



Department
for Business
Innovation & Skills

Growth and Infrastructure Bill
Clause 23

Impact Assessment

DECEMBER 2012

Title: Growth and Infrastructure Bill Lead department or agency: Department for Communities and Local Government (DCLG) Other departments or agencies: Department for Environment, Food and Rural Affairs (Defra) Department for Transport (DfT) Department for Energy and Climate Change (DECC) Department for Culture, Media and Sport (DCMS) Department for Business, Innovation and Skills (BIS)	Impact Assessment (IA)
	Date: 05/12/2012
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
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Summary: Intervention and Options

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out? Measure qualifies as One-Out?
£m	£m	£m	Yes/No In/Out/zero net cost

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

The measures in the Growth and Infrastructure Bill will help to remove unnecessary bureaucracy that can hinder sustainable growth. It will do this through: Improving processes and removing unnecessary processes or requirements so that the planning system is simpler and faster and supports sustainable growth including taking forward some of the measures in the Penfold Review on streamlining overlapping consent regimes; and economic measures to support growth, including: the creation of a new optional 'employee-owner' status for companies to offer; and postponing the revaluation of Business Rates from 2015 to 2017.

Economic measures to support growth, including it is essential that the planning system works proactively and efficiently to promote sustainable development. The National Planning Policy Framework published in March 2012 radically simplified national planning policy, and introduced the presumption in favour of sustainable development. The Bill measures will help to drive implementation of these reforms by ensuring that the planning system becomes faster, more efficient and more positive, while retaining the right protections.

What are the policy objectives and the intended effects? *This provides a summary of the key policy objectives and intended effects, more on each provision is contained in the sections on each individual measure.*

The measures in the Growth and Infrastructure Bill will help to drive implementation of the Government's reforms and remove unnecessary bureaucracy that can hinder sustainable growth. The Bill will:

Improve efficiency by deterring unreasonably slow or poor decisions – planning applications will be allowed to be submitted to the Planning Inspectorate in those few cases where the council has a track record of very poor performance, and Inspectors will have strengthened powers to award costs against unreasonable behaviour when cases go to appeal; by providing for a more proportionate approach to information required in planning applications; by taking forward some of the measures in the Penfold Review on streamlining overlapping consent regimes, including preventing the Town and Village Green registration system being used to stop or delay planned development.

Promote sustainable development, by allowing the reconsideration of the Section 106 agreements for sites which are considered by the developer to be economically unviable due to Section 106 affordable housing requirements; and giving developers of large scale business and commercial development the option, subject to the Secretary of State's agreement of using the streamlined approach for progressing major projects set out in the Planning Act 2008.

Support business, by avoiding local firms and local shops facing unexpected hikes in their business rate bills over the next five years by postponing revaluation 2015 in England to 2017; by repealing redundant requirements for developers and operators of power stations and allowing variations to consents for power stations; and by ensuring that rural areas can share the same benefits as cities, and that everyone across the country can be certain of access to a fast reliable broadband network.

What provisions are contained within the Bill?

Clause 1: Option to make planning application directly to Secretary of State.

Clause 2: Planning proceedings: costs, etc.

Clause 3: Compulsory purchase inquiries: costs.

Clause 4: Limits on power to require information with planning applications.

Clause 5: Modification or discharge of affordable housing requirements.

Clause 6: Enabling a general disposal consent for land held for planning purposes

Clause 7: Electronic communications code: the need to promote growth

Clause 8: Periodic review of mineral planning permissions

Clause 9: Stopping up and diversion of highways

Clause 10: Stopping up and diversion of public paths

Clause 11-14: Town and Village Greens

Clause 15: Power Stations repeal of requirements to give notice

Clause 16: Amending Section 7B(5) of the Gas Act 1986

Clause 17-18: Consents under Electricity Act 1989

Clause 19-20: Modifications of Special Parliamentary Procedure in certain cases

Clause 21: Bringing business and commercial projects (major infrastructure) within Planning Act 2008 regime

Clause 22: Postponement of compilation of rating lists to 2017

Clause 23: Employee Owners

Will policy be reviewed?

The Department will in the normal way undertake a post-legislative review of these provisions within three to five years after Royal Assent.

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

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

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			

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

The policy changes will be of benefit to business, local authorities and communities. We do not expect that any of these bodies will experience costs unless:

- they are deemed to have acted unreasonably (as, then, the changes to the award of costs process would affect them);
- applicants choose to appeal regarding their affordable homes requirements: This may result in administrative costs and/or other costs associated with appeals, but only where applicants believe that the benefits of this course of action outweigh the costs.
- in the case of Local Authorities who are consistently very poorly performing, there may some loss of income where developers choose to have their applications determined by the Planning Inspectorate; and
- d) new overhead line deployment (clause 7) may result in some impact on the visual amenity, although coder operators will remain under statutory obligation to minimise this.

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			

Description and scale of key monetised and non-monetised benefits by ‘main affected groups’

These proposals have a number of benefits to businesses and communities. These are summarised below:

- The measures on Local Authority planning performance will promote faster and better quality decisions, benefiting applicants and communities. These are expected to yield direct time and quality improvements to an estimated 90 major applications per annum, with broader impacts on the performance of the planning system as a whole.
- Changes to the award of costs process are anticipated to facilitate positive behaviour throughout the planning and appeals processes, resulting in faster decisions and a reduction in the costs associated with securing planning decisions.
- Limiting the power to require unnecessary information to accompany planning applications will reduce the costs imposed by the planning system, with an illustrative estimate of likely savings of around £6.5m per annum.
- The measure to enable appeal of affordable housing requirements will return some stalled sites to viability, enabling them to proceed, delivering much needed housing and supporting the economic recovery.
- The modification of Special Parliamentary Procedures is expected to reduce the length of the planning process for certain developments and remove the ‘deadweight loss’ associated with certain processes occurring more than once unnecessarily.
- The clauses taking forward some of the recommendations in the Penfold Review will delivery further flexibility and simplicity in the non-planning consents regime. In particular, the Town and Village Green changes will prevent the registration system being used to stop or delay planned development. The reforms will protect local communities’ ability to promote development in their areas through local and neighbourhood plan-making.
- Ofgem’s proposed gas Network Innovation Competition is currently being delayed because of regulatory ambiguity in the Gas Act. Until this uncertainty is removed, or another funding mechanism is established, Ofgem will not proceed with the Competition. This would see up to £160 million from industry invested into the gas grid.
- Unnecessarily slow decisions by local planning authorities on the very large business and commercial schemes hinder development. Clause 21 provides an alternative planning route for applicants for large-scale proposals of national significance, which they will be able to decide on a case-by-case basis whether they would prefer to use.

