



Department
for Education

Appraisal of the Right to Request Time to Train Regulations

Research report

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Authors - Institute for Employment
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Social Science in Government

Contents

List of figures	5
List of tables	6
Acknowledgements	7
The Institute for Employment Studies	7
Executive Summary	8
1. Introduction	12
1.1 Research aims	14
1.2 Overview of the methodology	14
1.2.1 Limitations	16
2 Understanding and awareness of the Right to Request Time to Train	17
2.1 Awareness and understanding amongst employers	17
2.1.1 UK Commission for Employment and Skills' Employer Perspectives Survey data	17
2.1.2 Qualitative findings	20
2.1.3 Channels of information and guidance	22
2.2 Awareness and understanding amongst employees and union representatives	22
2.3 Conclusions	24
3 Take up of the Right	26
3.1 Scale of take-up	26
3.2 Types of training and adjustments requested	29
3.3 Reasons for using and not using the Right to Request Time to Train	31
3.3.1 Existing arrangements exceed what the Right offers	32
3.3.2 The entitlements under the Right are not substantial enough	33
3.3.3 Organisational difficulties, low awareness and lack of skills and training culture	34
3.3.4 Informal use of the Right to Request Time to Train	36
3.3.5 Right to Request Time to Train as 'last resort'	36
3.4 Conclusions	36
4 Accessing training: requests, policies, processes	38
4.1 Ways to access training within organisation	38

4.2	How are Time to Train requests made and handled?	40
4.2.1	Preparing requests: processes and obstacles	40
4.2.2	Processes and policies to deal with requests	41
4.2.3	Timings	42
4.2.4	Reasons for refusal or acceptance	42
4.2.5	Perceived costs and burdens	43
4.3	Conclusions	44
5	Perceived effect of the policy	46
5.1	Perceived effects on employers	46
5.1.1	Perceived effect on investment in training	46
5.1.2	Perceived effect on organisational culture and processes	47
5.1.3	Perceived effect on costs and administrative burdens	48
5.1.4	Perceived effect on skills gaps and employees behaviour	49
5.2	Perceived effects on employees	49
5.2.1	Perceived effect on access to training and skills development	50
5.2.2	Relationships with line managers and employees' motivation	51
5.3	Problems and limitations	52
6	Potential effect on small and medium sized enterprises	53
6.1	Provision of training in small and medium-sized enterprises	53
6.2	Costs and administrative burdens	55
6.2.1	Potential costs in set-up phase	55
6.2.2	Potential costs arising from actual take-up of the Right amongst employees	57
6.3	Potential effects on investment in training, skills needs and organisational culture	61
6.4	Conclusions	66
7	Conclusions	67
	Annex 1: Employers' sample composition	69
	Annex 2: Detailed description of methodology	72
	Qualitative data collection and analysis	72
	Sampling of employers, employees, ULRs and stakeholders	72

Interviewing methodology	73
Qualitative data analysis	74
Survey data analysis	74
Employer Perspectives Surveys 2012 and 2014	74
Unionlearn survey of union representatives 2013	75
Annex 3: References	77

List of figures

Figure 1: Percentage of large establishments who have heard of the right of employees to request time to train by country	18
Figure 2; Percentage of large establishments who have heard of the right of employees to request time to train by sector	19
Figure 3: Proportion of large establishments who have heard of the right of employees to request time to train by type of organisation (2012) or establishment (2014)	20
Figure 4: Levels of involvement with the Right to Request Time to Train amongst large employers who have heard of the Right	27
Figure 5: Proportion of large establishments who were aware of the Right to Request Time to Train who had involvement with it in the past 12 months	28
Figure 6: Sample composition: region	70
Figure 7: Sample composition: sector	70
Figure 8: Sample composition: size	71
Figure 9: Sample composition: RRTT requests received	71

List of tables

Table 1: Types of training requests facilitated by union representatives under the Right to Request Time to Train, 2013 Unionlearn survey of Union Learning Representatives 31

Table 2: Composition of the sample of employers interviewed 69

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The Institute for Employment Studies

The Institute for Employment Studies (IES) is an independent, apolitical, international centre of research and consultancy in public employment policy and organisational human resource issues. It works closely with employers in the manufacturing, service and public sectors, government departments, agencies, and professional and employee bodies. For over 40 years the Institute has been a focus of knowledge and practical experience in employment and training policy, the operation of labour markets, and human resource planning and development. IES is a not-for-profit organisation which has over 30 multidisciplinary staff and a network of international associates. IES expertise is available to all organisations through research, consultancy, publications and the Internet. For further details please visit: www.employment-studies.co.uk

Executive Summary

This mixed method appraisal reviewed the functioning of the Right to Request Time to Train, as of March 2015. The Right to Request Time to Train policy, which became effective in 2010, gives employees of large businesses (250+ employees) the right to submit formal requests to their employers for time off for study or training relevant to their performance in the workplace. Employers are required to give due consideration to such requests and to respond in writing within certain time limits (currently 28 days), and can refuse requests for a number of recognised business reasons.

This research seeks to provide evidence to inform the Government's decision making about the future of the Right to Request Time to Train, notably the decision as to whether to extend the Right to employees of small and medium-sized businesses (with fewer than 250 employees). The research was based on: qualitative interviews with employers, Union Learning Representatives (ULRs) and employees; qualitative interviews with stakeholder organisations; secondary analysis of data from the 2012 and 2014 waves of the UK Commission for Employment and Skills' Employer Perspectives Survey and a review of findings of the Unionlearn survey of Union Learning Representatives conducted in 2013. The research investigated understanding, take-up, and effect (as perceived by employers, employees and union representatives) of the Right to Request Time to Train ('the Right') amongst eligible employers and employees, and perceptions of the potential effect of the Right on small and medium sized enterprises.

Regarding awareness of the Right, five years after the legislation came into effect, the appraisal found that:

- Among large employers, there are considerable differences in levels of awareness of the Right to Request Time to Train, according to size, sector of operation, and general skills and training cultures within the organisation. Employer Perspectives Survey data suggests around half of large employers have an awareness of the Right. Employers appear to be becoming less aware of the Right as time progresses. The qualitative interviews, however, suggested that accuracy of employers' understanding about the actual purpose of the Right may vary quite heavily between organisations, and that levels of organisational memory about the Right may be quite limited even in those organisations who had reported being aware.
- Organisations with organisational cultures supportive of employee learning tend to have a good level of awareness about the Right – often receiving information through established HR – and legislative-scanning channels.
- Union officials tend to have a good level of awareness of the Right, and in organisations lacking entrenched learning cultures are often responsible for bringing the Right to both employees' and line-managers' attentions. However, unions and other national stakeholders do not now appear to be actively promoting usage of the Right as a policy priority.

- Even within organisations with good institutional awareness of the Right, awareness at the employee and line management levels appears patchy.

Regarding take-up of the Right, how requests are processed, and how the Right has been used to access training:

- Formal take-up of the Right amongst employees appears to have been low.
- Among employers with entrenched supportive learning cultures and/or good bilateral relationships with employees, the Right is often viewed as superfluous: many large employers' existing processes – such as voluntary training review systems or training and funding agreements – already deliver access to training beyond the Right's purview.
- In both organisations with strong commitment to provision of training and those lacking such a commitment, low levels of employee awareness, and staff unwillingness to take unpaid time to train, have also limited take-up. This suggests that the Right has not facilitated significant additional training in organisations lacking a commitment to training staff. When the Right has formally been evoked, it has often only been done so when informal negotiation channels have been exhausted.
- When employees have made formal requests citing the Right, there is often a perception that employers' grounds for refusal are so broad that, in practice, decisions are dependent on individual line-managers' attitudes. Such a perception has reportedly discouraged employees within organisations lacking entrenched supportive learning cultures to even consider making a request citing the Right.

Regarding the effect of the Right (as perceived by employers, employees and union representatives):

- The Right is not perceived to have had a very tangible effect on employers' investment in training. Furthermore, the Right does not appear to have had a sizeable, direct effect on employees' access to training, nor on reducing skills gaps within employing organisations.
- However, the Right's guidance has meant that line-managers, HR staff, and other training gatekeepers may have been required to take a more consistent approach to training requests within some organisations.
- Employers and employee representatives also believe that, in some cases, the Right has increased awareness of the positive effect of training on business performance, retention, and other desired outcomes, among employers and employees alike.
- Some employers that previously lacked formal mechanisms to handle training requests have also been prompted to consider what normal operating procedures they should put in place for such eventualities.

- The Right has elicited greater bilateral dialogue and cooperation within some employers, and caused some employers to enter into more extended dialogues with staff about their training needs. Furthermore, some employees have reportedly become more confident in discussing their training needs with their employer as a result of the Right.
- Negative effects of the Right – on administrative burdens, costs for facilitating training, etc. – are perceived to have been minimal; most employers spoken to saw the Right as a light-touch and unobtrusive piece of legislation. Employees and employee representatives tended to share this view, but found the lightness of this touch to be excessive: limiting the Right's ability to lever positive training outcomes for employees and employers alike.

Regarding the potential effect (as perceived by employers, employees and union representatives) of the Right if this was to be extended to cover small and medium sized enterprises (<250 employees):

- The appraisal asked a number of small and medium sized enterprises operating in a variety of sectors about what they thought the effect of the Right could be on their organisations, if the Right was to be extended. Large employers and stakeholders were also asked to hypothesise what effects, if any, the Right may have on small and medium sized enterprises if this was to be extended.
- Several large employers hypothesised that small and medium sized enterprises which lacked dedicated HR functions might have to dedicate extra time resources to become familiar and understand the regulations, and may bear disproportionate costs when processing requests. Consulted small employers agreed that the set-up costs to establish processes to deal with requests could be perceived as an obstacle for very small organisations. However, many small and medium sized organisations already had processes in place to provide training to staff, and expected that these obstacles could be overcome by providing appropriate support and guidance to firms that needed it. Overall, the majority of consulted small and medium sized employers did *not* expect that take-up of the Right, and resultant costs in facilitating training, would be disproportionately high for their organisations.
- The small and medium-sized employers consulted acknowledged that in principle, the Right might have a positive effect on engagement with training issues on the part of both staff and management in SMEs, resulting in higher staff motivation, engagement and retention, increased productivity, reduced skills gaps or shortages and greater potential innovation capacity. However, like larger employers with established positive training cultures, many SME employers felt that the Right would not have an immediate effect on their activities and organisational culture, since provision of training was already entrenched in their organisations. Furthermore, the evidence suggests that an expansion of the statutory right would not be sufficient in its own right to create a far-reaching shift in employers' attitudes towards investment in training, as this is determined by a combination of several structural factors such as sector of operation, resource constraints and lack of funding.

When drawing conclusions from these findings, a number of limitations have to be taken into account. Firstly, large employers participating in the qualitative interviews represented only establishments which had reported in the Employer Perspectives Survey that they were aware of employees' right to request time to train. Hence levels of awareness of the Right might be overstated by these results relative to those in the general population of (large) UK businesses. More generally, it is likely that participating individuals, and in many cases the organisations they represent, have a higher level of engagement with and interest in training than those not sampled or those who declined to participate. Secondly, the interviews highlighted the extent to which approaches to the implementation of the Right – despite the formal procedure it demands – depend on the individual tasked with responding to requests. While this is a noteworthy result in its own right, limited institutional memory might also mean that not all requests made in the organisations interviewed and all elements of the implementation of the Right were captured. This, along with a lack of information about the sampling framework used to collect much of the secondary data cited in this paper, means that caution should be exercised before inferences about the Right's wider functioning throughout England, Wales, and Scotland are made from the appraisal's findings.

1. Introduction

This appraisal was commissioned by the Department for Business Innovation and Skills (BIS), and sought to assess the functioning of the Right to Request Time to Train after it had been in operation for five years. The Government had committed to reviewing the Right by April 2015 in response to a consultation on the Right conducted in 2010, which revealed extremely polarised views concerning the statute and the merits of an expansion of the Right to small and medium sized enterprises. One aim of the appraisal was hence to provide up-to-date evidence to inform the decision as to whether to expand the Right to SMEs.

The research underpinning this appraisal was conducted between March 2015 and May 2015 and had two main strands:

- qualitative interviews with employers, Union Learning Representatives, employees and stakeholder organisations; and
- secondary analysis of data from the 2012 and 2014 waves of the UK Commission for Employment and Skills' (UKCES) Employer Perspectives Survey¹, as well as from the Unionlearn survey of Union Learning Representatives and union representatives conducted in 2013².

The Right to Request Time to Train is a statutory right for eligible employees to submit requests to their employers to seek time away from normal duties to undertake training or study.³ The right is restricted to training or study that allows the employee to develop skills 'relevant to their job, workplace or business', and that would help applicants to improve their job performance and the performance of the business. Employers are not required by the legislation to pay for the training or the time that employees spend away from work. Their duty under the statute is to give due consideration to such requests and to respond in a timely manner. The right was introduced in 2009 as part of the Apprenticeships, Skills, Children and Learning (ASCL) Act, and became effective in April 2010. It currently only applies to employees of large organisations (with at least 250 employees) in England, Scotland and Wales.

Situated within the Government's broader Skills Strategy, the policy's primary objective is to promote training participation and to encourage employers and individuals to invest in work-related skills. The underpinning principles of the strategy are those of fairness,

¹ UKCES' Employer Perspectives Survey data is available online:

<https://www.gov.uk/government/collections/employer-perspectives-survey>

² The results of Unionlearn's survey of ULRs regarding the Right are not in the public domain. IES obtained the results from Unionlearn for internal use for the purposes of this appraisal.

³ Employees must be over the age of 18, have worked with a large employer for at least 26 weeks of continuous employment. Workers are not covered by the Right.

responsibility and freedom. While the aim is still to offer support to those most in need of (basic) skills, an increased emphasis has been placed on the need for employers and individuals to take responsibility to ensure that their skills and training needs are met. The expectation is that the skills system will be driven 'bottom-up' by the needs of individuals and employers, and that increased co-investment by learners and employers will contribute to offsetting the reduction in public investment in training (Plan for Growth, 2011). The Right to Request Time to Train regulations, in line with these broader principles, can be understood as an attempt to improve the links between the acquisition of skills and their utilisation in the workplace; to increase employers' involvement in the provision of training, in order to ensure that training is targeted at the needs of business; and to promote increased engagement and investment in skills by learners and employers.

On its introduction in 2010, the new right applied to a total of 11 million workers in both the private and the public sector in organisations with at least 250 employees (BIS, no date). In 2013, there were a total of 9,055 large employers across the private, public and voluntary sectors the UK, employing an estimated 15.9 million individuals or 57.1 per cent of employees (BIS, 2014). The Right to Request Time to Train was initially scheduled to be extended in 2011 to small and medium-sized enterprises (small and medium sized enterprises). Small and medium sized enterprises accounted for 99.8 per cent of UK businesses and employed approximately 12 million people in the UK in 2014 (BIS, 2014). The small and medium sized enterprises potentially affected by the extension are those with employees who are not self-employed owner-managers. In the UK, there are approximately 1.17 million small and medium-sized enterprises with at least two employees, which account for close to 40 per cent of employees (BIS, 2014). UK studies have found that smaller enterprises have lower levels of workforce training (e.g. Hoque and Bacon, 2006; IFF Research, 2008; Kitson and Wilkinson, 2003) and fewer dedicated resources and processes for training (Kitching and Blackburn, 2002; Employer Perspectives Survey, UKCES, 2014b) than larger organisations.

