achieved through the Resolving Workplace Dispute measures.

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**Table 15: Summary of Equivalent Annual Cost and Benefit (Direct impact on employers)**

Scope of law	Equivalent annual cost (£m)	Equivalent annual benefit (£m)	Equivalent net cost (£m)
Non-parent employees	£31.9	£27.1	£4.8

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Source: BIS estimates. Figures have been rounded. For one in one out purposes the Department is seeking an out of equal measure.

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## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>It is intended to extend the Right to Request to all employees in October 2013. The review of the extension will take place in 2015, when the new right has become established.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review will examine whether the take-up of flexible working increases as a result of the right to request procedure, especially for male employees. It will also explore the degree to which requests are accepted, employer attitudes to flexible working and the level of disputes via Employment Tribunal claims. It will seek to establish whether productivity increases with flexible working; whether labour turnover is reduced and whether absenteeism is reduced, in line with the assumptions made in this IA.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>It is planned that the Work Life Balance series of surveys will continue and these can be designed to form the central part of the evaluation process. In addition data will be available for other survey sources such as the Workplace Employment Relations survey 2011 and future Fair Treatment at work surveys. Other sources of data will be available from the Labour Force Survey and Employment Tribunals Service.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The 4<sup>th</sup> Work Life Balance survey of employees to be undertaken in 2010/2011 will be designed to provide a baseline on the use of the right to request flexible working by all employees. Data will also be available from the Labour Force Survey of more general take-up of flexible working.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Increase take-up of flexible working by all employees but particularly men</p> <p>Increased use of the right to request procedure</p> <p>Continued high levels of requests accepted</p> <p>Continued low levels of Employment Tribunal Claims regarding flexible working</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>The next Work Life Balance survey of employees to be undertaken in 2010/2011 will be designed to provide a baseline of the use of the right to request all employees prior to the new right being in place. Data will also be available from the next Workplace Employment Relations Survey (2011) from employees and employers on availability and use of flexible working. Regular monitoring of take-up of flexible working will be undertaken using Labour Force Survey data. Employment Tribunal claims will also be monitored annually to assess whether disputes are rising.</p>
<p><b>Reasons for not planning a PIR:</b> [If there is no plan to do a PIR please provide reasons here]</p>

Add annexes here.

## **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 without dependent 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.

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

	With dependent children	Without dependent children	All employees
A-B: Agriculture & fishing	1%	1%	1%
C,E: Energy & water	1%	1%	1%
D: Manufacturing	11%	12%	12%
F: Construction	5%	5%	5%
G-H: Distribution, hotels & restaurants	19%	19%	19%
I: Transport & communication	6%	6%	6%
J-K: Banking, finance & insurance etc	16%	16%	16%
L-N: Public admin, educ & health	36%	33%	34%
O-Q: Other services	5%	6%	5%
<b>total</b>	<b>100 %</b>	<b>100%</b>	<b>100%</b>

Source: LFS Q2 2010. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

The initial analysis of the competition filter is that a detailed competition assessment is not considered necessary (see table A2 below). In the filter test, the issue of market share is not relevant because the proposals apply to all sectors of the economy and at the same time, with the total number of requests per year expected to be low, the likelihood of any particular employer being affected by a case is low.

The proposed policies will not affect market structure or the potential of new firms to enter markets nor are the proposals expected to have an impact on firms' production decisions.

The proposed legislation will apply to all firms and is unlikely to affect the competitiveness of any particular sector.

**Table A2. 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: BIS

## 2. Small Firms Impact Test

The proposed amendment to the regulations would apply to firms of all sizes. It has been assumed that small businesses will be disproportionately affected in terms of the transition costs. This has been factored into the calculations so that proportional costs for small firms are higher than for large firms i.e. the cost per employee. We have also allowed more time for familiarisation for the proportion of small firms which do not have experience of flexible working.

The reasons for declining a request may be more pertinent to small firms, meaning that they may be more likely to decline requests. However as we do not have decline figures by business size we cannot calculate this. Additionally the costs and benefits of flexible working requests was calculated on the number of requests as opposed to 'per business' so this would not affect the overall costs and benefits calculation.