Clause 23: Employee Owners (BIS)

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Summary

Rationale for intervention and intended effects

1. The Government wants to give companies more choice in how they take people on.
2. The Government believes that current employment statuses do not provide enough choice. The new employee owner status gives individuals a wider range of employment opportunities.
3. We will improve choice by legislating for a new employment status.
4. This status will have advantages for the company and for the individual.
5. The new status will reduce tribunal risk and increase the flexibility of workforces for companies.

The Government wants to give companies greater choice about the contracts they can offer to individuals, whilst ensuring appropriate levels of protection are maintained, and is creating a new employment status of 'employee owner'. Under this new status, employee owners will receive shares of between £2,000 and £50,000 which will be exempt from capital gains tax. Employee owners will have all the same employment rights as those with 'employee' status, except:

- unfair dismissal (except where this is automatically unfair or relates to anti-discrimination law);
- certain rights to request flexible working and training; and
- statutory redundancy pay.
- Individuals with this new status would also be required to give 16 rather than the current 8 weeks' notice of their intention to return early from maternity or adoption leave.

We want to encourage workers to be engaged with their employer and to break down the barriers between them.

For those companies that have these concerns, employee owner status could provide some comfort. At the same time, employee owners will potentially have greater attachment to the success of their employer by virtue of the stake that they own in the company, helping to create a more engaged workforce.

A clause in the Growth and Infrastructure Bill establishes a new employment status by amending the Employment Rights Act 1996, and sets out the terms of this new status. A change to the law is needed to give effect to this policy in the same way that existing employment statuses of 'employee' and 'worker' are set out in primary legislation (within the Employment Rights Act 1996).

Initial assessment of business impact

The employee owner status is an additional optional employment status that companies may use if they feel that the status would be beneficial to them overall. Because of this, this suggests that on aggregate, there would be an overall net benefit to companies of the proposals.

The main impacts on a company that chooses to implement the employee owner status would be the costs avoided of otherwise having to make provision for an employee potentially exercising the following rights:

- right not to be unfairly dismissed (except where this is automatically unfair or relates to anti-discrimination law)
- right to statutory redundancy pay
- right to request flexible working or time to train

In addition an employee owner returning early from maternity or adoption leave would have to give 16 weeks notice (an employee has to give 8 weeks).

Our analysis suggests an **indicative** expected avoided cost of around £86.75 per employee owner employed each year, in terms of costs associated with the above rights.

An employee owner would hold between £2,000 and £50,000 worth of shares (that are exempt from Capital Gains Tax) in the company that they work for. There are implications for companies as they would need to make it possible to be able to allocate such shares.

Other impacts on a company choosing to implement the status are the costs of implementing a share scheme; and the benefits of having individuals that work for them owning shares in the company. We have not monetised the benefits from increased productivity and engagement, and would expect the value of the benefits to be greater than the equity stake over time. These benefits can include increased productivity and increased employee engagement. The costs and benefits of implementing an employee share scheme can vary depending on the characteristics of a company and therefore we have not calculated an aggregated estimate.

Section 4 contains further details of the potential business impacts of the proposal including some indicative quantified costs and benefits. A list of key impacts on business are outlined in table 3.

Initial assessment of impact on individuals

There is widespread evidence that employee ownership has a positive impact on both business and employees. The Nuttall Review¹ provides an analysis of the benefits of employee ownership (in Chapter 2 of the final report). The benefit for individuals includes fostering employee commitment and engagement. Other benefits include enhanced employee well-being by cultivating a sense of engagement with management.

¹ Sharing success, The Nuttall Review of employee ownership, 2012, <http://www.bis.gov.uk/assets/BISCore/business-law/docs/S/12-933-sharing-success-nuttall-review-employee-ownership.pdf>

Evidence

The policy issue and rationale for Government intervention

The UK employment law regime enables individuals to choose between various types of employment status. This includes being an employee or a worker, both of which are defined in the Employment Rights Act 1996². These statuses form the basis of an individual's contract and lead to different rights and obligations (see Table 1).

The Government does not regulate which type of employment status or type of contract businesses must use to take someone on. This means that businesses are free to choose the best arrangement for their particular circumstances. They can choose to use full-time, part-time or fixed-term employees, workers (including agency workers) or self-employed individuals. The choice businesses face when deciding between these categories is a trade-off between flexibility, control and obligation (between the employer and the individual engaged).

Currently if there is a disagreement about a person's employment status then, like any other employment dispute, this can be, as a last resort, resolved at an employment tribunal. The tribunal will base its decision on various factors that have been established through case law: for example, the degree of control the work provider has; whether the work provider's premises, tools and facilities are used; the degree of integration into the workforce; whether the person is paid a salary; and the extent to which the person takes on financial risks in the business.

Although the contract will be of assistance in determining employment status, the tribunal judge will also look at the factual scenario. If the contract states that the individual is to be treated as self-employed or as a worker, but in fact they were working as an employee, they will be regarded as an employee. The proposal is to create a distinct new employment status that a tribunal would easily be able to distinguish from other forms of employment.

The risk of being taken to a tribunal over employment rights and the costs of providing some rights are perceived by some as creating a barrier to hiring employees, particularly for fast-growing innovative businesses who need flexible workforces.

² The self-employed are not defined in employment law and have very limited rights associated with employment law (restricted to discrimination and health and safety in the workplace).

Policy objectives and intended effects

The main policy objective for this new employee owner status is provide companies with an alternative type of contract which they can offer to either new or existing employees. We also want to remove barriers to further uptake of employee ownership as there is an extensive evidence base presented in the Nuttall review that business performance is improved when individuals own a stake in the business. It is not envisaged that the new status will be appropriate for all companies. It simply adds to the options and flexibility available to companies and employees in determining their employment relationships.

It is designed to enable companies to reduce the perceived risks around employment law in a way that is fair to employees and increase employee engagement. The Government believes that current employment statuses – whilst being fair to employees – do not provide sufficient choice to employers. By creating an alternative employment status, with fewer employment rights but with shares in the business, the Government is ensuring that choice is increased, whilst essential protections are maintained. Individuals continue to have important protections in the workplace, businesses benefit from the reduced costs associated with those individual rights that are excluded from the status and both employers and individuals benefit from the shares aspect of this new status. The objective of the shares element of the status is to increase employee owners’ attachment to the success of their employer by virtue of the stake that they own in the company, creating a more engaged workforce

Companies would be able to choose which employment status is most suitable for their particular circumstances. Table 1 below sets out which employment rights apply to the different types of employment status – both current and as part of the new employee owner status.