In summer 2010, the Government conducted a consultation on the Right to Request Time to Train as part of a review of the regulatory burden on business. The aim of the consultation exercise was to assess whether the Right to Request Time to Train should be extended to all employees from April 2011, as intended under plans of the previous Government. The broad response to the consultation revealed extremely polarised views of the statute. Some respondents demanded the repeal of the Right, viewing it as an unnecessary burden on business. Smaller employers were particularly sceptical, and several representative bodies commented that smaller organisations may face greater challenges in processing requests submitted in accord with the statute and responding consistently. Other respondents supported the retention of the Right and its expansion as a central way of widening access to training. In the light of this, the Government chose to neither abolish the Right to Request Training nor proceed with its extension to employees of smaller organisations. In the 2011 Plan for Growth, the Coalition Government linked the

decision not to extend the Right to Request Time to Train to small and medium sized enterprises to its commitment to avoid placing an undue regulatory burden on business, particularly on small and medium-sized enterprises. Instead, the Government decided to make a final decision on the future of the right in April 2015, based on an improved evidence base concerning its effectiveness over time.

1.1 Research aims

The overarching aim of this research is to provide the evidence basis to enable the Government to make an informed decision about the future and potential extension of the Right to Request Time to Train policy to small and medium-sized businesses (with fewer than 250 employees). The research set out to investigate the perceived effects, benefits and costs associated with compliance with the policy for large employers; the perceived benefits and effects for employees of large employers; and the potential or foreseen effects on small businesses and their employees. Through a predominantly qualitative methodology, our project aimed to meet this objective by addressing the following research questions:

- How do employers in different sectors and of different sizes understand the Right to Request Time to Train policy, and how has awareness evolved over time?
- What has been the take-up of the Right within eligible organisations so far, and what are the reasons behind it?
- What have been the processes and procedures followed by employees and employers to make and respond to requests for time to train made under the Right? What, if any, have been the obstacles, burdens and costs associated with compliance to the regulations?
- What has been, so far, the effect (as perceived by employers, employees and union representatives) of the Right to Request Time to Train policy on employers' investment in training and on employees' ability to access training opportunities? Have there been any wider effects of the policy in relation to tackling skill gaps, changing employees' behaviours and wider organisational culture in relation to training and social dialogue?
- What would be the potential effects of the policy on small and medium sized enterprises – in terms of take-up, potential costs and burdens and effect on training culture and skills gaps – in case the scope of the regulations was to be extended?

1.2 Overview of the methodology

To address these research questions, the appraisal adopted a predominantly qualitative methodology based on semi-structured interview with employers, union learning representatives, employees and stakeholder organisations. These were complemented by a small-scale secondary analysis of the 2012 and 2014 Employer Perspectives Survey

and by a review of findings of the Unionlearn survey of Union Learning Representatives conducted in 2013.

In particular:

- Twenty-five interviews were conducted with employers; of these, sixteen were large organisations and nine were small and medium sized enterprises. Seventeen employer organisations were recruited from the sample of respondents to the 2012 and 2014 Employer Perspectives Survey who had reported either having received and processed requests under the Right to Request, or who had reported being aware of the regulations, and had given consent to be re-contacted for future research. Of these, seven employers had actually received and processed requests, whilst 10 were aware of the regulations but had not received or processed any requests. Four SMEs were recruited from a sample of respondents from the 2014 Employers Perspective Survey who had given consent to be re-contacted for future research, but were not aware of the existence of the Right prior to the research. The five remaining small and medium sized enterprises were recruited through IES' own research networks. A breakdown of employers who were interviewed by size and sector is available in Annex 1: Employers' sample composition.
- Six interviews were conducted with Union Learning Representatives, recruited from the sample of respondents to Unionlearn's 2013 survey.
- Three interviews were conducted with employees who had made requests for time to train under the Right, recruited through a snowballing process via union learning representatives.
- Five interviews were conducted with relevant stakeholder organisations (including trade unions, employers' organisations and professional bodies, and learning and skills organisations).

Secondary descriptive analysis of data from the 2012 and 2014 waves of the Employer Perspectives Survey were undertaken to complement findings from the qualitative interviews and draw out any further insights about the characteristics of employers who had received requests under the Right or were aware of the policy.

The appraisal also drew upon the headline findings of the Unionlearn survey of union representatives on the topic of the Right to Request Time to Train in order to obtain additional insights into the operation of the Right on the ground from the perspective of employee representatives.

For a more detailed description of the methodology adopted in this study and the data sources used, see Annex 2: Detailed description of methodology.

1.2.1 Limitations

When drawing conclusions from the qualitative findings of the research, a number of limitations arising from the sampling frame have to be taken into account. The employer sample was largely drawn from respondents to the 2012 and 2014 waves of the Employer Perspectives Survey who had indicated that they were at least aware of the Right to Request Time to Train. Those among the employers contacted who consented to being interviewed for this research were more likely to be ones with an interest in and some degree of commitment to training. Hence respondents to the qualitative employer interviews are likely to have higher levels of awareness of and interest in the policy and a greater commitment to training than the general UK business population. However, IES was also able to interview a number of employers with low levels of awareness of the Right. Moreover, a number of participants – reflecting their organisational responsibilities for HR or training – appeared to be more positive about training than the organisations they represented, and were explicitly critical of limitations of their organisations' training policies. Like the employers interviewed, participating Union Learning Representatives and employees were essentially self-selected. Moreover, the interviews highlighted the extent to which approaches to the implementation of the Right – despite the formal procedure it demands – depend on the individual tasked with responding to requests. While this is a noteworthy result in its own right, limited institutional memory might also mean that not all requests made in the organisations interviewed and all elements of the implementation of the Right were captured. This, along with a lack of information about the sampling framework used to collect much of the secondary data cited in this paper, means that caution should be exercised before inferences about the Right's wider functioning throughout England, Wales, and Scotland are made from the appraisal's findings.

2 Understanding and awareness of the Right to Request Time to Train

The appraisal sought to gauge the level and depth of organisations' and employees' understanding of the purpose and scope of the Right to Request Time to Train regulations. It attempted to assess awareness of the regulations amongst affected employers and employees, five years on since the Right was first introduced, and how this has evolved over time; and to understand how the Right may be applied in practice on the ground. This is important also to assess whether employers' perceptions of the effect of the Right in terms of costs and burdens are based on an accurate understanding of what it requires.

2.1 Awareness and understanding amongst employers

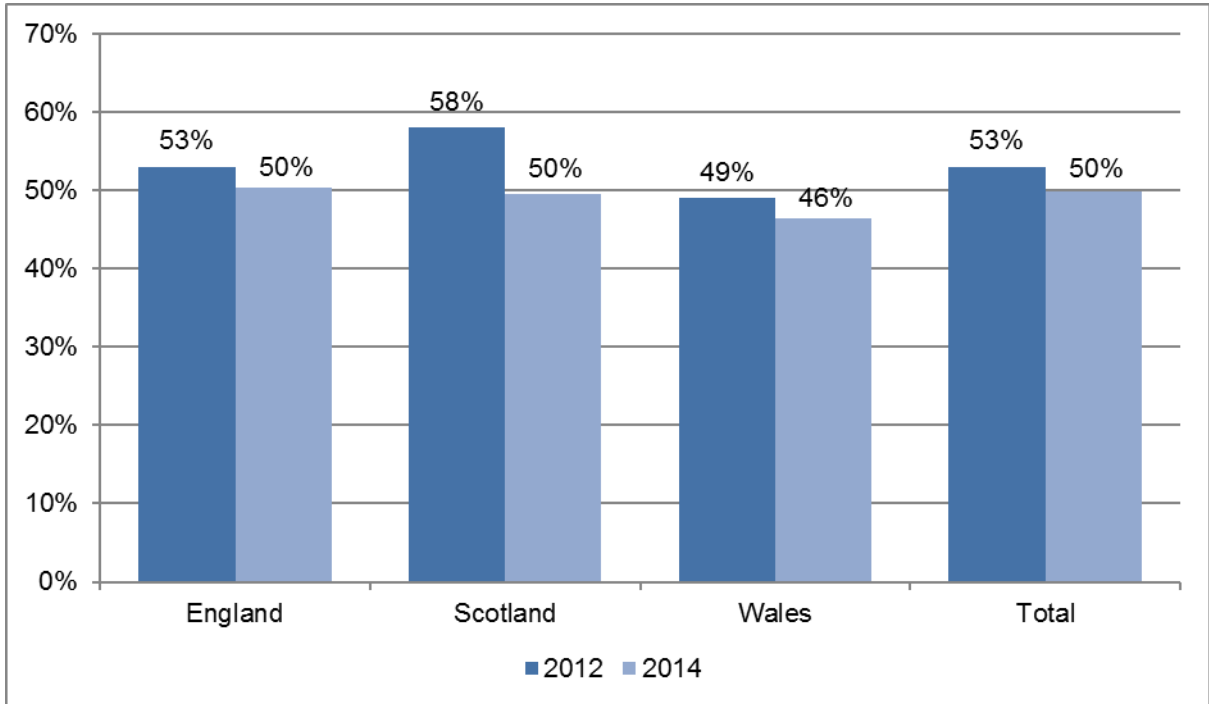
2.1.1 UK Commission for Employment and Skills' Employer Perspectives Survey data

Indicative findings on the level of awareness of the Right to Request Time to Train regulations can be drawn from the UK Commission for Employment and Skills' Employer Perspectives Survey, which in both 2012 and 2014 asked eligible employers⁴ whether they had heard of the right of employees to request time to train, and whether they had any involvement with it in the past 12 months.

Overall, levels of awareness of the Right were somewhat higher in 2012 than in 2014. In 2012, among the 637 respondents representing establishments with at least 250 employees, 339 or just over half (53 per cent) had heard of employees' Right to Request Time to Train. In 2014, this proportion was slightly lower, as among establishments with at least 250 employees, approximately half (50 per cent) had heard of employees' Right to Request Time to Train. Levels of awareness were higher in 2012 across all three nations where it applies, notably in Scotland.

⁴ The EPS samples establishments rather than organisations. This refers to specific individual sites or premises. Hence several sites belonging to a single organisation may be included in the sample. It is important to note that the application of the Right to Request Time to Train is restricted to large (more than 250 employees) organisations rather than establishments.

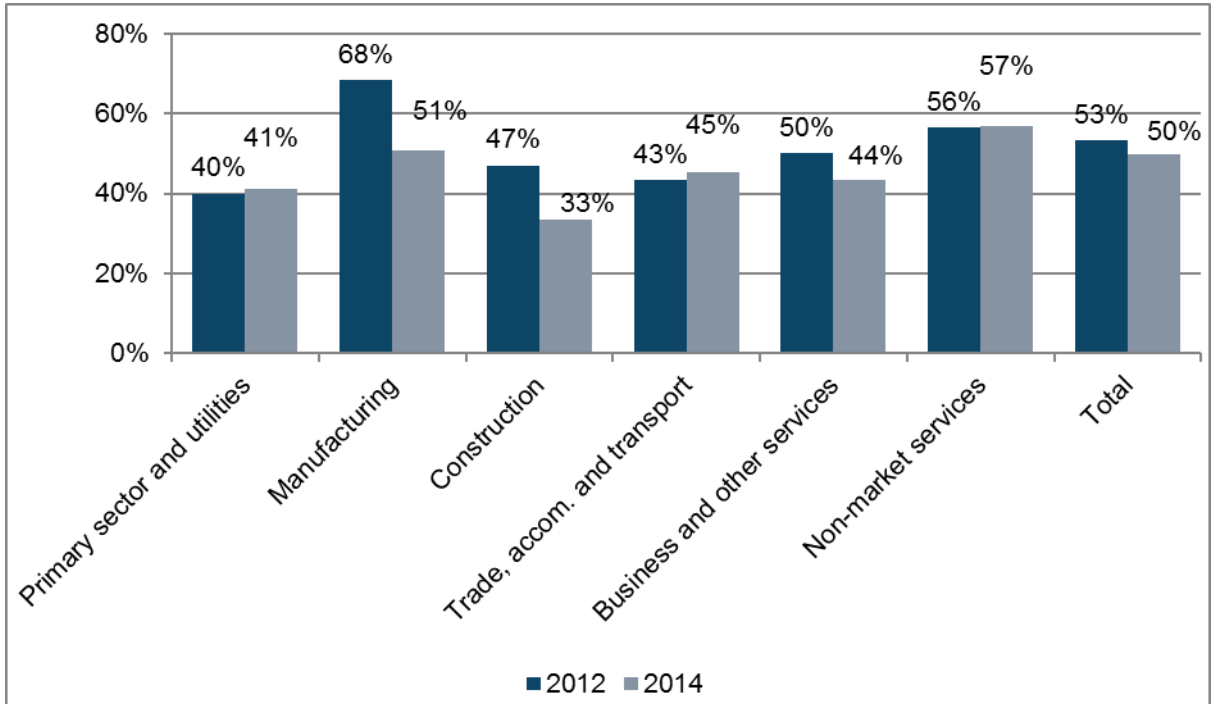
Figure 1: Percentage of large establishments who have heard of the right of employees to request time to train by country



Source: Employer Perspectives' Survey, 2012 and 2014

The Employer Perspectives Survey data suggest clear differences between levels of awareness of the policy by sector. However, these differences are not consistent across the two waves of the survey. In 2012, levels of awareness of the Right to Request Time to Train were greatest by a large margin in manufacturing (68 per cent), followed by the non-market service sector (56 per cent). Awareness was lowest in the primary sector and utilities (40 per cent) and trade, accommodation and transport (43 per cent). In 2014, the picture emerging from the survey was somewhat different, with the highest levels of awareness of the Right to Request Time to Train in the non-market service sector (57 per cent), followed by manufacturing (51 per cent). Awareness of the policy was lowest in construction, where only five out of 15 employers had heard of the Right.