It could be argued that small businesses may experience a disproportionate impact on the running of their business when an individual requests to work flexibly, compared to larger businesses, particularly where small businesses do not have a dedicated HR function. However, as a group, small businesses are as likely to encounter requests to work flexibly as larger businesses, though individual small businesses will be less likely to be affected by the new entitlements, as they have fewer employees per business. Data from the Work Life Balance Employer survey indicates that fewer small firms provide flexible working and that a smaller proportion of smaller workplaces have received requests to work flexibly. These are shown in the Table A3 below.

It is also the case that businesses can refuse a request to flexible working if there are business reasons for doing so. Thus, if small firms feel the request is disproportionate, they can refuse it.

**Table A3 Availability of flexible working and experience of requests**

	% with No flexible working available	Those workplaces experiencing requests
1-9	7	28
10-24	3	40
25-49	3	51
50-99	1	71
100-249	*	77
250-499	*	91
500 or more	*	94
Total		

Source: Work Life Balance 3 Employer Survey

Finally, data from the Labour Force Survey suggests that small firms do not have a disproportionate share of non parents in their workforce. Table A4 presents the distribution of estimated eligible non-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 A4 Estimated additional eligible employees by size of the company as per cent of total employees**

	With dependent children	Without dependent children	All Employees
1-10	28%	14%	19%
11-19	13%	7%	9%
20-24	7%	3%	5%
25-49	22%	11%	15%
50-249	2%	18%	25%



	With dependent children	Without dependent children	All Employees
250-499	1%	35%	8%
500 or more	28%	13%	19%
Total	100 %	100%	100%

Source: LFS Q2 2010. 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. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

### 3. Equality Impact Assessment

#### *Gender*

The current right to request is restricted to parent and carers, however flexible working can be used to support people for many reasons, including supporting individuals who wish to undertake voluntary activities.

The current right to request flexible working has enabled many parents and carers to integrate their work and family responsibilities. However because of the current right to requests restrictions, it has created the cultural belief that flexible working is only of benefit to parents and carers and consequently for women, as they continue to deliver the majority of the caring role. This culture also means that many businesses aren't recognising the benefits of flexible working.

This cultural blockage means that employers aren't considering flexible working when they advertise jobs, and employees are concerned that working flexibly will harm their career prospects. In order to encourage flexible working amongst men it is important to remove this labelling from the legislation.

Opening up flexible working to all employees will change the cultural perceptions around flexible working, and create more flexible working opportunities. This policy supports a number of Government agendas, including reducing child poverty, and enabling single parents back into employment.

The intention of the proposed legislation is that employers give serious consideration to requests for flexible working arising from all employees irrespective of whether they are parents or carers.

Overall, therefore, the proposal will enhance equity and fairness since they provide all employees with greater flexibility. An initial equality impact assessment suggests there would not be any disproportionate effects by gender. Indeed, there is a slightly larger proportion of male employees without children currently not covered by the legislation, who now will be.

**Table A5 Estimated additional eligibility by gender of employees**

	With dependent children	Without dependent children	All employees
Male	49%	51%	51%
Female	51%	49%	49%
<b>Total</b>	100 %	100%	100%

Source: LFS Q2 2010. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

#### *Disability*

In terms of disability, disabled individuals have the right to reasonable adjustments to accommodate their needs. This right effectively enables them to make flexible working requests under a stricter test than the right to request flexible working. An employer would need to show why it would be unreasonable to accommodate the request. It is not intended that this should supersede any case law in this area, so the discrimination by association issue would remain and would be something we would pick up through guidance. This will be supplemented by a full analysis for the final impact assessment.

However many individuals have health considerations or illnesses but do not consider themselves disabled and do not wish to define themselves as disabled. The extension to the right to request flexible working will enable all employees to make a request without needing to give a reason for their request.

The proposal is designed to have a positive impact on all employees. Therefore, the proposed changes are unlikely to create any barriers to equality in terms of an employee's disability. Furthermore, we do not

expect that employers employing individuals with disabilities will be unduly affected by the proposed adjustments in this impact assessment.