Table 1: Overview of Employment Statuses

Right	Employment Law			Outside of Employment Law
	Current Situation		New employee owner	Self Employed (inc. freelancers, consultants, contractors)
Employee (inc. Full-time, Part-time, Fixed-term contracts)	Worker (inc. Agency workers, contractors)			
<i>Unfair dismissal (gained after 2 years in continuous employment)</i>	Y	N	N	N
<i>Unfair dismissal (automatically unfair)</i>	Y	N	Y	N
<i>Minimum notice</i>	Y	N	Y	N
<i>Statutory redundancy pay</i>	Y	N	N	N
<i>Collective redundancy consultation</i>	Y	N	Y	N
<i>TUPE</i>	Y	N	Y	N
<i>Maternity/Paternity/Adoption leave and pay</i>	Y	N	Y	N
<i>Flexible working requests</i>	Y	N	N	N
<i>Fixed-term status (less favourable treatment)</i>	Y	N	Y	N
<i>National minimum wage</i>	Y	Y	Y	N
<i>Unlawful deductions from wages</i>	Y	Y	Y	N
<i>Paid annual leave</i>	Y	Y	Y	N
<i>Rest breaks</i>	Y	Y	Y	N
<i>Discrimination</i>	Y	Y	Y	Y
<i>Part-time status (less favourable treatment)</i>	Y	Y	Y	N
<i>Training requests (in companies larger than 250)</i>	Y	N	N	N

The new status would have an impact at various points during the employment lifecycle: at the hiring stage, whilst managing staff and at the end of the employment relationship:

- Increased choice about the type of contract that an employer could offer when taking on staff, which would lead to greater flexibility in the workforce.
- Greater commitment to the goals of the company from employee owners as a consequence of the share ownership element.
- Greater certainty about certain future liabilities in the event the employment relationship did not work out, as a direct consequence of the individual rights that do not apply.

Policy options considered, including alternatives to regulation

The Chancellor announced on 8 October that the Government is committed to implementing employee owner status.

Creating a new employment status is only possible through primary legislation, and we have included a clause in the Growth and Infrastructure Bill which would give effect to this by amending the Employment Rights Act 1996.

We are consulting on how best to implement this new status, and the consultation does two things: 1) making sure a new status works for companies and people, and 2) making sure business make better use of existing options.

On the latter, we are seeking views through the consultation document on how government can help businesses get the most out of the existing flexibility offered in terms of being able to offer contracts to 'employees' or 'workers', as well as taking individuals on a self-employed basis.

We also anticipate that as a result of this, and subject to the outcome of the consultation, we will need to do some work around clarifying and increasing awareness of the existing statuses employers are free to use, as well as raising awareness of the new status of employee owner.

Expected level of business impact

The following sections provide a summary of the key impacts on business of implementing the employee owner status. Analysis will be updated following any additional information received through the public consultation process.

Business Take up

The employee owner status could be adopted by any public limited company (PLC) or private company limited by shares that is willing to give shares to employee owners. In addition, start up companies could adopt the employee owner status if they were valuable enough/had a large enough capital base to issue at least £2,000 of shares to each of its new employee owners. According to BIS's Business Population Estimates, there were around 1.3 million companies in the UK, of which around 785,000 had employees at the start of 2012. The number of companies is a subset of the total number of businesses which stood at almost 4.8 million at the start of 2012.

The potential take-up by companies is generally uncertain at this point. However, BIS has issued a public consultation, closing on 8th November 2012, which will offer further insight on this issue. Analysis will be updated depending on the final responses from this consultation.

It is very important to consider that adoption of the employee owner status for a company is optional. Therefore, if we assume that companies are rational, it would not be envisaged that a company would adopt this status if its expected costs of doing so outweighed its expected benefits of doing so. If expected outcomes converge to true outcomes over time, on aggregate, we could expect there to be no net costs to companies as the employee owner status would only be taken up by those that benefited from it. When considering employee owners, there would also be instances in which employee owners and the company mutually gain from the employee owner status.

Currently, a number of companies operate employee share schemes. There are 4 schemes approved by the Government which offer tax advantages to those participating. However schemes that are not approved (do not deliver tax advantages) also exist. In 2010/11 there were just over 8,900 companies operating tax advantaged share schemes³. Some of these companies may be operating more than one type of scheme or have more than one scheme of the same type. We estimate that there were around 10,000 companies operating non tax advantaged schemes. This estimate is based on discussions with industry and should be treated with caution as non tax advantaged schemes do not have to be registered with HMRC. This estimate may be further complicated by the fact that the same company could run approved and non-approved share schemes.

Due to limited data at this point in time, we cannot make a definite assessment of take-up based on the interim responses to the consultation. For the purpose of this analysis we will assess a range of scenarios. Our central scenario of 6,000 companies taking up the employee owner status is based on the most recent estimates from HMRC based on Enterprise Management Incentives (EMI) data. This would account for around 0.76% of companies with employees at the start of 2012. The high scenario is based on the number of companies estimated to be operating employee share schemes (approved and unapproved) – 18,900, or 2.4% of companies with employees. We will also consider a low scenario of 0.25% of companies with employees. To note, each additional 0.1% of companies with employees that take-up the

³ Employee Share Scheme Statistics fro 2010-11, HMRC, October 2012

employee owner status translates to 785 additional companies. For the purpose of this analysis, we will also assume that companies that implement the employee owner status will use this for all of the individuals that they employ. This is a simplifying assumption as in reality, it is likely that some companies will offer the employee owner status to all individuals that it employs and other companies will offer the status to just some individuals.

Table 2: Assumed take-up of employee owner status by companies

Scenario	Companies	Employees in these companies ⁴
Low (0.25% of companies)	1,963	43,930
Central (0.76% of companies)	6,000	134,251
High (2.4% of companies)	18,848	421,728

Methodology

Fully quantifying the impacts of implementing the employee owner status is complicated for a number of reasons. It is difficult to robustly assess the take-up of companies and individuals of this status. Furthermore, some of the benefits associated with the employee owner status are the removal of costs that an employer may otherwise face if their employees exercise the rights that they have but an employee owner would not. Although all employees have these particular rights, not all employees will ever exercise these rights, meaning that these benefits of the employee owner status may never in fact be realised. It is also important to consider that the status is optional for companies and therefore upon assessment, an employer can choose to not adopt the employee status. All companies are different and the employee owner status may not be appropriate for all. In addition, an employer may choose to give its employee owners additional benefits/rights through the contract of employment if it believes that doing so may deliver an expected net benefit.

Because of these difficulties, this assessment attempts to identify the scale and range of the main costs and benefits to business. Table 3 below summarises the key potential impacts on those companies that choose to implement the employee owner status. Box 1 below sets out the benefits of employee ownership identified by the Nuttall Review.

Box 1: Benefits of employee ownership identified in the Nuttall Review

There is widespread evidence that employee ownership has a positive impact on both business and employees. The Nuttall Review provides an analysis of the benefits of employee ownership (in Chapter 2 of the final report). The Nuttall Review links employee ownership with the following outcomes:

- improved business performance, in terms of profitability, productivity as well as employment growth;
- increased economic resilience, with employee owned businesses outperforming traditional businesses during the recessionary period following 2008;
- fostering employee commitment and engagement;

⁴ This assumes that all companies employ the mean number of employees employed in companies with employees (22).