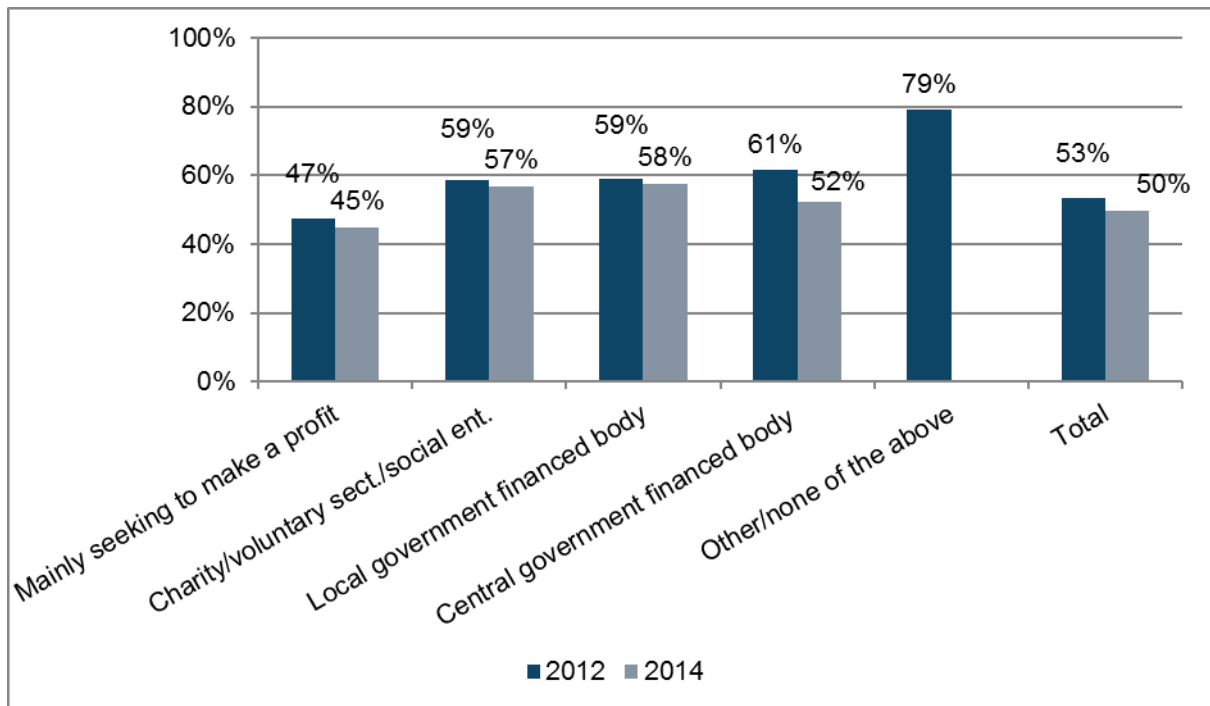
Figure 2; Percentage of large establishments who have heard of the right of employees to request time to train by sector



Source: Employer Perspectives Survey, 2012 and 2014

The data from the Employer Perspectives Survey 2012 and 2014 are not directly comparable with regard to the relationship between awareness of the Right to Request Time to Train and type of institution, as 2012 respondents were asked about their organisation, whereas 2014 respondents were asked about their establishment. Both in 2012 and 2014, levels of awareness of the Right to Request Time to Train appear to be lowest among profit-oriented establishments (47 per cent in 2012, decreasing to 45 per cent in 2014). In both waves, the majority of respondents representing charities, voluntary sector organisations or social enterprises, local government-funded bodies and central government-funded bodies had heard of the Right.

Figure 3: Proportion of large establishments who have heard of the right of employees to request time to train by type of organisation (2012) or establishment (2014)



Source: Employer Perspectives Survey, 2012 and 2014

Overall, the data suggests that levels of awareness of the regulations amongst employers were unsurprisingly greater in 2012, closer to the time of their introduction in 2010. This is probably largely due to the fact that the introduction of the regulations in 2010 was accompanied by an array of promotional activities on part of various stakeholder organisations, such as Unionlearn and the Campaign for Learning, as well as on the part of the Department for Business, Innovation and Skills and the Government itself, which aimed to promote the Right and its requirements and benefits to employers and employees. As promotional activity and ‘momentum’ around the introduction of the Right decreased in intensity over time, it is not surprising that levels of reported employers’ awareness also declined over time to lower levels in 2014 than they were in 2012.

2.1.2 Qualitative findings

The findings from the qualitative interviews conducted as part of the appraisal complement this picture by providing greater insight into how employers who had declared at least having heard of the policy understand the Right.

Amongst large employers, all the organisations consulted appeared to have a relatively good understanding of the Right, of its field of applicability and of their obligations under it: all agreed it was a ‘light touch’ piece of legislation that required very little alteration in their processes when it came into being. Nonetheless, some variation emerged concerning organisations’ understanding of the purpose of the right. This appears to be related to the role played by the Right to Request Time to Train in the broader framework of

organisations' internal approach to training, procedures for requesting training, and the training they tend to offer. In organisations that offer (compulsory) job-related training as a matter of course, the Right was in several cases interpreted as a right to request time off for training with limited direct relevance to employees' job roles, for instance for basic skills training or courses enabling individuals to change career paths. This goes beyond the intended scope of the Right, and suggests that it may be read as promoting employer investment in skills much more broadly. In other organisations, the Right is treated in practice as a right to request job-related training; in these cases, it tends to be perceived as superfluous, as internal processes often ensure that employees receive the required job-related training anyway, although in one case, the statutory Right was simply integrated into the standard procedure to request training. One employer and one union industrial relations representative linked requests for time to train to the entitlement of trade union representatives to time off for union-related business, and seemed to interpret the Right as a mechanism explicitly for union representatives to request time to train – suggesting that in some cases the regulations had been interpreted in a specific and possibly narrower than intended sense.

The relatively high levels of awareness about the Right and understanding of its purpose amongst consulted employers' organisations may be a consequence of the sampling strategy adopted to recruit employers to participate in the appraisal. This was focused on those employers who had already declared that they were either aware of the policy or had received requests under it. Hence participants tended to be organisations with established and functioning HR departments, committed to the value of training or the provision of personal development opportunities to staff.

Both the survey findings and the interviewed sample may thus not be representative of the greater landscape of large employers. Indeed, anecdotal evidence from the recruitment process of interviewees suggests that many of the employers who stated in the Employer Perspectives Survey that they were aware of the Right or even had direct involvement with the regulations had, in fact, a very limited or mistaken understanding of it. Most such organisations then declined to participate in the appraisal. A related and important point that emerged from the interview recruitment process was that surrounding the potential importance of institutional memory in dealing with Right to Request Time to Train requests or understanding the purpose of the regulations. In those cases when the individuals who had been in post in companies' HR departments at the time of the introduction of the regulations had since moved on, awareness and understanding of the policy, and of how requests under it had been handled in the past, appeared in some cases to also be very limited.

Evidence from interviews conducted with Union Learning Representatives also suggested that, on the ground, awareness and understanding of the Right to Request Time to Train on part of line managers was often patchy. One Union Learning Representative in a poorly unionised service sector company indicated that line managers were, as a rule, not aware

of the Right until union representatives broached the subject. Likewise, an employee of a council who had an informal request for training turned down reported that their managers only found out about the Right when their Union Learning Representative, when looking (unsuccessfully) to reverse this decision, informed management of the existence of the Right and employers' obligations under it.

Amongst the small and medium sized enterprises that were consulted, one was well-aware of the Right to Request Time to Train regulations, mainly due to its sector of operation as a private training provider; the other two (a small-sized manufacturer and a medium-sized FE college) were not aware of the regulations.

2.1.3 Channels of information and guidance

Large employers consulted as part of the appraisal reported that, generally, they had first received information about the Right to Request Time to Train regulations through their general channels of updated information on HR and employment legislation matters – such as the Chartered Institute for Personnel Development (CIPD) or other dedicated HR networks, or through various employers' representative bodies of which they were members. Large public sector organisations reported receiving regular updates and often training on all new employment law and HR issues as a matter of course, and generally most of the interviewees in large organisations considered it part of their standard duties as HR professionals to keep abreast of developments in employment legislation.

Consulted establishments that were part of larger organisations had often received guidance from the central HR department of their parent company. There were also other examples of dissemination about the Right to Request Time to Train taking place within organisations, e.g. colleagues mentioning a training session in-house, discussion taking place at the work council or in Joint Consultative Committee between employers and employees representatives, and so on.

Only a few interviewees reported having made active use of the Right to Request Time to Train guidance for employers available on the Government's website, although organisational memory on these issues – especially from back when the policy was first introduced – was somewhat limited.

2.2 Awareness and understanding amongst employees and union representatives

The appraisal did not have access to any reliable survey data about awareness of the Right to Request Time to Train amongst employees. Hence, information on this was drawn from interviews with employers and employee representatives, as well as from stakeholder interviews and data from the 2013 Unionlearn survey.

Interview evidence suggests that the extent to which employers proactively made their employees aware of the existence of the Right to Request Time to Train and of their rights

under it varied heavily. Amongst the organisations that were consulted, some employers included information about the Right to Request Time to Train in their staff handbook, and only a selected few (usually public sector organisations) pro-actively informed staff about the Right and actively encouraged take up. In the vast majority of cases, most employer efforts at disseminating the policy appeared to be targeted solely at staff with managerial or development responsibilities – underlying either their need to be aware of legal obligations or as part of their role in developing staff. As a result of this approach, the majority of employers did not advertise at all the existence of the Right directly to their employees. It could be speculated that in those cases where organisations already had strategies for managing or accessing training, the focus in terms of dissemination of information amongst staff is placed on managers being aware of legal obligations rather than publicising the Right to Request Time to Train directly to staff, as this is usually conceived of as additional to and less generous than existing training offers.

In this respect, evidence from interviews with employees and Union Learning Representatives as well as stakeholder organisations suggests that employee representatives – either generic union representatives or Union Learning Representatives – played a very important role in increasing awareness of the policy and in promoting it amongst employees. Unionlearn had dedicated substantial resources in the first year following the introduction of Right to Request Time to Train to creating guidance materials and providing training to Union Learning Representatives to allow them to promote and use the Right to Request Time to Train in constructive ways in their workplaces. In turn, consulted Union Learning Representatives and union representatives generally displayed quite high levels of awareness of the regulations, mainly as a result of guidance they had received from their unions as part of their representatives training and/or from Unionlearn as part of their promotional campaigns. However, due to the convenience sampling strategy that was adopted to recruit Union Learning Representative interviewees, these findings may not be representative across the whole of the trade union movement. Efforts to increase awareness of the Right to Request Time to Train amongst union members on part of trade unions also seemed to have ‘plateaued’ over time following initial efforts when the right was first introduced. One Union Learning Representative believed that neither their general union nor the TUC had done enough to promote the right to members and employers:

‘They need to be a bit more forceful, there is only so much [rank and file and branch representatives] can do, and no one [else in the union] knows about it at all: they need to show people how important it is, how we can use it.’

Union Learning Representative, service sector organisation

Union Learning Representatives appeared to have often taken various steps to promote the Right amongst their members. According to a survey of 560 union representatives on the Right to Request Time to Train regulations which was conducted by Unionlearn in

2013, a majority of respondents reported having promoted the Right to Request Time to Train in some way to their members. One third reported having used Unionlearn's guidance for representatives; approximately half had discussed the Right at a union workplace branch meeting; and one third had pro-actively made members aware of the Right through various branch communication channels.

In some cases, consulted employers also recognised that Union Learning Representatives and staff unions had been crucial in actively promoting and increasing employees' awareness of the Right to Request Time to Train regulations, and in some cases this channel of promotion was the main and only way in which employees may get to know about the Right. Employees spoken to as part of the appraisal who had made requests themselves also reported having first heard about the Right via union channels (and often after having already expressed an interest in or tried to access training in other ways).

Given that Right to Request Time to Train is, in most cases, not actively promoted as a matter of fact by employers, the evidence collected suggested that, in all likelihood, levels of awareness amongst employees vary quite heavily depending on sector, job role and, crucially, levels of unionisation within organisations. Union Learning Representatives themselves expressed doubts about the extent to which support staff or lower-ranking staff within their own organisations had awareness about the regulations, whilst in general seemed to think that 'core' or professional staff would generally be more aware and more 'switched on' about their rights and entitlements.

2.3 Conclusions

Overall, the combined findings from the 2012 and 2014 Employers Perspective Survey and from the qualitative interviews suggest that the levels of awareness and understanding of the regulations amongst employers vary quite heavily depending on size, sector of operation and general skills and training culture within the organisation. Around half of large establishments responding to the Employer Perspectives Survey were not aware of the Right, and even amongst those who reported being aware, understanding of the actual precise requirements and content of the regulations appeared to be, in many cases, patchy. The large employers that the appraisal was able to consult for interviews tended to be, on average, fairly aware and have a good level of understanding of what the Right to Request Time to Train regulations entail, but these findings are likely to not be representative of the wider population of large employers.

From the side of employees, the appraisal found that awareness was also patchy. The promotional activities of unions appeared to have been crucial in raising employees' awareness of the Right to Request Time to Train, as in many cases it was union representatives rather than employers that disseminated information about the Right within organisations. Levels of awareness of the regulations amongst employees seem to vary quite heavily depending on sector, job role and, crucially, levels of unionisation within

organisations – suggesting that there was still considerable ground to cover to increase overall levels of awareness of the existence of the Right amongst the workforce.

3 Take up of the Right

The appraisal sought to assess the scale of formal take-up of the Right to Request Time to Train within eligible organisations, i.e. large employers with more than 250 employees. To do so, data from the Employer Perspectives Survey 2012 and 2014 were analysed in conjunction with findings from qualitative interviews. The research also collected evidence about the types of training which had been formally requested by making use of the Right, and investigated the possible reasons explaining the (low) rate of formal take-up of the Right amongst employees of eligible organisations.

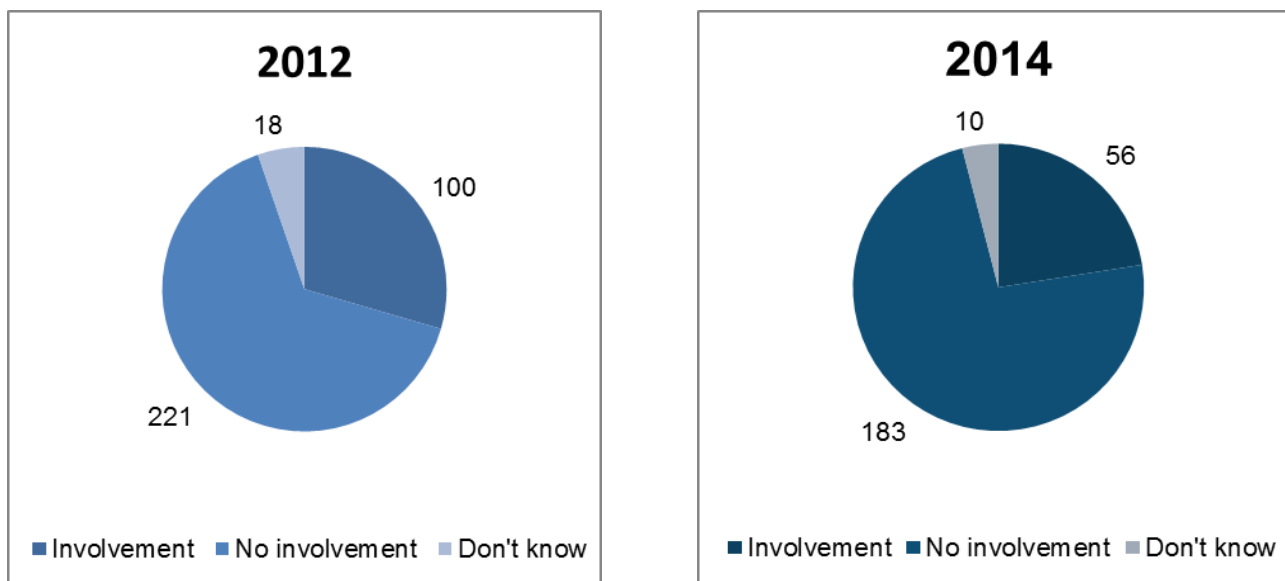
3.1 Scale of take-up

Information about the scale of overall take-up of the Right to Request Time to Train amongst employees of eligible large organisations can be inferred from Employer Perspectives Survey data, although this only provides headline figures about the proportion of large *establishments* that reported having ‘used or been involved’ with it over the previous 12 months. Due to the relatively small numbers in the survey, results broken down by type of organisation or sector should be treated as indicative only. In general, findings suggest that overall take-up of the Right amongst the population of large employers who were legally subject to the regulations has, so far, been relatively low.