**Table A6 Estimated additional eligibility by disability of employees**

	With dependent children	Without dependent children	All employees
Not disabled	89%	84%	86%
DDA disabled & work limiting disability	4%	6%	5%
DDA disabled	5%	7%	6%
Work limiting disability only	2%	3%	3%
<b>Total</b>	<b>100 %</b>	<b>100%</b>	<b>100%</b>

Source: LFS Q2 2010. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

### *Ethnicity*

It is important that the proposals outlined above do not have a disproportionate effect on any one ethnic group. Table A7 indicates that the proportions of eligible non-parents are similar for all employees and so no ethnic groups and will be disadvantaged from the new provision.

**Table A7 Estimated additional eligibility by ethnicity of employees**

	With Dependent children	Without dependent children	All employees
White	89%	92%	91%
Mixed	1%	1%	1%
Asian or Asian British	6%	4%	5%
Black or Black British	3%	2%	2%
Chinese	0%	0%	0%
Other	1%	1%	1%
<b>Total</b>	<b>100 %</b>	<b>100%</b>	<b>100%</b>

Source: LFS Q2 2010. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

### *Age*

The right to request flexible working is seen as an important issue for helping older workers to remain in work. As indicated in the IA, the removal of the Default Retirement Age will enable people to work for longer but employees and employers will continue to have discussions about retirement. Flexible working is an option to enable people to stagger their retirement instead of creating a 'cliff edge' retirement. It can also help employers to manage the transition.

The table below indicated that there is a slightly larger proportion of non-parents employees in the older age groups than for all employees. They will therefore be positively affected by the legislation.

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**Table A8 Estimated additional eligibility by age of employees**

	With dependent children	Without dependent children	All employees
16-20	6%	4%	5%
21-30	15%	26%	22%
31-40	35%	15%	23%
41-50	37%	19%	26%
51-60	7%	26%	19%
61-70	0%	9%	6%
70+	0%	1%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: LFS Q2 2010. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

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### *Faith*

It is important that the proposals outlined above do not have a disproportionate effect on any one faith group. Since the legislation will extend the right to request to all employees no particular faith will be disadvantaged. Table A9 indicates that the proportions of eligible non-parents are similar for all employees and so no ethnic groups and will be disadvantaged from the new provision.

Flexible working can support individuals of any faith in religious observance. For example, where an individual is required to fast during daylight hours, they would be able to request flexible start and finish times, or to work from home, to ensure that they can get home in time for sunset.

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**Table A9 Estimated additional eligibility by faith of employees**

	With Dependent children	Without dependent children	All employees
Christian	70%	72%	71%
Buddist	0%	0%	0%
Hindu	2%	1%	2%
Jewish	0%	0%	0%
Muslim	3%	2%	2%
Sikh	1%	1%	1%
Any other religion	1%	1%	1%
No religion at all	23%	22%	22%
<b>Total</b>	<b>100 %</b>	<b>100%</b>	<b>100%</b>

Source: LFS Q2 2010. Note: people that are eligible to request flexible working if the current law was extended may not necessarily reflect the actual take up rate

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## **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"> <li>- 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</li> <li>- the prescribed grounds for refusal where the application is turned down.</li> </ul>	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"> <li>- where you uphold the appeal, the contract variation agreed to and the date from which the variation is to take effect or;</li> <li>- where you dismiss the appeal, the grounds for the decision with a sufficient explanation as to why those grounds apply.</li> </ul>	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**

### *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). BIS'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 C1.

**Table C1: Progress of requests through the various stages**

Scope of law	All eligible employees
All employees	11.9 million
1) No. of new requests	124,400
2) Proportion accepted at first stage (0.78=78per cent)	0.78
3) No. of requests accepted at first stage =1x2	96,200
4) Proportion of requests taken to second stage (0.25=25per cent)	0.25
5) No. of second stage requests =(1-3)x4	6,800
6) Proportion accepted at second stage (0.2=20per cent)	0.2
7) No. of requests accepted at second stage =5x6	1,360
8) No. of requests turned down by employer= 5-7	5,400
9) Proportion referred to external dispute resolution (0.04=4per cent)	0.02
10) No. of additional external dispute resolution cases=8x9	136
11) Proportion successful at external dispute resolution stage	0.02
12) No. of requests accepted at external stage = 10x11	3
13) No. of requests unsuccessful at external stage = 10-12	133
14) Total no. of new working arrangements = 3+7+12	98,000

## **ANNEX D: AGGREGATION OF BENEFITS**

This flexible working impact assessment has attempted to take into account the potential stream of benefits from employees working flexibly from previous years as a result of successful additional requests to work flexibly. For example if employees who adjust their working patterns in year one of the policy are not included in the pool of employees affected in year two. This implies that firms only benefit from a single year in the form of reduced absenteeism and increased productivity. This is an extreme assumption as many employees are likely to work for several years after adjusting their working patterns for the same employer. Hence, using this approach it is likely that the net present value of benefits over a 10 year horizon will be an underestimation of the benefits.