- greater innovation, although the evidence in this regard is somewhat ambiguous and requires further investigation;
- enhanced employee well-being by cultivating a sense of engagement with management;
- reduced absenteeism.

It is important to note that although a wide body of literature generally tends to find that employee ownership is mutually beneficial to both the employees and the organisation, a strong theme which emerges is that share ownership should be combined with enhanced engagement practices in order to reap the full benefits of employee ownership.

In addition to the above research, stock market data indicates that employee owned businesses perform very well. Field Fisher Waterhouse compiles and maintains a stock index of employee owned businesses, which has outperformed the FTSE All Share by an average of 10% annually since the index's inception in 1992. There are also several success stories of employee owned businesses that have been compiled by the Employee Ownership Association.⁵

⁵ See the information available at the website of the Employee Ownership Association <http://www.employeeownership.co.uk/employee-ownership/about-employee-ownership/case-studies/>.

Table 3: summary of key costs and benefits of implementing employee owner status

Benefits	Potentially improved business performance due to employee ownership
	Potentially increased economic resilience due to employee ownership
	Potentially greater employee owner engagement and commitment
	Potentially increased innovation, enhanced employee well being and reduced absenteeism
	Avoided costs of processing and dealing with an unfair dismissal claim
	Avoided cost of paying a tribunal award relating to an unfair dismissal claim
	Avoided cost of making statutory redundancy payments
	Avoided costs of processing and dealing with a tribunal claim relating to redundancy pay
	Avoided costs of paying a tribunal award relating to a redundancy pay claim
	Avoided costs of dealing with an employee's request for flexible working
	Avoided cost of accommodating a successful request for flexible working
	Avoided costs of processing and dealing with a tribunal claim relating to flexible working
	Avoided costs of paying a tribunal award relating to a flexible working claim
	Avoided costs of dealing with an employee's request for time to train
	Avoided cost of accommodating a successful request for time to train
	Avoided costs of processing and dealing with a tribunal claim relating to time to train
	Avoided costs of paying a tribunal award relating to a time to train claim
	Increased certainty over workforce size and timing due to longer notice required from those returning from maternity leave early
	Other benefits related to employees holding higher levels of employee owner rights. e.g. higher levels of morale, better employee engagement etc. and individuals holding those rights that they feel they really benefit from, not those which are not relevant to them.
Costs	Design, drafting and implementation costs of employee ownership share scheme
	Running costs of employee ownership share scheme
	Valuation of company
Opportunity costs	Reduced vacancy costs and increased skills retention; increased productivity; and, reduced absenteeism rates from availability of flexible working
	Increased occurrences of training which could result in increased productivity (value added per worker), increased skill retention and reduced absenteeism.
Other	Capital given up to employee owners. Also, this could result in dilution of existing shareholders shares and reduced decision making power.

The following sections give more details of the impacts summarised above. With impacts relating to employment rights, the following assessment examines the costs and benefits of an employer providing for the rights to their employee which could otherwise be interpreted as

avoided costs and opportunity costs of opting to employ an employee owner instead of an employee.

Business Impacts

Employment Rights

Expected value of rights of an employee

Not all employees will exercise their rights in such a way as to cost their employer over the duration of their employment. When employing an individual, employers are uncertain whether this individual would cost them in this way or not as it is impossible to verify this in advance. Because of this, there is a certain degree of uncertainty relating to the benefits to business of the elements of the employee owner status relating to employment rights.

Based on various data sources and analysis undertaken in other Government Impact Assessments we have attempted to estimate the probability of any employee exercising their rights. We have combined this with the average costs to an employer of accommodating these rights or having to pay a tribunal award/settlement to estimate the expected cost per employee of the specific rights relating to the employee owner status. The number of people in employment between 16 and 64 in Q2 2012 was used as a baseline for the probabilities⁶ when relevant. The expected values shown in table 4 below are indicative of the expected avoided annual costs relating to employment rights of an employer employing an individual at random as an employee owner. All costs have been adjusted to 2011 prices.

⁶ Labour Force Survey

Table 4: indicative expected costs in a given year (related to employment rights) avoided by an employer employing an employee owner

	Probability	Average cost (2011 prices)	Expected value (£)
Unfair dismissal			
An employee making an unfair dismissal claim	0.162%	3900	6.33
An employee getting tribunal award from an unfair dismissal claim	0.008%	4560	0.37
An employee settling an unfair dismissal case	0.352%	2138.35	7.53
Stat redundancy			
An employee receiving stat redundancy	0.008%	2800	0.23
An employee making a stat redundancy tribunal claim	0.051%	3900	2.01
An employee getting award from a stat redundancy claim	0.010%	1710.68	0.17
An employee settling a stat redundancy case	0.352%	4103.50	14.45
Flex working			
An employee making a request to work flexibly and it being accepted first time	6.710%	55	3.69
An employee making a request to work flexibly and it being accepted after appeal	1.980%	165	3.27
An employee making a request to work flexibly and it being rejected	1.430%	55	0.79

	Probability	Average cost (2011 prices)	Expected value (£)
An employer having to accommodate a flexible working request	8.690%	241.24	20.96
An employee going to a tribunal related to a flexible working request and being unsuccessful or being successful but not gaining an award	0.061%	3,900	2.37
An employee going to tribunal (and being successful) relating to flexible working request	0.070%	6212.63	4.33
An employee settling a flex working case	0.352%	2138.35	7.53
Training			
An employee making a successful request for time to train	0.431%	241.66	1.04
An employee making an unsuccessful request for time to train	0.187%	94.98	0.18
An employee going to a tribunal relating to a request for time to train and being unsuccessful or being successful but not receiving an award	0.061%	3,900	2.37
An employee going to tribunal (and being successful) relating to request of time to train	0.070%	2312.63	1.61

	Probability	Average cost (2011 prices)	Expected value (£)
An employee settling a time to train case	0.352%	2138.35	7.53
Maternity			
An employee coming back from maternity early			
		Total expected value	86.75

Applying this to our earlier assumptions relating to company take-up gives the avoided costs relating to rights shown in table 5.

Table 5: Indicative expected avoided costs to business related to employment rights

Scenario	Avoided costs relating to employment rights (£)
Low	3,811,111.52
Central	11,646,835.63
High	36,586,670.63

It is important to consider that **this analysis is indicative** and has various limitations and uncertainties associated with it. Due to data constraints, the sample used for our estimates only includes employees whereas an employee owner could previously be unemployed or inactive. In addition, the data used for this analysis comes from various sources covering differing time periods. Each data source has its own limitations which will contribute towards these estimates. Furthermore, this particular analysis only refers to the potential costs avoided of the employee owner status relevant to employment rights. There are also a number of additional avoided costs that have not been assessed here due to data constraints, and additional costs and benefits that have not been quantified that should be considered in parallel to this analysis. It is also important to consider that one of the key assumptions behind the probabilities presented in the table above is that probabilities are distributed uniformly across the population.