In 2012, 30 per cent of large organisations (with at least 250 employees) reported having been involved with the Right, 65 per cent reported no such involvement, and the rest did not know. In 2014, 23 per cent of large establishments reported having been involved with the Right, 74 per cent reported no such involvement, and the remainder did not know; thus 16 per cent of large employers reporting having had direct involvement with the policy in 2012 and 11 per cent in 2014. This suggests that direct uptake of the Right (or recognition of it on part of surveyed employers) may have slightly decreased over time⁵.

⁵ Although changes in the sampling strategy between the two surveys limits the confidence in such comparisons (see Chapter 2)

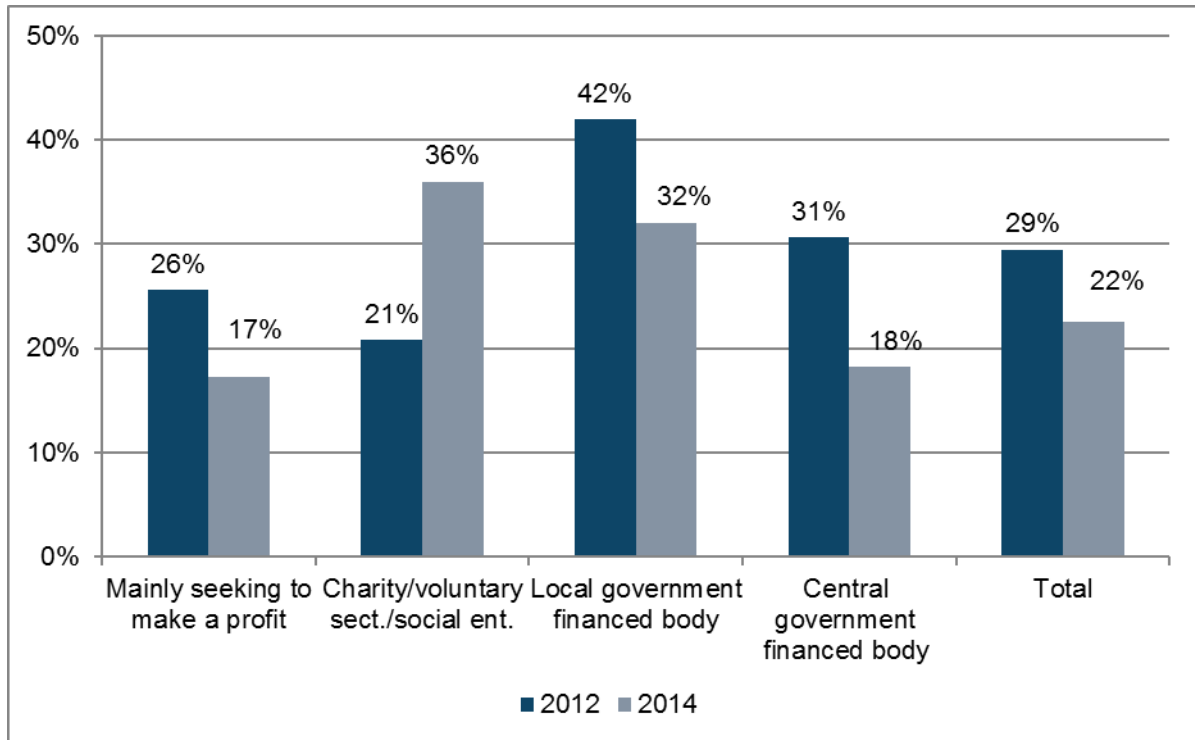
Figure 4: Levels of involvement with the Right to Request Time to Train amongst large employers who have heard of the Right



Source: Employer Perspectives Survey, 2012 and 2014

The uptake of the Right to Request Time to Train also appears to vary between types of organisations/establishments (see Figure 3.2). In 2012, involvement with the Right to Request Time to Train was greatest in local government-financed bodies, with 42 per cent eligible respondents (N=62) reporting an involvement with requests, followed by central government-financed bodies (31 per cent). Levels of involvement in 2012 were lower in charities, voluntary sector organisations and social enterprises (21 per cent, N=24) and profit-oriented businesses (26 per cent N=176). In 2014, on the other hand, involvement with the Right to Request Time to Train was greatest in charities, voluntary sector organisations and social enterprises, with more than a third, (36 per cent, N=25) such establishments reporting involvement, followed by local government-financed bodies (32 per cent, N=53). Levels of involvement were lower in central government-financed bodies (18 per cent, N=55) and profit-oriented businesses (17 per cent, N=116).

Figure 5: Proportion of large establishments who were aware of the Right to Request Time to Train who had involvement with it in the past 12 months



Source: Employer Perspectives Survey, 2012 and 2014

Interestingly, employers which were either aware or had had direct dealings with the Regulations seemed to be those with already established training processes. Among the establishments who were aware of the Right to Request Time to Train, 95 per cent had provided external training for their employees in the previous 12 months. Among those who had had involvement with the Right in the same period, the proportion was 98 per cent.

The level of take-up as reported by employers appeared to be fairly low not only in absolute terms (i.e. the proportion of eligible organisations that had had any direct involvement with the policy or had ever received requests), but also in relation to the volume of requests received by those employers who had reported having had at least some involvement with the regulations. Of the 10 large employers consulted as part of the appraisal who had received requests, eight only recalled having received between one and three requests over the period that the regulations had been in force. One manufacturing employer reported having received around eight requests over the five year period. An exception to this pattern of generally low volume of take up was one employer in the legal services sector, who had reported receiving 139 requests over the last 12 months. However, the reason for this was that the statutory regulations had been incorporated within the standard organisational procedures to allow employees to access training, and thus **all** training requests were being recorded as requests under the Right to Request Time to Train. Given that similar procedures were in place before the Right to Request

Time to Train came into force, these were, in all likelihood, episodes of training which would have been provided or accessed anyway – rather than ‘additional’ training which had been directly generated as a result of the statutory right being in place.

Union Learning Representatives and employees spoken to did not note much take up at all of the Right within their organisations, with only a handful of requests, if any, ever being put forward over the lifetime of the Right. However, data from the 2013 Unionlearn survey of union representatives shows a potentially higher rate of take-up: 35 per cent of survey item respondents (N=493) had supported a colleague to formally exercise right since coming into force; around 25 per cent had done so one or two times, same number three to five times, around five per cent between six and 10 times, and circa 20 per cent more than 10 times.

3.2 Types of training and adjustments requested

The types of training which are usually requested under the Right appeared to be quite varied, according to the evidence emerging from the appraisal.

In most cases, consulted employers reported in the interviews that requests invoking the Right were external training courses – often of fairly substantial duration and leading to qualifications at Level 3 or above, in many cases even at degree or post-graduate level. This could either be training which was directly relevant to the individuals’ job roles – and in these cases often the employers had also agreed to fund at least part of the course – or that was perceived by employers as only indirectly relevant to individuals’ current job roles or functions, but potentially beneficial for the organisations in a wider perspective or with a view to facilitating a lateral or upward career move for the individuals in question. Examples varied from individuals having requested time to undertake a part-time degree in social work, to staff undertaking an MBA, an MSc in Quality, or professional qualifications in accountancy.

In these cases, the adjustments requested by staff could involve one or several of the following measures: a temporary reduction in working hours; flexible working patterns over a specified period of time; some hours of unpaid or paid leave each week (either one day or a half day) to attend the course in person; or a few hours of leave (either paid or unpaid) per week for self-study time. In one professional services firm, the Right to Request Time to Train procedure was mainly used by employees occasionally requiring time off to study for examinations (professional qualifications for graduate staff) and for the examinations themselves, whilst employees generally organised their courses and general study such that they fit around their working hours.

There were also reported examples of individuals having used the Right to access shorter one-off external courses, for example for health and safety qualifications, in which case the adjustment requested had been for only a few days off-the-job. A local authority said that

the forms of training accessed through Right to Request Time to Train requests and equivalent would normally depend on the role of the employee in question: training could be on-the-job, with an external provider, or in online format, with decisions largely made on which form of training could deliver role specific training in the most cost effective manner.

Amongst consulted employers, only one reported that the Right to Request Time to Train was used to facilitate access to a basic literacy ESOL course for a member of staff with English language needs. However, one employer who was also a private training provider reported that around the time of the introduction of the Right to Request Time to Train they had observed a spike in numbers of employees accessing basic literacy and numeracy training supported by their employers, but this was linked by the respondent to the concurrent availability of local skills funding rather than solely due to the introduction of the Right.

The 2013 Unionlearn survey data provided some further information on this respect, listing the following types of training which had been applied for with union assistance under the Right. The most common type of training requested under the Right was short courses (with 27.9 per cent of respondents having facilitated a request of this kind), followed by NVQs or other vocational qualifications (23.4 per cent) and Skills for Life/ESOL provision (21.4 per cent) (see Table 3.2).

Thus, even if evidence from the interviews seemed to suggest that in the majority of cases the Right to Request Time to Train had been used to make requests for training at relatively higher levels, there is some evidence to suggest that it may have also facilitated access to basic skills training, although this is not particularly conclusive.

Table 1: Types of training requests facilitated by union representatives under the Right to Request Time to Train, 2013 Unionlearn survey of Union Learning Representatives

Type of training	%
Skills for life/ESOL	21.5
Apprenticeship	10.1
NVQ or other vocational qualification (including Foundation Degree)	23.5
Diploma/Degree	17.8
Sector specific qualification	10.5
Sector specific training	13.8
Other qualification	17.4
A short course	27.9
Employer provided training	17.0
Employer assisted learning (e.g. mentoring, on the job training)	16.2
Informal learning	19.4
Not applicable	27.9

Source: Unionlearn survey on the Right to Request Time to Train, 2013.

Note: N=247, multiple response

In addition to this, two union representatives reported that, in their experience, the Right could potentially be used as a lever to request time off work or some flexibility in shift patterns to access union-related training, as their employers were reportedly getting less cooperative over granting time for this type of training. This suggests that the Right, in combination with other legal entitlements, may be used to influence training decisions that fall outside of the Act's narrow legal remit.

3.3 Reasons for using and not using the Right to Request Time to Train

On the basis of the evidence collected through the interviews, it is possible to distinguish between various reasons – largely connected to the pre-existing 'training culture' within organisations – which could explain the take-up (or lack thereof) of the Right to Request Time to Train amongst employees of eligible large employers.

3.3.1 Existing arrangements exceed what the Right offers

In many cases, the relatively low take-up of the Right was attributed, by employers and Union Learning Representatives alike, to the fact that its provisions were already exceeded by the existing training offer in place within organisations. This was partly unsurprising as many of the organisations were large employers with already well-developed and established procedures for staff to request and access training opportunities, and generally good training cultures in which the value of training to individuals and the business alike was well acknowledged. In these cases, a variety of mechanisms and procedures were already in place for employees to make requests to their employers similar in kind to what the Right to Request Time to Train covered (see Chapter 4), and employers reported that they would generally consider reasonably and often accept most of these requests if they were relevant to the business and to individuals' job roles. Hence, the procedures set out in the Right to Request Time to Train were seen as largely superfluous and 'not needed' in these cases.

In many cases, large employers had training and funding agreements or similar provisions in place which allowed staff to request paid time off to access training relevant to their jobs, so those mechanisms would normally be used preferably instead of the Right to Request Time to Train, which does not oblige employers to provide paid time off or funding for training. In a few cases, however, even in the case of 'high road' organisations with good training cultures, employers reported that employees had opted to present requests invoking the Right to Request Time to Train to obtain time off for training which would not have been covered by the organisation's existing training and funding agreements. For example such requests included cases in which the training was not directly related to an individual's job role but was being undertaken to favour future career changes or progression, or seen as being potentially indirectly beneficial to the business. In such cases, the Right is thus being used in ways that go beyond its intended scope, which is restricted to training that improves employees' job performance and the performance of their business.

Similar scenarios also emerged from the point of view of union representatives. For example, a union representative in a community health trust indicated that the Right to Request Time to Train was outweighed by the strength of pre-existing agreements for staff to request time off for training. The union had only ever had to make one or two requests under the Right to Request Time to Train. Around half of branch members regularly took time off or could have flexible working for training. Another union representative in the civil service attributed the lack of take-up of the Right to Request Time to Train to the fact that staff already had five days per year available to undertake non-job-related training, and thus used that instead.

Another scenario that emerged from the interviews was the case of organisations where the existing provisions in place to request training were not completely formalised, but

communications between individuals and line managers were good and the processes through which training needs would be identified and requests considered was judged by all parties involved to be sufficiently transparent and fair, with low refusal rates for requests made. In these cases, employers thought that employees were sufficiently satisfied with the existing procedures and did not see the need to invoke formalised processes to access training they wanted.

'People are actually quite happy to think, well, I don't need to request it under an alternative method, because I am already happy with what I am receiving.'

Large employer, education sector

3.3.2 The entitlements under the Right are not substantial enough

In some cases, the reasons for low-take up of the Right was related by interviewees to the fact that the entitlements enshrined in the Right to Request Time to Train regulations were perceived as too 'light touch' or minimal in their approach to actually make a difference to individuals' chances to access training.

Some interviews attributed this to the fact that the regulations only give employees the right to request *time off* for training – something that, especially in organisations with a good 'training culture', was often already well-established. In that respect, employers thought that what would make a real difference to employees taking up the Right to Request Time to Train is whether they thought this would increase their chances to have the request accepted. However, given that the Right to Request Time to Train still allowed for numerous business reasons for which requests could be turned down by employers, it was thought that employees would probably not see the added value of taking advantage of it.

'We've always had a right to request, it's more to do with whether that request is sort of supported, and I don't see any sort of difference in that area. People's perception is, we have the formal right to request lots of things really [...] but it's still largely at employers' discretion. So although you have a right to request, let's say, flexible working, a change in working hours, that doesn't really improve your chances, that's probably what people would think.'

Union Learning Representative, large public sector organisation

The fact that time off or working time adjustments granted to employees in response to requests under the Right to Request Time to Train is not explicitly linked to employer funding, and may hence often be unpaid, was also often cited as a reason for low take-up of the Right. Both union representatives and employers in various sectors reported that employees were very unwilling to take unpaid time to train, which in many organisations is what is granted in response to successful requests under the Right to Request Time to Train, because they often could not afford it.