One approach to address this extreme assumption is to aggregate the 'inflow' of new working patterns on a cumulative basis. Simply adding up the estimated 93,937 new working patterns each year would lead to an overestimation as employees are likely to move jobs (or leave the labour market) over this period and the benefits from working flexibly are likely to diminish as time elapses from the point at which a request is accepted.

This note models a scenario where benefits are added up cumulative based on a 'stock' approach of workers affected by the policy and incorporates that the benefits will diminish as time elapses.

### **Evidence from previous rights to request flexible working**

Between the period 2000 and 2009 proportions working flexibly have been rising. In particular from 2003 (when the right to request was first introduced for parents with a youngest child aged under 6) to 2009 proportions working flexibly increased by around 4% points. In terms of growth in levels of parents working flexibly from 2003 the level has grown by around 19% between 2003 and 2009, this is equivalent to an annual compound growth rate of 3% per year.

Based on LFS data for 2009 around half (49%) of parents with a youngest child aged 17 have some sort of flexibility in their job, (140,000 out of a total of 288,000).

### **Alternative assumptions**

One alternative assumption to the current approach taken in the impact assessment is to cumulatively add up the existing stock of workers who adopt new working patterns to the annual inflow of new working patterns. Using turnover rates from CIPD (and adjusting for reduced turnover as a result of the policy) 15.6% of employees who change their working patterns are assumed to leave their job per annum. To factor in that the magnitude of benefits may diminish as time elapses we arbitrarily assume the policy effect stops after a period of 3 years from the point an employee changes their working patterns. This assumption by definition constrains the anticipated growth in flexibly working as a result of the policy.

Chart 2 below plots the cumulative number of new working patterns (annual new inflow of 93,937 plus share of existing stock from the previous year). In year one the total stock of new working patterns equals the annual inflow of new working patterns. For year 2 the stock of workers increases to 173,220. The stock stabilises in year 3 and remains at 240,000 in years 3 to 10 (this is by design and ensures that the stock of flexible workers does not continuously grow). In terms of total levels of employees working flexible in year 10 the total stock will reach around 3 million (the current workers measured in 2010 which is around 2.8 million plus an additional 240,000 because of the anticipated policy effect). This represents a percentage increase of 8.6% over ten years or around 0.8% on an annual compound basis. These assumptions are cautious given the 3% annual compound growth rate in the levels of parents with a youngest child aged under 6 working flexibly since 2003.

**Chart 2. Stock of new flexible working patterns including annual inflow over 10 years**



Source: BIS estimates

### Effect on stream of benefits

Adjusting the benefits stream over 10 years to incorporate inclusion of existing stocks of flexible workers leads to a **net present value of benefits of £668 m** over 10 years compared to £406m based on measuring the benefits on just inflows. These benefits include reduced job turnover and savings from moving to a new statutory code which are based on the inflow of new working arrangements each year; plus increased productivity and reduced absenteeism based on the stock of new working arrangements each year. In terms of sensitivity analysis benefits based on assuming a continuous stream of benefits (that carry on beyond 3 years after a change in working pattern) would lead to a net present value of benefits of £901m over 10 years. Although, under this approach as time elapsed from the policy implementation date there would reach a point where there would be a very large group of non-parents working flexibly.

It should be noted that the total benefits summed up over ten years is affected by assumptions made on how long the policy effect lasts (in this case we have assumed that the policy effect lasts for 3 years) and the level of benefits in each year. For simplicity we have assumed that the 'unit benefit' (the benefit per new working pattern as a result of the policy) remains constant irrespective of the time elapsed from the date the request was accepted. For example the unit benefit one year on after a request is accepted is the same as two years on and so on. These assumptions made could differ depending on the population group affected.

When evaluating this and previous impact assessments on the right to request for parents with younger children or carers of adults these assumptions will again be revisited.



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