The following sections provides further details about further costs, benefits, avoided costs and opportunity costs as well as details of how many employees have been shown to exercise their rights relevant to the employee owner status according to relevant data sources.

Flexible working

An employee owner will not have any statutory right to request flexible working except on return from parental leave. Although this does not mean that an employee owner cannot work flexibly, we could expect that not having the right to request flexible working would impact on the number of flexible working requests by employee owners and further, the amount of flexible working that takes place among employee owners.

Employee take-up

According to BIS's 4th work life balance survey⁷, around 75% of employees in the survey were aware of the right to request flexible working. 92% of employees surveyed reported that some form of flexible working was available at their work place⁸. 60% of employees overall in the survey were found to be working flexibly in 2011 or had done so in the last 12 months. This is higher than in the 2 previous work life balance surveys. Overall, 22% of employees had made a request to change their working arrangements in the last 2 years. For the purpose of our analysis we have assumed that this is uniformly distributed over the 2 years. 79% of employees that made requests had their request to change their working arrangements accepted (61% with no challenge, 18% after appeal) and 13% of employees had their request declined after the 1st stage or after appeal.

The evidence suggests that although only employees that fit certain conditions have the legal right to request flexible working, there are employees and employers that work flexibly regardless. An employee owner will not have the statutory right to request flexible working except on return from parental leave.

An employer may wish to offer flexible working to its employee owners. This might be in cases where it would be mutually beneficial for the company and the employee owners to undertake flexible working.

In order to assess the potential impacts of this element of the employee owner, we will examine the indicative costs and benefits to business of providing flexible working to its employees. An employer that chooses to not give its employee owner any flexible working rights may inflict the full range of impacts explored below. However, it is more likely that employers alter their approaches based on what is beneficial to them. The overriding benefit of the employing employee owner status is that it offers companies more flexibility in what they offer.

⁷ <http://www.bis.gov.uk/assets/BISCore/employment-matters/docs/F/12-p151-fourth-work-life-balance-employee-survey.pdf>

⁸ P. 56

Avoided costs of flexible working

As mentioned above, the costs outlined below are the potential costs that may be felt by a company that offers flexible working. If a company did not offer any flexible working to its employees, these may be considered as avoided costs. Note, the costs and benefits provided below are based on the 2012 'Modern Workplaces Consultation – Government Response on Flexible Working: Impact Assessment'⁹. This Impact Assessment estimates the costs and benefits that are considered additional for the policy in consideration by calculating a unit cost per request and multiplying this by the additional employees affected. Here, we use the unit costs and benefits from this IA to reflect the possible indicative avoided costs and opportunity costs to business of the employee owner status.

The principal costs to companies would be the procedural costs arising from exercise of the right to request flexible working; the costs of accommodating such requests (when they are accepted); and, the implementation costs to new businesses only.

Procedural costs

The flexible working impact assessment estimates that the time cost of an employer initially handling a formal request for flexible working is two hours of employee time and three hours of management time. The estimated time associated with processing an informal request for flexible working is half an hour of employee time and one and a half hours of management time. The impact assessment estimates that the cost of each request is approximately £55 for the first stage.

If a request reaches the appeal stage, it is estimated that the cost per request of going through this stage is £110. This stage is estimated to be more costly than the initial stage due to the fact that employers and individuals are likely to spend more care and attention to their correspondence as well as it being more likely that meetings are needed. It is important to remember that an individual going through this second stage, will have gone through the first stage as well bringing total costs to this point to £165.

If a request for flexible working reaches tribunal stage, the cost could vary significantly. We estimate that the average cost to an employer from an employment tribunal application is £3,900. This is based on annex 3 of the Employment Tribunal Rules Review¹⁰. This was based on data in the Survey of Employment Tribunal Applications 2008 (SETA) that shows the amount spent on advice and representation by different staff members in employers. In constructing unit cost estimates, these amounts are adjusted to account for those that do not pay for advice and representation, and hence to provide a figure averaged across all employers. The figures are also adjusted for inflation given that SETA was conducted in 2008.

According to SETA 2008, in 2008 the median tribunal award was £2,163. It is important to consider that this figure does not only include tribunal claims associated with flexible working as there is no data that specifically refers to flexible working claims.

In some cases a claim can be settled before reaching a tribunal. According to SETA 2008, 58% of tribunal claims are settled (not just those relating to the right to request flexible working). The vast majority of these are financial settlements of which around 93% end up being paid in full. The amount that an employer may pay at this point can vary from the amount paid as a tribunal award which is £2,163. The median settlement amount according to SETA 2008 was £2,000. It

⁹ <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/m/12-1270-modern-workplaces-response-flexible-working-impact.pdf>

¹⁰ <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/e/12-1040-employment-tribunal-rules-underhill-review-impact.pdf>

is also important to note that in some cases in which a tribunal claim results in a judgment, there may not be a financial award.

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 has to be recruited to cover for an employee reducing their working hours). These examples should not be considered as exhaustive.

Employers can reject requests on the basis of cost but this does not imply that the additional costs of accommodating requests are zero. Employers will sometimes 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 2010 Annual Survey of Hours and Earnings and allowing for 21per cent for non-wage labour costs, this produces total costs of £246.27 for half a day of HR manager time and a day and half of HR clerk time. 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.

Implementation costs

For new companies planning on employing employees, there is likely to be one off implementation and familiarisation costs of making provisions for requests for flexible working arrangements. A new firm that employs employee owners would not have to implement any provisions to accommodate flexible working requests except in relation to those returning from parental leave and therefore may not face these implementation costs. The costs are believed to be relatively small.

Opportunity costs of flexible working

A number of benefits to business and employees of flexible working have been identified. The principal benefits to business are reduced vacancy costs and increased skill retention; increased productivity and profits; and, reduced absenteeism rates.

Reduced vacancy costs and increased skill retention

Where flexible working enables parents and carers to remain in the labour market, there will be benefits in terms of reduced staff turnover costs and increased skill retention. A 2009 survey by CIPD¹¹ estimated a labour turnover rate of 15.7% of which 21% of individuals left their place of employment to either have or look after their children.

¹¹ CIPD, Recruitment and turnover survey 2009

Increased productivity and profits

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

BERR's 2007 third Work Life Balance Employers Survey found that 12 per cent of employers thought that flexible working and leave arrangements had a negative effect and 47 per cent reported positive effect, with the remainder reporting no impact¹². Overall 36 per cent of firms reported a net positive impact on productivity¹³. BERR's Third Work Life Balance Employers Survey is based on responses from 1,456 managers. In addition to asking managers what the effects of flexible working had been on productivity at the establishment they were also asked about the perceived effects of flexible working on employee relations, motivation and commitment, recruitment, labour turnover and absenteeism. For the most part, employers thought that flexible working and leave arrangements had a positive effect or no effect on employees and human resources management at the establishment. At least around four in ten employers thought that flexible working and leave arrangements had a positive effect on each of the six criteria. Relatively small proportions perceived these practices to have a negative effect.