One employer attributed the lack of take-up of the Right to Request Time to Train to the unwillingness or inability on part of staff to ‘take responsibility’ for their own skills development, especially when this would involve having to directly shoulder the costs of training at their own expenses. This employer mainly associated the Right to Request Time to Train with requests to undertake non-job-related training, and thought that in those cases, employees would have to bear the costs of it directly (either through wage reductions due to adjustments in working time, or to paying for the costs of training itself), and would thus be less willing to take advantage of the entitlements granted to them under the Right to Request Time to Train. The issue with the policy, in this employer’s mind, was not a matter of the difficulties with implementation for employers, but rather with lack of sense of ownership by employees, and their unwillingness to ‘make sacrifices’.

‘If the legal obligation was for the employer to pay for training, I know that we would have 300 people coming forward and saying, “I would like to do this, and I have a legal right to ask for it”.’

Large employer, manufacturing sector

In a similar fashion, one interviewee who was also a training provider reported that, in their experience, the lack of employer funding for training which could be accessed under the Right to Request Time to Train was a key reason low take-up of the Right amongst staff.

‘Employers might still have to give time to train, but employees don’t want this if it’s just time.’

Large private training provider, North West

These findings suggest that the Right to Request Time to Train is generally construed by all involved as limited to requests for (unpaid) working time adjustments. Neither side appeared to recognise or approach the discussions between employer and employee following the submission of a request as an opportunity to consider different ways of funding the training and time off. In organisations whose commitment to employee training extends to a willingness to fund (time off for) training, the Right was most likely to be considered superfluous. In those lacking such a commitment, by contrast, the obligations imposed by the Right on employers appeared too insubstantial from the perspective of employees, who in all likelihood did not expect employers to change their approach to the provision of financial support during the discussions following a request.

3.3.3 Organisational difficulties, low awareness and lack of skills and training culture

Other reasons for low take-up of the Right cited by some employers and Union Learning Representatives alike related to lack of employees’ awareness of the Right, and to the absence of an established training culture within the organisation which would incentivise and encourage staff to take advantage of the entitlement.

Several Union Learning Representatives working in organisations without a positive or established skills and training culture, or in organisations which had recently been subject to financial difficulties or organisational restructurings and in which relationships between workforce and employers were already strained, said that they did not feel in a position to ‘push’ take-up of the Right amongst their members too much, as they did not want to be seen to ‘kick up too much of a fuss’ around training issues. Likewise, it was reported that in some cases employees were unwilling to resort to the Right as they did not want to be ‘noticed’ by management as being difficult, or too demanding; this is despite the provisions in the statute that explicitly forbid negative consequences for employees who make requests. This was especially the case in organisations in which some requests had been made and then turned down by employers, or in which social dialogue was already strained. In these cases, union representatives and employees did not feel able or willing for various reasons to fully exercise their Right, and felt that these negative experiences and a general lack of staff motivation also dis-incentivised employees from considering this avenue in the future.

‘I’ve made an application myself and I’ve helped members too. We use all the [BIS model] forms but it’s so easy to refuse, they just have to say ‘it’s not related to your job’ and that’s the end of that. Now some representatives [in other workplaces] try to take things further, file a grievance – one [full time union] representative told me this is what we should be doing, that as soon as you make a grievance [citing the Right to Request Time to Train] employers will back down straight away. But they don’t get the situation we are in. We haven’t got the strength not to keep things sweet at the moment. So once your application is turned down that’s really the end of the line.’

Union Learning Representative, healthcare sector, cleaning and maintenance staff

This indicates that the Right, in and of itself, does not guarantee employees access to time to train – as it seems to require a motivated and potentially organised workforce to access benefits from it, if and when employers do not have a supportive skills culture in place. The evidence in this respect also seems to suggest that, in cases where the organisational climate is not positive, staff may suffer from a lack of motivation that may result in them not utilising the employment rights that they have theoretically access to, even in cases when they would be beneficial.

Another reason which was cited by some union representatives related to resource constraints in their organisations, which meant that staff did not feel able to take time-off as cover was not available and this would result in negative consequences for their service users or their organisation. For example, a union representative from a community health trust explained the limited take-up of the Right to Request Time to Train in the following way:

‘Medical professionals are focussed on patients... We’re not going to get backfill if we take time off nowadays [due to budgetary reasons], so we’ll come back to long waiting lists and we don’t want the patients to suffer.’

Employee loyalty to their roles meant some were not making usage of the Right in a self-censoring effort to reduce negative effects on the users that accessed their services.

3.3.4 Informal use of the Right to Request Time to Train

The appraisal also found evidence to suggest that the low formal take-up of the Right to Request Time to Train in some organisations could also reflect the way in which the regulations were used informally on the ground by employees to leverage access to training, even without having to resort to following the full-blown formal processes. In some cases, it was reported (both in employer and Union Learning Representative interviews) that employees considered invoking their formal Right to Request Training, either because they had difficulties in having their training needs recognised by their employer or because communications with their line managers had somewhat 'broken down'. In most cases, this was done with the encouragement of their union representatives. However, it was reported that in many of these occasions, citing the Right and reminding line managers or employers of their obligations under it was sufficient as a way to 're-start' conversations with managers around training needs of individuals, which often led to training requests being considered – and often granted – without having to follow the 'formal' procedures as set out in the Right to Request Time to Train regulations. In a similar fashion, some Union Learning Representatives reported that they had been able to use the 'stick' of the formal proceedings enshrined in the Right to Request Time to Train regulations to exercise some pressure on employers that were somewhat reluctant to consider requests or provide access to training for their employees. In these cases even if the Right was not formally invoked, it still appeared to play a role in leveraging access to training, or starting discussions around the issue.

3.3.5 Right to Request Time to Train as 'last resort'

In a related but opposite scenario, there were a limited amount of cases in which employers (in both cases public sector organisations) and Union Learning Representatives reported that the Right had been used by staff to put forward formal requests in some isolated cases where line managers had been not attentive or a bit 'sloppy' in considering staff training needs, or had been inconsistent in the way in which they had considered requests for training. Again, it appeared that staff resorted to using the Right not as a matter of course but almost as a 'last resort', or in a strategic manner in cases in which it appeared to be the only avenue to get a request for training appropriately and fairly considered.

3.4 Conclusions

Overall, the evidence suggested that take-up of the Right to Request Time to Train so far had been low, either because it was seen as 'not necessary' because organisations

already had processes exceeding its offer, or because awareness amongst employees was too low and it was not seen as helpful to remedy situations in those cases where there was no positive training culture in place in the organisation. Overall, there was no evidence emerging from the interviews to suggest that the Right to Request Time to Train had been taken up formally on a mass scale to facilitate access to training in organisations with a previously 'bad' training culture or low training provision. In those relatively rare cases in which it had been formally taken up, this was done in a fairly ad hoc or strategic manner, and many barriers still seemed to be at play that prevented broader take up amongst the workforce – not least, the very content of the Right itself, which was in many cases still perceived by employees to be too 'weak' to make it worth invoking it in organisational settings less supportive of training.

4 Accessing training: requests, policies, processes

Through interviews with employers' organisations and union representatives, the appraisal examined the different ways to access training which were available to employees within their respective organisations. This was aimed at uncovering what, if any, were the existing procedures in place amongst employers to provide training to their staff and deal with training requests, and how prominently the Right to Request Time to Train regulations featured within these procedures. The appraisal also gathered evidence from employers, employees and union representatives about the actual operation of the Right on the ground. This was intended to provide evidence on how requests had been made and prepared; what procedures employers had put in place to deal with requests, and how these were experienced and used by employees; the way in which these had been handled; and the perceived costs, administrative burdens and other issues associated with compliance with the regulations.

4.1 Ways to access training within organisation

Most large employers consulted as part of the appraisal reported that they already had some established procedures in place for employees to receive or request training. These procedures, as well as the scope and breadth of training which was accessible under them, were more or less formalised depending on the organisation's size, area and sector of operation and skills needs. Levels of formalisation and embeddeness of ways to access training seemed to be related both to skills needs and also to organisational culture. Whilst some employers explicitly linked their provision of training to their high skills needs, for others (often public sector organisations) this was seen also as a question of individuals' rights to development. However, in organisations with a less developed training culture – which in the present sample tended to be concentrated in hospitality and certain branches of manufacturing – the recognition of the value of training for all staff was less embedded, with procedures appearing less formalised and training opportunities reserved mainly for managerial or supervisory staff.

In large employer organisations with established HR procedures and in sectors with high skills needs (such as professional services, manufacturing, public sector organisations), there was an expectation that employees' training and skill needs would be discussed with line managers as a matter of course. In most cases, employers provided all employees with compulsory training which was considered core to their job roles (be it in compliance, technical training for use of machinery, customer service and so on). Often, further training opportunities were also made available to employees, although the extent to which this took place depended on the organisation's production or business needs and pressures.

Some employers were committed as a matter of course to developing and enabling all employees to access at least some training and development opportunities each year, and hence proactively advertised to staff the opportunity to request either internal or external

training courses, and the procedures to do so. In other cases, employees were expected to identify training needs or wishes independently and raise them with their line managers, with requests considered on an ad hoc basis. In order to fulfil extra skills needs, some employers (especially in the case of local government, public sector organisations or very large manufacturers) had extensive internal provision of training (either on-the-job or off-the-job), whilst others relied more on external training provision.

These organisations with established supportive skills and training cultures had often formalised or semi-formalised procedures or policies for employees to request training or receive support for learning and development which were already in place before the introduction of the Right to Request Time to Train. These could either involve signing-up or requesting training courses on offer through an online platform, or completing an online or paper form, which would then be subject to approval by line-managers or HR, or raising the request in some written form (sometimes just via email) with line managers or team leaders. In other cases, employees had a fixed entitlement to a certain number of paid days for study or training leave (between two and five) that they could make use of, and could then formally request extra time if needed. Requests were usually considered by line managers or in managerial team meetings, depending on internal organisational set up. In some cases, responses to requests were provided in written form, whilst in some cases this was done orally or in a more informal manner.

The main criteria on the basis of which employers reported that decisions were made to either accept or reject requests made using alternative procedures were, amongst others: relevance of the proposed training to the individual's job role and evidence of clear business benefits; availability of resources – either financial, or in terms of availability of cover for staff during their time off; and current work and production pressures. Whether requests were considered favourably or not depended clearly on employers' training culture and current business pressures. Whilst some, isolated case of 'high road' employers put an emphasis on individuals' development and on training being a 'right' for employees, it appeared that in most cases – especially in private sector, profit-oriented organisations – business reasons took centre stage in consideration of training requests. In this respect, there was evidence to suggest that, in the immediate aftermath of the recession, training provision in some organisations had suffered following restructuring or financial difficulties, with employers significantly reducing provision or possibilities for staff to receive cover for time-off for training.

Evidence from both employers and employees and Union Learning Representative interviews suggested that, in most cases, discretion of line managers in granting approval for training was the main problematic element for having requests for training either accepted or refused. Usually, most requests that had the support of individuals' line managers would be approved by HR, unless there were serious budgetary or resource constraints limiting this. In some organisations, this did not pose an issue, as line managers were considered to be committed to staff development and positively inclined to

consider requests in an open and transparent manner, with a positive climate of dialogue. However, it was reported that in other instances this approach could be problematic, especially if relationships between employees and their managers had become strained, line managers did not recognise the value of training for that individual or concerns for budgets and business needs over-shadowed attention to employees' own development needs. In a few cases, employers themselves acknowledged that their processes could benefit from being formalised to clarify the cases in which requests could or could not be accepted, to introduce greater consistency and reduce arbitrary discretion in this respect.

There were also cases of large employers – in manufacturing and the service sectors – in which the ways for staff to access training beyond compulsory, basic provision appeared to be much less formalised, not enshrined in any policy or procedure and largely based on individuals' own initiative. In these cases, extra training opportunities appeared to be reserved mainly for managerial staff rather than for 'ordinary' staff members. Requests for training from ordinary members of staff – in those rare cases when they were made – were considered on a purely 'ad hoc' manner between individuals, their managers and HR, but the fact that no procedures were in place often meant that these types of requests were very rarely made in first place.

4.2 How are Time to Train requests made and handled?

The appraisal sought to uncover evidence from employers and employees about the operation of the Right to Request Time to Train on the ground. In particular it looked at how requests made invoking the Right to Request Time to Train fit within the more general framework of organisational procedures to access training; how requests were processed and handled; and what issues, if any, emerged regarding their application and implementation. In general, most organisations that were consulted as part of the appraisal already had procedures in place that allowed them to largely accommodate within their existing processes any requests made under Right to Request Time to Train, so the additional burden caused by these requests was perceived as negligible.

4.2.1 Preparing requests: processes and obstacles

In all cases where Right to Request Time to Train requests had been received, this had been done in written form, in line with the statutory requirements. At least four organisations spoken to had formal procedures in place which meant they provided employees with set template forms that they were asked to complete and then submit or get signed off by the relevant HR manager. Others had not put in place set templates or forms, and written requests were put forward in the form of emails or letters. Only very few employers reported using the templates provided on gov.uk, although some had consulted guidance on the website when first dealing with requests. Union representatives appeared to often facilitate the making of requests. According to one interviewee, a union in the health sector *'holds our members' hands through these requests when needed'*, helping

with composing emails and letters and putting forward a convincing case. Cases were reported though in which employees had prepared a request autonomously, without the need to resort to union support.

However, low awareness amongst employees and lack of guidance or information from employers on the existence and entitlements of the Right to Request Time to Train still appeared to act as an obstacle to further take-up and submission of formal requests. The evidence gathered suggested that the extent to which employees had access to updated information and guidance to help them put forward requests varied deeply depending on how pro-active their employers or unions had been in spreading information about the Right, and in some cases was considerably patchy. In one case, one employee spoken to said they had only found out about the Right to Request Time to Train after they had already had one informal request for training turned down by their line manager, and that before approaching their Union Learning Representative and pro-actively looking for information after finding out about the existence of the Right to Request Time to Train, they would have not known how to go about putting forward a request. The guidance for employees provided on the Business Link website was not mentioned as relevant by any of the consulted interviewees.

4.2.2 Processes and policies to deal with requests

Some organisations – usually large employers in the public sector – had put in place specific internal policies and protocols on the Right to Request Time to Train, mainly to ensure that they were completely compliant with their obligations under legislation and to make procedures transparent and easy to access for employees. However, these formal procedures were usually established in addition to already existing processes. Only in two cases did employers report having put in place formal processes for the first time in response to the coming into force of the Right to Request Time to Train. One local government employer had put in place specific guidance to guide line managers' decision making processes when dealing with Right to Request Time to Train requests. This was intended to ensure that requests were treated fairly and consistently, but they had not had to alter their other policies otherwise.

In most cases, however, organisations did not put in place ad hoc policies, and Right to Request Time to Train requests were dealt with through the standard processes that were already in place – so either through normal line management processes or through other internal procedures to consider training requests. Many employers interviewed who had not received requests thought that these could be easily dealt with via the normal procedures that were already in place in their organisations. Those employers who had received and processed requests usually reported that these had been dealt with in accordance to the statutory regulations. Hence a meeting had been arranged and formal responses to the request provided to employees in writing within the given timeframe.