Reduced absenteeism rates

BERR's third work life balance employer survey also showed that a net of 33% of firms report a positive effect on absenteeism as a result of flexible working and leave arrangements¹⁴. The CIPD surveyed found that on average the cost of an employee being absent per year was £692 in 2009.

Relevance to Employee Owner Status

As mentioned above, the employee owner status is optional for employers. A rational employer is likely to only offer the employee owner status if the benefits of doing so outweigh the costs. The costs outlined above are the principal costs and benefits that a company employing an employee may face relating to the right of the employee to request flexible working. An employer employing employee owners would likely not face these except in relation to those returning from parental leave. Table 6 below summarises these potential avoided costs and opportunity costs per request for flexible working and quantifies them where this has been possible.

Table 6: summary of indicative avoided costs for right to request flexible working

Right to request flexible working	Avoided cost per case £ (2011 prices)
Cost of employer dealing with a formal request	55
Cost of employer dealing with a request going through appeal stage	110
Cost of an employment tribunal application	3,900
Median tribunal award	2,312.63

¹² The IA 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.

¹³ 47.2per cent-11.5per cent = 35.7per cent~36per cent.

¹⁴ 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.

Right to request flexible working	Avoided cost per case £ (2011 prices)
Median Settlement amount	2,138.35
Cost of accommodating flexible working	246.27

It is envisaged that on aggregate, if we were to consider all companies that were to take up the employee owner status, the additional net benefits to business of the flexible working element would be at least zero. In the case when a company found that not giving an employee owner the right to request flexible working resulted in a net cost, it would be likely that the company could then include a clause on requesting flexible working in the employee owner contract or not offer the employee owner status.

Training

Currently, the right to request time to train applies to employees who work for a business that has over 250 employees. Employees are able to make requests when they reach 26 weeks of qualifying employment with their employer. Employees can request time to undertake any training that will help them to be more productive and effective at work, and that helps their employer to improve productivity and business performance. Employers must consider a request for training but they may reject it on certain reasonable grounds.

Based on the analysis contained within the 2011 Impact Assessment for extending the right to request time for training¹⁵, below we present some estimates for take up by **employees** of this right over the next three years as well as the main estimated costs and benefits to employers with over 250 employees of providing for the right to request time to train. An employee owner would not have this statutory right and therefore the costs and benefits presented below are indicative of the avoided costs and opportunity costs benefits that an employer employing an employee owner could optionally impose on themselves.

Employee take-up

The 2011 Impact Assessment for extending the right to request time for training estimated the main costs and benefits associated with a request for time off to train. Below, we will present these costs and benefits as indicative of the costs and benefits that an employer with over 250 employees offering the employee owner status may forgo. It is important to stress, if an employer expected that giving their employee owners the right to request time off to train would be beneficial to the company (overall net benefit), there is no reason why they could either opt to not offer the employee owner status or include a clause relating to requests for training in their employment contract.

Using apportionment from data on employees by firm size from the 2005 National Employer Skills Survey (NESS), the IA estimates that there are around 10.76 million employees in employment in England in large organisations. Around 3.5m or 32.5% of those employees do not currently receive training which includes informal learning such as seminars and workshops. According to BIS's Business Population Estimates 2012, there were around 6,390 companies with 250 or more employees in the UK. These companies have a total estimated employment of 9.72 million. Assuming that the composition of employees in large organisations not receiving training is the same as referred to above from the IA, around 3.2 million employees (32.5% of 9.72 million) employees do not currently receive and training which includes informal learning such as seminars and workshops.

The IA uses data from 2010 National Adult Learner Survey (NALS) which showed that 40% of non-learners said that they would like to learn were it not for certain barriers. Of those, 9% said that they would learn if they could have time off from work to train and 4% said that they would learn if they were able to learn at work. Using these percentages, the IA calculates that the potential 'interested non-learners' might be around 13%. Applying this to the data above on employees in large workplaces gives a potential group of 166,000 employees¹⁶. In addition to this, the IA assumes that there may be around 5% of those not interested or already receiving training that may want to take up the right (422,000¹⁷).

¹⁵ <http://www.ialibrary.bis.gov.uk/uploaded/Extn%20of%20the%20Right%20to%20Request%20Time%20to%20Train%20-%20Final%20Dec%202011.pdf>

¹⁶ 40% x 13% x 3.5m (those not receiving any training)

¹⁷ 40% of 3.2m = 1.28m; 9.72m - 1.28m = 8.44m; 5% of 8.44m = 422,000

This results in a total potential demand for time off to train of around 588,000 employees. It is important to note that it is unlikely that all of these employees would request time off to train in the same year. Further, new employees entering the workforce may have different demand for training which could affect this level. There would be around 176,400 requests in any year, of which 123,000 might be successful¹⁸.

Avoided costs of right to request time off to train

The principal costs identified by the training IA are similar to those identified for flexible working. These would be the procedural costs arising from the exercise of the right to request time to train, the cost of accommodating such requests when they are accepted and implementation costs for new companies only.

The cost of accommodating a request for time to train is estimated at £229 for a successful claim and £90 for an unsuccessful claim. It is important to note that costs may increase if an employer has to employ someone else to cover the employee undertaking training, while they are away from work or there may be other costs associated with having a reduced workforce temporarily.

If the employer is taken to an employment tribunal over the right to request time to train, we estimate that the average cost to an employer from an employment tribunal application is £3,900. According to SETA 2008, this could cost an additional £2,163 if an award is made. If a settlement is made rather than a tribunal award, this could cost around £2,000¹⁹ (exclusive of any legal costs and manpower costs).

Opportunity costs of right to request time off to train

The principal benefit that comes with allowing employees to request the right to train is that there could be increased occurrences of training. It is estimated that a 1% increase in the proportion of workers trained in an industry can lead to a 0.3% increase in industry wages and a 0.6% increase in value added per worker²⁰. There is also some limited evidence of a positive link between training and profitability²¹. There are also likely to be some benefits relating to reduced vacancy costs and increased skill retention, increased productivity and profits, and reduced absenteeism. These benefits may amount in a similar way to with flexible working.

Table 7: summary of indicative avoided costs for right to request time to train

Right to request time to train	Avoided cost per case £ (2011 prices)
Cost of accommodating a successful request	241.66
Cost of processing an unsuccessful request	94.98
Cost of employer dealing with a request going through appeal stage	189.95
Cost of an employment tribunal application	3,900
Median tribunal award	2,312.62
Median settlement amount	2,138.35

¹⁸ This assumes that 30% of the total underlying requests will be made in any year and that 75% of requests are successful based on the fact that 87% of requests for flexible working are thought to be successful (Source flexible working IA).