Depending on the organisations, requests would usually be considered by the employees' line managers and then signed off by a more senior manager or HR manager.

Not all employers however seemed to have the same level of understanding of their precise statutory obligations under the Right to Request Time to Train. Those who had never received requests had only limited information or understanding of the specificities of the processes which would be involved internally when dealing with requests. This suggests that, due possibly to the relative low take up of the Right, there is limited institutional memory within organisations on these issues, and that in those cases when HR managers or other individuals who had dealt with requests in the past had moved on, their successor only knew very little about how the process had been handled.

4.2.3 Timings

The issue of timings for handling of requests did not emerge as a particularly contentious or problematic area from the appraisal. Employers who had processed requests stated that, as a matter of course, they would tend to consider requests promptly and usually arrange a meeting with the individual in question within maximum two weeks of the employees submitting the request, and that a response would always be provided within the 28 days period as set out in the statutory requirements.

4.2.4 Reasons for refusal or acceptance

Generally, all employers consulted felt that the reasons provided for within the Right to legitimately reject requests were broad enough to cover all the cases which they may be faced with.

In general, employers reported that the main grounds on which requests would be considered when making decisions were whether:

- the training was relevant or not to the individuals' job role, and
- it fit with business needs or potential business expansion.

Some employers said that in most cases where an individual could demonstrate a business benefit or need, then the request would be considered favourably. In some cases, employers opted to delay or not grant a request at a particular time, if there was not the budget or ability to release the staff member at that time, but reported that often requests could be re-considered at a later stage if considered broadly legitimate.

In other cases, the grounds on which requests would be accepted appeared to be much more narrow, largely due to the operational constraints imposed by firms' specific sectors of operation. For example, one large employer in manufacturing reported that request for training for higher-level technical or professional skills would not often be accepted, as they were not seen as immediately necessary for the performance of the business.

'It's always seen as something that doesn't fit with the ability of the business to continue to perform, so it's just not seen as something that happens.'

Large employer, manufacturing sector

Some employers stated that support from individuals' line managers was fundamental for a positive outcome for the request, and that in those cases where that was not present, presenting the request via the Right to Request Time to Train formal procedures would not necessarily increase individuals' chances of success. This, once again, points to the critical importance of line managers' potential discretion in accepting or rejecting requests. This is something that, in itself, the Right did not do much to mitigate as the potential reasons available for refusal of requests were still very broad, and the scope for managers to exercise their own personal discretion in decisions still very high.

In terms of the rate of acceptance or rejection of formal requests, most consulted employers who had received formal requests reported that these had usually been accepted, or that in those cases where it was felt that the requested training could not be supported, alternative suggestions had been made for other training that the individual could access instead.

Findings from the Unionlearn 2013 survey of union representatives also suggested that many employee representatives also found that requests tended to be more successful when a strong business case was made, as that was the factor that appeared to be more important to employers, rather than individual development needs as such. However, union representatives also reported that the grounds available to employers to reject requests were so broad as to make the Right virtually ineffective, as employers always had the option to invoke business-grounds as a reason to decline a request, and often did so even when a convincing case was made by employees. Some consulted union representatives also emphasised that, in this respect, they often had encountered cases in which individual line managers simply 'ignored' requests and refused to take into due consideration employees' arguments, and that little that could be done to reverse decisions in those cases as individual employees would be usually very unwilling to enter a grievance procedure over a training issue.

Several Union Learning Representatives requesting union-related training via the Right to Request Time to Train also reported having been refused on the grounds that the training requested was not job related.

4.2.5 Perceived costs and burdens

All consulted large employers were unanimous in stating that the perceived costs and burdens associated with compliance with the policy were minimal, if not negligible, and that implementation was very straightforward for them.

Due to the fact that take-up of the Right to Request Time to Train had been generally low and that most organisations already had some processes in place to deal with similar requests, the extra administrative burdens or costs created by the regulations for large employers were estimated as being really small, as these had been largely absorbed within existing processes, or non-existent given that no requests had been received.

All respondents stated that the costs associated with compliance with Right to Request Time to Train and with processing of request did not exceed the costs involved in the procedures that were already in place in their organisations for considering training requests or dealing with other line management issues. When asked to estimate the time required to process requests, most employers said that this was hard to quantify separately as it would be time in-built in their normal line management or HR processes. Those employers who commented on this said that the time required to deal with requests would vary between two hours and half a day of staff time, including the time needed to process the request and to discuss it in a meeting.

One employer strongly rejected the assumption that the issue with the Right to Request Time to Train is that it is burdensome for employers, and suggested instead that the main issue was the lack of knowledge and information on how to deal with it.

'I don't think it's difficult to implement, it's about getting that knowledge into the organisation and getting them to realise that it is there.'

Large employer, manufacturing sector

There were no extra costs identified by employers for the provision of training itself arising from the Right: such training was either considered to be a positive investment for the business or, in the case where it was not, there were sufficient legitimate grounds for which those requests could be rejected.

4.3 Conclusions

Overall, the appraisal found that most large employers that had been subject to the Right to Request Time to Train regulations so far already had established procedures and processes in place before the introduction of the Right, to either provide training to employees or deal with requests for training. For this reason, the introduction of the Right had not caused any substantial additional administrative burdens or procedural costs, as employers had been able to deal with requests under the Right through their pre-existing procedures. The evidence gathered from employers, employees and union representatives suggested that in most cases, the regulations on the ground were applied in line with the statutory requirements for what concerned the handling of formal requests. However, in some cases employees still appeared to lack sufficient information about the Right to autonomously prepare requests, and union representatives lamented that the discretion of line managers in taking decisions of whether to accept or refuse requests, whilst formally

in line with the statutory regulations, made the Right often somewhat ineffective in actually leveraging access to training for those employees who faced barriers in this respect.

5 Perceived effect of the policy

Given the predominantly qualitative design of the appraisal's methodology and the relatively low numbers of interviews conducted, the appraisal was not able to capture 'hard' effects of the Right to Request Time to Train in a robust fashion. The appraisal of effects reported in this section – both for what concerns employers and employees – focuses instead on soft effects of the regulations as perceived by employers, employees and union representatives, and should thus be treated as indicative rather than conclusive.

5.1 Perceived effects on employers

5.1.1 Perceived effect on investment in training

The evidence collected from interviews with employers, as well as from the 2013 Unionlearn survey, suggested that the introduction of the Right to Request Time to Train regulations is perceived to *not* have had, so far, a substantial, direct effect on employers' investment in training. This is largely due to the fact that the formal take-up of the Right so far has been low. Moreover, the organisations which have been so far subject to the legal requirements of the Right – i.e. large employers with more than 250 employees – in most of the cases included in the qualitative sample reported already having had a fairly well-established training culture and procedures for employees to request and access job-related training, and did not think that any *additional* investment in training would have been generated in substantial volumes following the introduction of the Right.

For those employers who did not have an established supportive training culture, it appeared that the existence of the Right, in and of itself, had not been sufficient to leverage increased volumes of training that would not have taken place otherwise. Employees in these organisations would often have very limited awareness of the Right, if any, especially if their sectors or organisations had low levels of unionisation. Also employers still had many grounds available to reject requests in those cases in which they did not see the value of training for that individual.

One interviewee – an SME training provider located in the North West – provided a partly differing interpretation, and said that in their experience the introduction of the Right to Request Time to Train had been associated with an increase in employers' investment in basic skills training for their employees. However, this was attributed to the fact that the introduction of the Right to Request Time to Train had coincided, in 2010, with the coming into place of local skills funding in the region they operated in (the North West). The training provider, as a result, saw the introduction of the Right as a potential business opportunity to encourage investment in training on part of local employers:

'We looked for opportunities to make the law relevant, go to companies and say, look, we have opportunities to fund this... so we did see a shift in our business, we started doing more standalone work-based learning rather than apprenticeships

which has always been our core work area... we talked to a handful of large employers and we talked with some of the unions, and with them using this [Right to Request Time to Train] we arranged standalone courses in companies, even NVQ training. [However] demand plateaued when the funding left. Employers might still have to give time to train, but employees don't want this if it's just time. Realistically, when we mostly teach lower level training, employees are not going to pay for this, and companies didn't have any money at the time, so there was only take up when there was also this funding. Employers will always pay... for management training, but we really did see spike in maths and English when this all came in, but it's all plateaued now.'

Training provider, North West

Therefore, it appears that in some isolated case the introduction of the Right may have been associated with a spike in investment, but only when this coincided with the availability of funding opportunities for employers. However, when operating in isolation of funding, the Right did not appear to have substantially levered increased investment in training on part of employers in excess of the normal investment which would have taken place otherwise.

5.1.2 Perceived effect on organisational culture and processes

Most employers consulted as part of the appraisal did not recognise a deep effect of the Right to Request Time to Train on organisational culture around training provision and skills. In general, in those organisations where there was already an established supportive training culture in place, the introduction of the Right to Request Time to Train was of negligible importance.

'We already actively pursue job-relevant training provision for our employees... We wouldn't be willing or able to meet the costs of unrelated training wishes – the costs of that would always be borne by employees, and this policy would not have changed that.'

Large employer, manufacturing

In a similar fashion, in those organisations which did not have an established culture of skills and training provision in place, employer and employee interviewees were more or less unanimous in acknowledging that the introduction of a statutory right to request training, by itself, was not enough to have deep effects on organisation's training culture (which is determined by a complexity of accumulated factors – including skills needs, institutional habitus, sector of operation, production and resource constraints and so on). For example, one large employer in the manufacturing sector thought that the Right to Request Time to Train had had little effect on the company because it was *'not in keeping with the prevailing perspectives on training which we have in the company... We assume that individuals who are hired must be already competent to do their jobs.'*

Some employers and Union Learning Representatives commented that for the Right to Request Time to Train to have more noticeable effects in this respect, the introduction of the Right should have either been accompanied by more prominent promotional activities regarding the value of training to employers and businesses, or, most importantly, by some funding mechanisms to actually support those employers facing resource constraints to fund additional investment in training.

A few employers, however, thought that, in general, the Right to Request Time to Train could have had a positive effect in terms of raising awareness of the importance of training amongst employers, especially in those sectors which did not already have compulsory requirements for training. It was usually assumed that, in general, this would have had indirect beneficial effects on the economy as a whole. However, this was often presented as a general perception rather than something that had been observed specifically in their company.

‘Without a statutory requirement, sometimes companies will cut corners, and somebody somewhere would probably say, “we’ve analysed how many days people are spending doing this and how much money we’ve paid”, and [...] will say, “oh, we should stop that”.’

Large employer, professional services firm

In terms of positive soft effects on organisational cultures, some employers thought that the introduction of the Right to Request Time to Train had led to more internal consistency amongst HR managers in dealing with requests, with a positive, indirect effect on organisational approaches to training as a whole in terms of increased fairness. For example, one local government authority stated that whilst the Right had rarely been formally cited by employees, the fact that it exists had reportedly changed the behaviour of ‘low road managers’, who had *‘previously been unfair and left our staff on an unequal footing when it comes to learning’*. The employer thought that the creation of the Right to Request Time to Train had made line managers’ approaches to training more consistent, and granted staff more equal access routes to training.

However, evidence gathered from union representatives’ interviews still suggested that compliance with the regulations on the ground in this respect was by no means universal, as many employers still did not have a very clear understanding of what the Right exactly required them to do and that great variation existed between line managers approaches when accepting or refusing requests.

5.1.3 Perceived effect on costs and administrative burdens

As already discussed in Chapter 4, the costs and burdens associated with compliance with the Right to Request Time to Train regulations for all eligible, large employers consulted as part of the appraisal were identified as minimal or negligible, as take-up had generally

been low in terms of volume and the vast majority of employers already had systems in place to handle similar requests.

There was also no evidence emerging from the appraisal to suggest that the Right to Request Time to Train had caused increased costs to employers due to grievance procedures being undertaken in the case of requests being rejected. The interviews found no reported case when this had been the outcome, and consultation of union representatives it did suggest that this was not an avenue that union representatives would usually encourage members to pursue, even when requests were rejected.

5.1.4 Perceived effect on skills gaps and employees behaviour

Given that take-up had generally been low, no direct effects of the Right to Request Time to Train on skills gaps they faced were identified by employers – not least because, in those cases where employers already faced and recognised skills gaps, they often already had provision in place to tackle these.

However, most employers were ready to recognise the general positive benefits of staff undertaking training to their organisations and businesses, in terms of increased productivity, effectiveness and ability to perform in their roles.

‘The individual [accessing training] would have been able to perform to a higher standard in their job, so it benefitted the organisation and it has obviously had a long term benefit for the individual as well.’

Large employer, local government

Some employers also recognised positive effects of the Right to Request Time to Train with regard to employees’ behaviour whose requests for training had been accommodated under the Right, in terms of increased motivation and organisational commitment in the long run. There was some recognition, on part of employers, that staff motivation could suffer if training needs or requests were not accommodated or treated with fairness and due consideration by employers.

5.2 Perceived effects on employees

Our appraisal found that the soft effects of the Right to Request Time to Train were usually recognised as having been more substantial from the perspective of union representatives and employees, although views in this respect were quite polarised. When positive effects were acknowledged, it is important to note that in most cases this was not attributed to the direct effect of the Right being exercised formally in its current form. Rather it was attributed to either its indirect effects, or to the counter-factual scenarios of what would have (or have not happened) if the Right had never come into effect.

5.2.1 Perceived effect on access to training and skills development

The appraisal did not find significant evidence in terms of leveraging additional access to training for employees – especially those who may not have previously had easy access to training opportunities available to them. This was mainly because take-up of the Right to Request Time to Train had generally been low – either because of lack of awareness, or because of employees’ unwillingness to have to take unpaid time off to undertake training. It was also because in those cases where employers were not willing to recognise the value of training for a given individual, the design of the regulations was such to still offer extensive grounds for requests to be rejected. In such settings, employees appeared to consider it unlikely that requests would make a difference to their access to training and notably to financial support from their employer, and hence to take up their Right to make requests less often.

However, there was some evidence to suggest that the coming into force of the Right to Request Time to Train had had positive, indirect soft effects on employees’ confidence and ability to take responsibility for and consider their skills needs, and to raise and articulate these to their line managers. In those cases where employees knew about their legal entitlements under the statutory right, several union representatives thought that this had increased their confidence to ask line managers and raise the question of training, even if just in an informal manner, as they knew they had a formalised, statutory right to ‘fall back on’ if their right to raise these issues was to be questioned. One union representative was confident that the Right to Request Time to Train had helped its members secure a wide range of training opportunities, without formal requests ever needing to be made, as it had increased employees’ awareness of their entitlements and encouraged them to make ‘informal’ requests to their managers. Via the introduction of the Right to Request Time to Train, some union branches had also been able to use this as a ‘rallying factor’ to raise the question of training as a collective issue in branch meetings, focusing members’ attention and fostering conversations between employees and their managers which may not have taken place otherwise.

One training provider also indicated that they believed that the biggest effect of the Right to Request Time to Train regulations may have been on employees’ perception of training. Specifically, the effects were expected to have been bigger for employees in firms without established training cultures.

‘They may have done the same jobs for years, without any support, and they thought they didn’t need any training. Sometimes you need to nudge someone to think ‘I could do that, this would be good for the both of us [employee and employer] so I think there has been an increase in thinking about skills with this. Now, this new piece of legislation came at the tail end of a terrible period economically, so

businesses might not be delivering much more at the moment, but it's got people thinking.'

SME training provider, North West

However, consulted union representatives and employees alike were usually in agreement in recognising that the existence of the Right by itself in its current form was not sufficient to increase access to training in those cases where employers were, for various reasons, not open to considering the value of training for their employees. The discussions between employer and employee that take place as part of the statutory procedure appeared to not be perceived as offering significant opportunities to change organisational cultures in which training needs are not discussed or valued. For that to happen, Union Learning Representatives thought that the Right would either need to be accompanied by funding mechanisms that could be used to support requests in those cases where employers faced resource constraints – either to pay for training or to pay for time off for training – or would need to be redesigned to be more incisive and restrictive in the grounds for employer's refusal of requests. However, the political feasibility of both these potential changes was recognised as being very low.

5.2.2 Relationships with line managers and employees' motivation

Some Union Learning Representatives reported that, in their experience, there had been cases where the existence of the Right to Request Time to Train as a statutory right had helped employees to draw line managers' attention towards their training needs, and to initiate or re-start conversations around training in those cases where line managers had been inattentive or inconsistent in dealing with individual's skills needs. In cases where relationships had been strained or had become confrontational, the fact that employees could recur to invoking a formalised, statutory right to have their request considered often helped in overcoming barriers, and was identified as conducive to facilitating more constructive dialogue between employees and their employer. However, union representatives also reported that they had witnessed numerous cases of inattentive line managers simply being able to 'ignore' or side-line requests invoking business needs or budgetary concerns, and that the existence of the Right to Request Time to Train had not necessarily been helpful in solving conflicts in these cases.

Some union representatives also reported that in those cases when a request had been rejected after the formal process had been followed, this could then result in a further straining of relationships, as employees may end up feeling under-valued by their employer. In this respect, some union representatives cited the lack of effectiveness of the Right as a cause for downturns in employee and employer relationships within their company. One stated the '*failure of the Right to Request Time to Train*' has apparently had a negative effect on employers and employees alike, and that, if the Right was made to

work better, it could actually deliver positive outcomes in terms of organisational climate and staff motivation:

'Absenteeism [in the organisation] is ridiculous right now. And I know from experience that this can be helped with training. Motivation [in the organisation] is nearly down to zero, a lot of that is down to a lack of training.'

Union Learning Rep, Health sector

5.3 Problems and limitations

There were no specific issues raised from the perspective of large employers with the current design of the Right which posed problems from the point of view of implementation. Consulted employers who had had experiences with the regulations thought that the legal requirements of the Right were easy enough to comply with, and posed no significant burdens onto their operations. This was partly because large employers generally recognised the Right to Request Time to Train was a very 'light touch' piece of regulation, and because the take-up on the ground had been low so far. However, some employers thought that the Right to Request Time to Train regulations could have a bigger effect in leading to increased investment in training if they were accompanied by funding to support training requests, and by more promotion to increase awareness amongst employees and employers with less of an established supportive training culture.

From the point of view of employees and employee representatives, the main issue which was raised by many respondents was that the Right, in its current design, could not have a bigger effect because it was excessively light touch, and still granted very extensive grounds to reluctant employers to refuse training requests. However, employees and Union Learning Representatives were generally unanimous in recognising that the very fact that the Right existed, even if it was not particularly incisive, was far better than the potential alternative scenario of it never coming into operation.

'The right is very useful because it exists. It's also a last resort. With a sensible employer it's hardly mentioned at all. It's like an electrified cattle fence. Is it used much? Not here. Would things be any different if it was removed? Completely.'

Union representative, Unionlearn survey 2013

6 Potential effect on small and medium sized enterprises

Due to its small-scale scope and limited timeframe, the appraisal was not able to undertake large scale engagement of small and medium sized enterprises as part of the research. Nine small or medium sized employers were interviewed: one was a micro-sized organisation, five were small-sized employers and three were medium-sized employers. The following assessment of the potential effects that a hypothetical extension of the Right to Request Time to Train regulations to small and medium sized enterprises could have is based on the views of consulted micro- and SME employers, as well as of stakeholders and large employers. Some conjectures on potential effects for small and medium sized enterprises have also been made by the research team on the basis of the analysis of effects as perceived by large employers which have been subject to the regulation so far.

6.1 Provision of training in small and medium-sized enterprises

In order to understand how a potential expansion of the Right to Request Time to Train to organisations with less than 250 employees would effect their provision of and access to training for staff, the research investigated the existing arrangements for provision of training within consulted SMEs, to which the Right does currently not apply.

Most of the small- and medium-sized employers consulted already had some arrangements in place for provision of training to their staff. Provision of training was mainly determined by the skills needs and requirements of their sector of operation, more than by size per se. Therefore, consulted small- and medium-sized employers operating in 'skills-rich' sectors reported that they already provided training opportunities to their staff as a matter of fact, and saw this as a natural part of their operations. Examples in this field included companies operating in sectors as diverse as information and technology (ICT), veterinary care, PR and education. The format of training and ways through which training needs for staff were identified varied between organisations. Most organisations provided on-the-job training or in-house training courses delivered by senior members of staff, but many also reported having arrangements in place for staff to access external training, either to broaden their skills set or to meet the needs for continuous professional development and update their skills needs. External training courses offered to staff were offered by a variety of providers – ranging from local colleges, trade bodies, Local Enterprise Partnerships and sector-specific training organisations, and many employers reported being willing to afford staff some paid time off to undertake these, or in some cases support with paying for the cost of the training itself. Some employers reported being willing to support individuals who wanted to develop in areas outside their immediate area of work, when this was seen as bringing a potential benefit to the business in the long run, whilst others limited training provision to areas of work of immediate relevance to individual's job tasks.

For micro-, small- and medium-sized employers operating in sectors with a traditionally less embedded training culture, which in this sample were predominantly organisations in hospitality, attitudes towards training were found to be positive, but the ability to provide training seemed to depend much more crucially on the size of operations. A small hospitality establishment in the East of England reported that they could only afford to provide informal on-the-job training, but had encouraged members of staff in the past to undertake formal qualifications such as NVQs in their own time. However, given that the nature of the workforce was mainly casual or part-time, there was little appetite for training as staff did not see their work in the establishment as 'a career'. At the opposite end of the spectrum, a medium-sized hotel (200 employees) in Wales reported providing formalised training opportunities to their staff, such as externally provided certifications in health and safety, and encouraged staff to undertake NVQs wherever possible, taking advantage of government-sponsored funding opportunities.

Procedures in place for staff to access training were reported to be more informal than in larger organisations. In some organisations, identification of staff training needs and skills gaps happened through regular 1-2-1 and line management processes or annual appraisals; in other cases, processes were more informal and ad hoc, and relied on staff raising the topic with managers in day-to-day conversations. Only one, small organisation reported having a dedicated training allowance in place for staff (£500 and ten days a year per member of staff), but a few others had compulsory training that they offered to staff as part of their induction processes.

The volume of staff requests for and interest in undertaking training seemed to vary quite heavily depending on the sector and nature of the work undertaken by staff. In general, it appeared that employees with high qualification levels or very specific skills sets had greater interest in seeking out opportunities for skills development, whilst this was less the case for employees doing jobs involving more routine tasks. Generally, consulted small-and medium sized employers reported considering requests for training favourably whenever they could, and displayed a positive attitude towards the potential benefits that staff training could have on their organisations. Relevance of training to the business' needs was a primary factor when deciding whether to support or not a request for training. Budgetary constraints, time pressures and availability of cover for absent members of staff were also important factors that employers considered when deciding whether to accept training requests for staff. Unsurprisingly, this was perceived to be a greater barrier for smaller organisations which found it more difficult to manage workload in case of employees' absence from the workplace. In some cases, a lack of appetite from staff to develop their skills set was also reported by employers as a barrier for greater provision of training. This was reportedly the case in organisations in which either staff turnover was very high, or the nature of the work undertaken was more routine-like.

6.2 Costs and administrative burdens

Large employers and consulted stakeholders usually were unanimous in expecting that, if the Right to Request Time to Train was to be extended to apply to all employers regardless of size, the effect in terms of costs to process and handle requests could potentially be greater for small and medium sized enterprises than it had been for large organisations. This was expected to be particularly the case for those predominantly micro- or small organisations which did not have an established HR function or formalised line management processes to deal with training requests, and thus would have had to put in place for the first time some form of semi-formalised processes to handle hypothetical requests they may have received under the Right to Request Time to Train. In this regard, it could be expected that the main costs which small and medium sized enterprises would face would be associated with a) the resources necessary to gather and access information about the policy and their statutory requirements under it, and b) the resources necessary to establish semi-formalised processes to consider or deal with requests in line with their legal obligations. Whilst some of these concerns were also voiced by some of the consulted small- and medium-sized employers, overall these employers did not feel that the implementation of the regulations would place an undue burden on them and on their operations.

6.2.1 Potential costs in set-up phase

Whilst this had not been a problem for any of the large employer organisations consulted, for which the Right to Request Time to Train processes were just a small addition to an already established body of policies and procedures, it would be realistic to expect that the time and resources involved for micro- or small employers to make the 'first step' into establishing some kind of formalised processes to deal with requests could be experienced as a greater burden than had been the case for their larger counterparts. In particular, small employers with less readily accessible sources of information on HR and employment law matters than their large counterparts may have to dedicate some extra time resources to become familiar and understand the regulations, and then to make arrangements to deal with them within their organisation.

Some of the small and medium sized enterprises consulted as part of the appraisal concurred that for smaller organisations without a dedicated HR function the initial implementation of obligations under the Right could prove more challenging. However, none of the respondents cited this as a pressing concern for what concerned their own organisations. Many of the consulted organisations had already some processes in place to consider training needs and training requests (as outlined in Section 6.1), however informal, and therefore thought that they would be able to consider and respond to requests within the specified timeframes without too many difficulties. In some cases, the small number of employees was even considered to be an advantage in this respect, in terms of dealing with administrative burdens arising from the regulations.

‘Once you have any sort of processes in place than the costs involved in dealing with these things is minimal... Of course, if we had fifty staff or so it could be a bit more burdensome, but nothing excessive. I imagine companies that do not have any processes in place may have to incur some costs to set up some sort of recording systems to keep track of requests and whatnot, but once that’s in place it shouldn’t be too difficult to administer...’

Small employer, Information and technology sector, South West

Furthermore, some employers thought that this initial ‘upfront’ cost could be mitigated through the provision and advertisement of easy to access and easy to understand guidance, akin to that already available on the Government website. One small employer thought that the burden of implementation would crucially depend on *‘how simple the process is and what guidance is available’*, and thought that this needed to be made as simple and user-friendly as possible so as to overcome potential resistance from employers. In this respect, availability of support and information from relevant trade bodies or employers’ organisations was also considered important for successful implementation. Another small employer thought that the process could be facilitated by making available to organisations some simple, free to download administrative tools to facilitate the recording and tracking of requests or staff training needs.

The experience of large employers as emerging from this appraisal also suggested that most organisations had not felt the need or obligation, once the regulations had come into force, to invest significant resources into understanding in-depth the regulations and their obligations under them. Many large employers also reported that in their experience requests could easily be handled in an ‘ad hoc’ manner, without the need for particularly formalised proceedings, especially because the volume of formal requests received was usually very low. This expectation was echoed by some of the consulted small and medium employers, who thought that their existing informal arrangements would be sufficient to consider and respond to any requests from staff.

Overall, the evidence gathered reasonably warrants the expectation that even small and medium sized enterprises, if adequately supported through simple, easy to access and easy to understand guidance, could potentially be able, following the initial ‘set-up’ phase, to develop internal informal processes to handle requests in line with the statutory regulations without excessive undue burdens. To facilitate this, it would be important to make processes and guidance as simple and easy to handle as possible even for organisations with limited administrative capacity. However, barriers and difficulties in this respect would certainly vary depending on the size, administrative set up and sector of operation of organisations, and be inversely related to organisations’ size.

6.2.2 Potential costs arising from actual take-up of the Right amongst employees

Without a robust methodology to estimate the rate of potential uptake of the Right following its hypothetical extension to small and medium sized enterprises, any assessment of the potential costs which these employers may incur as a result of this have to be based on the assumptions made in this respect by consulted small and medium sized employers, as well as by drawing parallels and implications from the experience of large employers which has been investigated in this appraisal.

Based on the very low rates of formal uptake of the Right amongst employees of large organisations following its rolling out, there is currently no evidence to suggest that a simple legislative extension of the Right to Request Time to Train to cover small and medium sized enterprises would, by itself, result in a particularly high rate of uptake amongst their eligible employees. Consulted small and medium sized enterprises also tended to share this expectation, foreseeing that if the Right was to be extended in its coverage, uptake on the ground would remain fairly small scale in their organisations. The reasons invoked to support this expectation were varied.

Consulted employers which had established and supportive training cultures within their organisations generally thought that the uptake of the formal Right would be *'minimal'*, as channels were already in place within their organisations to identify skills needs and for staff to request and access training, and employers expected that those informal channels would continue to be used even if a formal Right was established.

'I think that you bring in legislation where you think there is a problem, and here there is no problem... Even small companies already provide a lot of training and communication is a lot better than in larger businesses. I think that if you are a smaller business, you don't need that formality.'

Medium-sized employer, Hospitality sector, Wales

Other employers, however, acknowledged that this perspective may be influenced by their sector of operation, and thought that the introduction of a statutory Right could have more of a potential effect - in terms of uptake amongst employees - in those businesses which operated in sectors where provision of training was not as common due to the nature of work and tasks carried out.

'I don't think we would see much change because our staff all have a professional outlook and want to develop themselves, and they expect us to help them doing that, so we already plan training to fit around people's time and skills needs... I think everyone in our sector would do pretty much the same., we have a natural business

need to give learning opportunities to our staff. Obviously that'd be different if I was running a corner shop or a business based on more routine tasks...'

Small employer, Information and technology sector, South West

However, one micro employer operating in the service sector expected that the largely casual or temporary nature the workforce which dominated in their sector would still lead to low rates of take-up, and that the introduction a formalised Right would not have much effect on this.

'I would imagine the effect to be minimal because most of the people that work in this sector tend to be casual and don't view their work in this sector as a career... So none of my staff would think that they ought to ask for training that isn't immediately relevant to their work with me.'

Micro-employer, Hospitality sector, East of England

This point was also stated by a consulted union representative with experience of working with employees in small employers in the health sector. In his experience, small and medium sized enterprises employees were prone to become heavily invested in their organisation's performance and operations, and thus less likely to exercise their statutory rights if they thought they could in any way cause disruptions to their employers. For this reason, he thought that small and medium sized enterprises were unlikely to experience any disproportionate negative effect from a Right to Request Time to Train equivalent policy, as these staff were probably less likely to choose to utilise it:

'Unless they [employees of small and medium sized enterprises] feel it is absolutely critical for their job, very few try to make opportunities to train with their bosses, as they don't want to question the normal operating procedures.'