¹⁹ 2008 prices

²⁰ Estimating effects of training on earnings and productivity, British firms, 1983-1999 (Dearden, Reed and Van Reenen, 2005)

²¹ For example Bassi et al find that firms investing more in employee development in the UK performed better on the stock market than those who invested less. Bassi, McGraw and McMurrer (2003) Talent Optimization: Measuring Value Not Costs, Human Capital Capability

Relevance to employee owner Status

The right to request training IA estimates that the current laws applicable to employers employing employees estimates that under the status quo there is a net present benefit of £78 million over the 3 year time period over which the policy was assessed. This suggests that on aggregate, employees holding this right is beneficial. However, if a company finds that offering this right to employees is costly overall, they could choose to offer the employee owner status which could help to mitigate these costs. Conversely, if an employer offering the employee owner status believes that there is a net benefit from offering its employee owners the right to request time to train, they could include a clause dealing with flexible working in the employee owner's employment contract.

Unfair Dismissal

An employee owner will not have the statutory right to not be unfairly dismissed after two years of qualifying employment. To estimate what the impacts on business might be of this element of the employee owner status, evidence is presented below based on data currently available relating to unfair dismissal of employees.

Take-up of employees

According to Employment Tribunals and EAT Statistics 2011-12, in 2011-12 there were 46,300 accepted claims relating to unfair dismissal. It's important to note that some claims may be of mixed jurisdiction therefore, some proportion of this may also relate to other types of claims. Although these statistics reflect the number of tribunal claims associated with unfair dismissal, this data does not fully reflect the number of employees that exercise their right not to be unfairly dismissed. This statistic is very difficult to estimate given that it is based on an employer's underlying intentions rather than actions that would show up as data points.

An employee owner will have the same unfair dismissal right as an employee except for the rights that are gained after two years of qualifying employment.

In Q2 of 2012 there were around 21.8 million individuals in employment that had been at their current job for at least 2 years²².

Avoided costs of unfair dismissal

We have estimated the unit cost to employers of going through an employment tribunal as £3,900. This is based on This is based on annex 3 of the Employment Tribunal Rules Review which uses the same methodology as is used in the impact assessment for resolving workplace disputes²³.

According to Employment Tribunals and EAT Statistics 2011-12, the median amount of compensation awarded by tribunals in cases with unfair dismissal jurisdictions was £4,560. According to the same statistics, around 5% of all claims relating to unfair dismissal resulted in an award of compensation. This is around 1% of total claimants in 2011/12²⁴. The number of people employed in the Q2 2012 was 27.1 million meaning that the total claimants that were awarded a payment through the tribunal process in 2011/12 as a proportion of employees in Q2 2012 was less than 0.01%.

As mentioned previously, settlements may be paid by employers rather than a tribunal claim reaching its conclusion and potentially resulting in an award. According to SETA 2008, the median settlement amount relating to unfair dismissal was £2,000.

It is important to consider that since these statistics were released, the qualification period for unfair dismissal rights has increased from 1 year to 2 years. This may have impacted on the number of cases relating to unfair dismissal which could also have an impact on the average costs to employers of going through tribunal cases as well as the settlement amounts.

²² Labour Force Survey Q2 2012

²³ <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/r/11-1381-resolving-workplace-disputes-final-impact-assessment>

²⁴ It is important to note that many tribunal claims relate to a number of jurisdictions. For example, in 2011/12 there were 186,300 claims however by jurisdiction there were 321,800.

Table 8: summary of indicative avoided costs unfair dismissal rights

Unfair dismissal	Avoided cost per case £ (2011 prices)
Cost of going through employment tribunal	3,900
Median tribunal award	4,560
Median settlement amount	2,138.35

Benefits

The fact that an employee owner would not hold this statutory right, could be beneficial to business as it would provide the certainty that an employer would not be taken to an employment tribunal by an employee owner if they were unfairly dismissed.

Relevance to Employee Owner Status

An employer opting to offer the employee owner status could save the above costs if they wished to unfairly dismiss an employee owner who had been in employment for over 2 years.

It is important to note that there is a certain probability that an employer will want to dismiss an employee/employee owner who has been in employment of at least 2 years. Of these people, there is some probability that an employer would wish to dismiss this individual unfairly. Therefore, although above we have identified the potential costs of an unfair dismissal case being brought upon an employer, in reality some employers may never experience such a case with any of their employees. In this case, there would be no benefits to business of the employee owner status.

As with all other rights mentioned in this assessment, it is important to consider that a firm could include a provision on unfair dismissal in the contract of employment.

Statutory Redundancy Pay

An employee owner will not have the right to statutory redundancy pay. An employee may exercise this right after 2 years of qualifying employment. To estimate what the impacts on companies might be of this element of the employee owner status, below is evidence of the cost of the right to statutory redundancy pay for employees. These can be considered as indicative avoided costs of not having to make provision of these rights to an employee owner.

Take up of employees

According to the Labour Force Survey, there were 150,000 redundancies in Q2 2012. This does not reflect the number of employees that were made redundant that had over 2 years of qualifying service. This is likely to be lower as the distribution of the length of service of employees tends to be skewed towards lower tenure.

There is no data available to show the number of businesses that are affected by redundancies and of these, which have had to pay statutory redundancy pay. In terms of employees, the forecasted eligible number of employees for statutory redundancy payment in 2012 is between around 400,000 and 500,000²⁵.

Tribunal statistics from 2011/12 tell us that there were 14,700 tribunal claims associated with redundancy pay. This suggests that around 8% of all claims related to redundancy pay. 2,900 claims relating to redundancy pay were successful at hearing and it is likely that less than this would receive an award. If we assume that all claims that were successful at hearing (around 20% of all claims relating to redundancy pay would receive an award), 1.5% of all claims that were redundancy pay related claims received an award. As a proportion of the total number of people in employment in Q2 2012, the number of tribunal claims relating to redundancy pay that received an award was around 0.01%.

Avoided costs of statutory redundancy pay

There are two main potential costs associated with statutory redundancy pay. If a business makes an eligible employee redundant, it will have to pay statutory redundancy pay. The exception to this is when the business has gone in to liquidation, in which case the payments are covered by the Exchequer. Another potential cost associated with this right is that of processing an employment tribunal claim if the employee believes that he was not paid the relevant redundancy payment.

²⁵ According to the baseline analysis for resolving workplace disputes IA.

For employees with more than 2 years of qualifying service, statutory redundancy pay is calculated as follows.

- Half a week's pay for each year an individual was under 22 in employment.
- 1 weeks' pay for each full year an individual was 22 or older but less than 41 years of age.
- 1 and a half week's pay for each full year you were 41 or older.

Using analysis undertaken for the Resolving workplace Disputes IA, we have estimated that the average cost to business per employee made redundant who is eligible for statutory redundancy pay is approximately £2,800. This is based on dividing the total estimated costs to business by the total estimated eligible population.

Businesses that cannot make the minimum statutory redundancy pay in full or in part due to insolvency would not be affected as this is covered by the Exchequer.

In the resolving workplace disputes IA, to estimate the cost of tribunal claims for those not being granted the right to statutory redundancy pay, the same method for unfair dismissal is used (£3,900). Further details about how this is derived can be found above.

The Tribunal statistics do not disaggregate awards by jurisdiction to enable us to identify what the average level of tribunal award for claims relating to redundancy pay was in 2011/12. However, according to SETA 2008, the median amount awarded for cases relating to redundancy payments was £1,600 in 2008. The median settlement amount was £3,838.

Companies employing employee owners will not have to make provision for statutory redundancy pay if they choose to make employee owners who have had more than 2 years of qualifying service redundant.

Table 9: summary of indicative avoided costs for statutory redundancy pay

Statutory redundancy pay	Avoided cost per case £ (2011 prices)
Average statutory redundancy pay	2,800
Cost of going through a tribunal	3,900
Median tribunal award	1,710.68
Median settlement amount	4,103.50

Maternity and adoption

Employee take-up

According to Maternity and Paternity Rights and Women Returners Survey 2009/10, of mothers that specified the length of time of their maternity leave in 2008, 77% returned from maternity leave before the full 52 weeks. The average (mean and median) number of weeks of maternity leave taken by mothers was 39 weeks. This would suggest that most companies that chose to offer the employee owner status would be impacted by the elements of the status that relate to maternity (and adoption).

Company Impacts

Companies would have to make minor adjustments to their human resources processes to advise their employee owners who go on maternity or adoption leave that they must give 16 weeks notice should they wish to return to work before the end of 52 weeks maternity or adoption leave.

Costs

It is likely that the majority of this cost would be a one off cost relating to altering HR processes/protocols relating to maternity and adoption leave.

Benefits

The benefits of this change would be that companies would know further in advance when their owner employees were returning from maternity/adoption leave (if they decided to leave early) than when their employees were returning from maternity/adoption leave. This could allow businesses more insight in to the size of their future workforce, providing them with more certainty in the future and allowing greater forward planning.

If a company believed that having a notice period that an employee owner on maternity/adoption leave would have to give if they returned from leave early of 16 weeks would impose a net cost, they could contractually allow the employee owner to only give 8 weeks notice.

In general we expect individuals with employee owner status to be more engaged at work leading to better business performance.

Company implementation of employee owner schemes

Costs

It is difficult to assess the costs of implementing an appropriate employee share scheme that would correspond with the employee owner status. This is primarily because share schemes can vary dramatically depending on factors such as the size of a company, the number of employees, whether the company is a PLC or private among other factors. Below we examine some of the key costs²⁶ that may be faced by a company if they choose to implement the employee owner status.

Design costs

The cost and time taken to design schemes will vary depending on the complexity of the scheme. The complexity of the scheme can be determined by factors such as what sorts of benefits an employer may want to associate with the shares or whether there are existing shareholders. The cost of designing a scheme could range between a few thousand pounds and tens of thousands of pounds.

Costs associated with drafting the schemes

There will be costs associated with drafting the legislation for an employee ownership scheme. Again, these costs can vary depending on several factors. For a relatively straight forward/simple scheme the costs may be around £10,000 - £15,000. However, in more complicated cases, for example when there are many existing shareholders, when there are existing external investors or if there is disagreement among directors, costs may be higher.

Running costs

Once an employee owner scheme is in place, running costs may be relatively low. In the main, these costs would relate to internal resources and may be amount to around 1 week a year or a few hours each month.

²⁶ Cost estimates are based on discussions with experts

Benefits

There are various sources of evidence that suggest that there are numerous benefits of employee ownership. The Nuttall Review considers the main literature on the benefits of employee ownership models. This is summarised below. The main identified benefits are:

- Improved business performance
- Increased economic resilience
- Greater employee engagement and commitment
- Driving innovation
- Enhanced employee well being
- Reduced absenteeism

Improved business performance

Studies have found evidence that supports the idea that an employee ownership model can have positive effects on business performance. On balance, existing academic studies associate employee ownership with higher productivity levels²⁷. Employee owned companies with fewer than 75 employees have been found to perform better on profitability compared to non-employee owned companies and employee owned companies have also been linked to faster employment growth²⁸. In addition, the Employee Ownership Index has outperformed the FTSE All Share by an average of 10% annually since 1992²⁹.

Although there is positive evidence in favour of employee ownership models, it is also important to consider that productivity gains may only arise under certain conditions; for example employee engagement should also be employed in order for productivity benefits to occur³⁰. Productivity benefits can also depend on company size among other things.

Increased economic resilience

Evidence of increased economic resilience is mixed. One study suggests that employee owned companies display less variability over the economic cycle and that these companies were more resilient during the recent economic downturn³¹. The explanation offered for this is that employee owned companies maintain a more consistent approach towards risk rather than swinging between excessive risk taking and excessive risk aversion. Further analysis suggests that employee owned companies show greater preference for internal growth than external growth³² perhaps partly due to the extra difficulty often faced by employee owned businesses in raising capital. However, there is mixed evidence to support whether a company is more likely to survive in a given year; with some studies³³ finding that businesses with employee ownership

²⁷ Matrix Evidence, 2010

²⁸ Lampel et al., 2010

²⁹ FFW, 2012

³⁰ Lampel et al., 2010 and Matrix Evidence, 2010

³¹ Lampel et al., 2010

³² Lampel et al., 2012

³³ Kramer, 2008 and Blair et al., 2000

models are more likely to survive, while others finding the relationship to be statistically insignificant³⁴.

Greater employee commitment and engagement

Employee ownership models are widely thought to act as a catalyst for greater employee commitment and engagement³⁵ as a stake in a company drives an employee's commitment to it. Furthermore, survey evidence found that employee owned companies perceived extra employee commitment to the company's success as the most successful outcome from employee ownership³⁶. The Macleod review of employee engagement (2009) concluded that the benefits of employee engagement extend to both the employer and the employee. Although the review found positive correlation between employee engagement and business performance factors, there has not yet been a definitive study which has unequivocally established causation³⁷.

Other benefits

There are studies that suggest employee ownership can drive innovation in a company, although the evidence is partial and requires further development.

Research by the Napier University Business School³⁸, included a survey on health and well-being outcomes at a range of employee owned companies. It found that the majority of workers were more satisfied compared to when they worked for non-employee owned companies.

Benefits cannot be solely be attributed to employee ownership

It is important to note that the benefits that may arise from employee share ownership will be related to various factors about the workplace or business, not just the fact that employee share ownership schemes are available. Creating the right combination of factors that creates the right environment (including perhaps employee ownership schemes) to improve business performance is probably more important than focussing on any one factor.

³⁴ Welbourne and Cyr, 1999

³⁵ Matrix Evidence, 2010

³⁶ Burns, 2006

³⁷ Macleod and Clarke, 2009 and Matrix Evidence, 2010

³⁸ Cited in Davies, 2011

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