Union representative, health sector

One notable exception in this respect was one consulted small employer in the veterinary sector, who already had a fairly generous training offer in place for its staff, but thought that the uptake of the Right on part of employees in the organisation would be nonetheless substantial. This was expected to be especially high amongst certain segments of the workforce for which skills and knowledge development was a particular priority, but whose training wishes exceeded what the organisation was already able to offer or cover for.

'Everyone would be interested, there's a real thirst for knowledge, especially among the nurses... We already have a lot of demand for training especially amongst the nurses, they are aware of lot of the training that it's available out there, and this [Right] would probably increase that... I wouldn't expect as much demand from the

maintenance workers, although since there's more of them, it would actually be easier to accommodate requests from them.'

Small employer, Veterinary sector, East Midlands

Many employers also thought that the rate of actual uptake of any formal Right would be crucially dependent not only on the sector of operation and nature of the workforce, but also on how a hypothetical extension of the Right would be communicated and promoted to employees.

'Ninety five per cent of people it would affect wouldn't even know about it, as with many other employment rights in smaller businesses.'

Small employer, Education sector, South East

The experience of large employers in this respect might substantiate the expectation that uptake may remain at low levels because, even in large organisations with relatively high levels of unionisation and fairly well-developed systems of information sharing amongst employees, levels of awareness of the Right amongst employees had usually remained fairly low. This could reasonably be expected to be the case to an even greater degree in small and medium sized enterprises, which generally have lower levels of unionisation than their larger counterparts and thus lower levels of awareness amongst employees of their statutory employment rights.

This scenario could potentially be different if the extension of the Right to Request Time to Train to small businesses was accompanied by large scale, high visibility promotional activities aiming to raise awareness of the existence of the statutory regulations amongst employees of small and medium sized enterprises. When the Right was first introduced for employees of large organisations, it appears that the vast majority of promotional activities were undertaken by either trade unions or other skills and learning charities such as the Campaign for Learning. It might be expected that promotional efforts by these actors could be replicated if the Right was to be extended to small and medium sized enterprises. However by themselves they may not be sufficient to produce substantial effects in terms of awareness raising, given that the level of penetration of both trade unions and other skills charities amongst smaller employer organisations – especially those without established supportive training cultures, or in lowly-unionised and 'low-road' sectors – would be very limited. Hence, any promotional efforts would probably need to be government-sponsored if they were to have any significant effects in considerably raising awareness. This was something that stakeholders acknowledged would be quite unlikely to take place, given current political and budgetary constraints.

Whilst many consulted small and medium sized employers stated that they would actively promote the Right to their employees if it was introduced, they acknowledged that this may not be the case across the board. In this respect, one small employer stated that

'organisations who are not keen on the management level would easily be able to ignore the Right'.

Other barriers to further uptake of the Right which had been found to be in operation in large organisations – especially absence of supported organisational culture recognising the value of training and unwillingness of staff to take unpaid time off – could also reasonably be expected to be in operation in the same way in small and medium sized enterprises.

Overall, therefore, our analysis suggests that the cost and administrative burdens arising from actual take-up of the Right could be expected to remain fairly low also for small and medium enterprises, because take-up of the Right itself would be likely to not be very high, unless a significant change in the framework conditions surrounding the extension of the Regulations were to be made.

On a related note, many employers - both large as well as small and medium sized - raised the expectation that the potential costs of staff *accessing* training as a result of putting forward a request for time to train invoking the Right could be expected to be higher for smaller employers rather than for large organisations, as they would find it more burdensome to arrange for cover for staff taking time off to train and the knock-on effect on production processes would be more strongly felt. For example, the employer who expected uptake of the Right amongst their staff to be high expressed concerns about the potential costs that may arise from this, because they thought that they would need to find resources in order to accommodate for staff requests - despite acknowledging that the legislation gave employers many legitimate grounds to reject these for business reasons. In this respect, the biggest challenge foreseen was related to finding cover for staff taking time off to train.

'You can't have staff asking and always being rejected as that would make a mockery of the Right... So the cost and time implications could be a real issue, especially if we had say six out of ten staff wanting to do the same course. It's more difficult to make it work in organisations with only fifteen employees.'

Small employer, Veterinary sector, East Midlands

Likewise, other small and medium sized enterprises stated that small organisations would in all likelihood be faced with a trade-off between the short-term costs that may arise from arranging cover for staff being granted time off to train, and the longer term benefits that may arise for the business as a result of that. Some thought that this could be perceived as a significant problem by *'a lot of small employers who would see it as yet another burden, and not really see the benefits'*.

However, this should not be regarded as an effect arising directly from the Right to Request Time to Train as such, because in those cases where employers felt that the

operational constraints of staff taking time off to train were too high, they would still have the discretion under the terms of the regulation to easily decline the request. In this respect, one employer thought that the arguments around the potential negative burden that the extension of the Right to Request Time to Train regulations would place on small and medium sized enterprises had been overstated:

'If it is at employers' discretion, and they have that discretion to say no, and they can sort of justify that, based on the usual exclusions that they cannot afford to let people have time to improve their skills and can't afford to have time to allow people to develop skills, it's quite hard to really defend.'

Large employer, public sector organisation

Nonetheless, even if actual costs may not be high, it is important to pay attention to how these issues may be perceived as potential costs by employers on the ground, as perceptions would be equally important in shaping employers perceptions towards the regulations in case of a potential extension. In this respect, some of the smaller organisations consulted thought it would be particularly important for any hypothetical extension of the Right to be presented not just as a 'right for employees', but also as beneficial for employers in the long run in terms of increased productivity. This would be particularly important in order to overcome potential resistance or fears on part of employers about perceived potential costs arising from take up of the Right amongst staff, and to encourage employers to see these against the possible longer term gains.

6.3 Potential effects on investment in training, skills needs and organisational culture

With regard to the potential effect that the extension of the Right could have on small and medium sized enterprises' investment in training and wider organisational skills culture, the views expressed by employers and stakeholders were more varied.

The SME employers consulted emphasised that contrary to the common discourse, small and medium sized enterprises already have a requirement to provide training to their staff due to their skills needs. All of the SME employers consulted reported that they provided training to their staff, ranging from informal on-the-job training in the case of a micro enterprise to formal externally provided training and even professional qualifications in small and medium-sized businesses. Several SME employers linked training provisions to the needs dictated by their sector of operation. For instance, an SME training provider based in the North West indicated that for many other small and medium sized enterprises, the Right would have less of an effect on their skills culture than the operating conditions of their sector of operation:

'We are an SME, but we work in a skill rich sector. We always have funding cuts, there will always be challenges to make training cost effective, but for lots of small

employers training is vital: it's not an 'option'; the 'burden' of the work we do... is bigger than the burden of this law.'

Medium-sized employer, training provider, North West

A small employer working in a skills-intensive sector shared the view that it is sectoral skills needs rather than size that determine attitudes towards and investment in training:

'We wouldn't see much change (if any) as our staff have a professional outlook and expect to develop themselves, and for us to help them do this.[...] Obviously that'd be different if I was running a corner shop or a business based more on routine tasks.'

Small employer, Information and technology sector, South West

A medium-sized college agreed with this statement, stating that depending on their sector, many small and medium sized enterprises already needed to offer training in order to attract and retain staff. In this respect, they emphasised that it would be wrong to presume that *'large employers can, small employers can't train their staff'*, and expected that for those small and medium sized enterprises with an already established training provision, a hypothetical extension of the Right would probably have a fairly limited effect.

Others stressed that contrary to general expectations, the characteristics of smaller businesses may in fact have a positive effect on organisational culture and internal dialogue about training. A medium-sized employer in the hospitality sector, for instance, argued that the close contact between management and staff in smaller businesses means that

'Communication is a lot better than in a larger business [...] I think that if you are a smaller business, you don't need that formality.'

Medium-sized employer, hospitality sector, Wales

The majority of SME respondents indicated that in light of this, an extension of the Right by itself was not expected to have a sudden, significant effect on their training provision and investment or organisational culture. For example, a professional services firm claimed that an extension of the Right would have "no impact at all" on their activities:

'We do all this stuff anyway, and are encouraging staff to take up training opportunities. Training has a high status within the organisation.'

Small employer, professional services, London

One medium-sized employer in the hospitality sector argued more strongly that as SMEs already provide significant amounts of training, the Right was superfluous:

'I think that you bring in legislation where you think there is a problem, and here there is no problem.'

Medium-sized employer, hospitality sector, Wales

Nonetheless, the majority of consulted parties were in agreement that, in principle, creating further avenues to increase availability of training provision for staff within small and medium sized enterprises was a positive factor that could bring considerable benefits to organisations – in terms of increased engagement with training issues on the part of both staff and management, higher staff motivation, engagement and retention, increased productivity, reduced skills gaps or shortages and greater potential innovation capacity.

Two small and medium sized enterprise employers consulted (both medium-sized organisations) felt that crucially, the Right could encourage employees to take more responsibility for their training and development. A small manufacturer based in the South East, with around 20 employees had faced difficulties motivating staff to train and take on new responsibilities, and thought that a legal, statutory right may potentially have the effect of motivating staff to increase their skills and undertake training, thereby increasing productivity. They saw this as vital as they were situated in a low skilled labour market and needed to 'grow their own' skilled workforce.

'Most people don't want to do stuff they don't have to do, but no one likes to miss out on the stuff they have a right to do [...] If this Right could get staff to think actively about what they could do to help the company, it could only be good thing.'

Small employer, manufacturing, South East

This was despite the fact the employer had no dedicated HR function. The interviewee (manager and owner of the firm) stated:

'I would need to make those decisions [about training]. I would need to make those kinds of decisions now if anyone asked, the problem is that no one does.'

Small employer, manufacturing, South East

A small charity argued that given the right to request time to train, employees of small and medium sized enterprises would be "*more engaged, happier, more productive, more motivated*" and hence more likely to stay with the company.

While many of the small and medium sized employers consulted felt that an expansion of the Right would not affect their businesses directly owing to their established positive training culture, they argued that it might have a positive effect on the organisational

culture and training provision of *other* SMEs lacking such a culture. For instance, a small charity argued:

'The vast majority, a lot of small employers do not have any sort of learning and development, L & D responsibilities, anyone responsible for that, and don't see the need and the importance of that.'

Small employer, charity, South East

A manager of several small businesses argued that the Right would force management in such businesses to engage with matters of training:

'It would bring it [training] to the forefront. People tend to respond to what goes across desks. If people have got applications coming in, it's bound to play a bigger part in middle/senior management's decision making process.'

Small employer, other, East Midlands

Those among the SME employers consulted who believed that the Right would affect training provision and organisational culture in SMEs in principle hence agreed that the overall effect of an expansion of the Right on society and the economy would be positive. Notably, they felt it would help to improve the skills base of the UK workforce and to address skills gaps, and hence increase productivity. A small employer in professional services argued that an expansion of the Right would moreover make training part of '*national culture*'. A small employer in the charity sector highlighted skills gaps facing SMEs and argued that

'If a government can help to reduce those skills gaps [facing SMEs] by putting in place such legislation, companies will be better, people will be better, and companies will make more profit.'

Small employer, charity, South East

A small employer in the technology sector agreed:

'Having everyone in society and at work raising their capability can only be good for individual businesses and the economy as a whole, particularly if it helps to reduce skills under-utilisation along with skills gaps and shortages.'

Small employer, Information and technology sector, South West

However, despite these positive expectations, the SME employers consulted were in many cases sceptical that the introduction of a statutory right for employees to *request* training would in its own right be sufficient to substantially change training cultures within organisations or enable small and medium sized enterprises to overcome the other barriers which currently prevent them from investing more in training.

Union representatives and employers alike pointed out that, for most small and medium sized enterprises, the biggest barrier to training provision was the lack of resources or

funding, and the introduction of the Right without an accompanying funding mechanism to support it was unlikely to lead to significant change. As a medium-sized employer argued:

'Time off to do training relevant to your job is never going to be the problem. [...] I don't think the issue is employers stopping people from going for training, it's the cost. I think if the government did more to help with the cost of training, that'd do a lot more.'

Medium-sized employer, hospitality sector, Wales

Moreover, a number of large and SME employers felt that the effect of an expansion of the Right on training provision and attitudes in smaller businesses that do not already have a positive training culture would be limited. They argued that other businesses might find it more difficult to recognise the business benefits the Right might have for them and would focus on its costs. For instance, a small employer in the professional services sector did not expect an expansion of the Right to shift organisational attitudes:

'Employers either value [training] or they do not.'

Small employer, other, London

One micro-business owner felt that other SME employers might be concerned about investing in training staff who might then leave to take advantage of opportunities for career progression in larger businesses. Hence

'A lot of small employers would see it as yet another burden, and not really see the benefits.'

Micro-employer, hospitality sector, East of England

The charity argued that in order for the Right to make a difference in such settings, *'the way that it is rolled out has to be right'*. If it is presented as concerned with *'what employees have a right to do, it will backfire'*, because it will be perceived as *'yet another initiative for employees with no benefits for business'*.

'The message has to be put in a way that makes them [other SMEs] appreciate the benefits.'

Small employer, charity, South East

A number of SME employers argued that unless employers' negative attitudes were changed, they would simply ignore the Right or find reasons to refuse requests. For instance, a small charity thought that *"95 per cent of people it would affect wouldn't even know about it"* unless it was promoted by management, as with many other employment rights in smaller businesses (SME employer, charity, South East). A micro employer argued that any effect of the Right was condition on its being taken up and requests being granted. It hence appeared 'toothless':

'It's all very well having a right, but will people actually make requests and will those requests be granted if they do.[...] At the end of the day, it's just the right to request, not the right to time to train.'

Micro-employer, hospitality sector, East of England

6.4 Conclusions

Overall, on the basis of the evidence arising from the experience of large employers and from the views of stakeholders and consulted small and medium sized enterprises, it can be expected that a hypothetical extension of the Right to Request Time to Train regulations to cover small and medium sized enterprises may potentially have some more effect than those that had been experienced by large employers. Especially in the case of micro- and small- employers without established HR functions, the potential costs involved in taking the 'first step' to setting up semi-formalised procedures to handle requests could be higher than those reported by large employers. Medium-sized employers with established HR functions, on the other hand, would probably find the regulations easier to accommodate. In all cases, these administrative costs would probably be limited to the set-up phase alone, as in all likelihood, it can be expected that the actual take-up of the Right amongst employees of small and medium sized enterprises would remain, in practice, very low, unless the extension of the Right was accompanied by large scale promotional activities to increase awareness amongst employees. Even in this case, considerable barriers to take-up amongst employees would probably still be in place.

The small and medium-sized employers consulted acknowledged that in principle, the Right might have a positive effect on engagement with training issues on the part of both staff and management in SMEs, higher staff motivation, engagement and retention, increased productivity, reduced skills gaps or shortages and greater potential innovation capacity, and by implication on the economy and society as a whole. However, many of them were keen to resist the perspective that SMEs do not provide training to their staff as a matter of course, highlighting the training activities that already take place in SMEs. Like larger employers with established positive training cultures, such employers felt that the Right would not have an immediate effect on their activities and organisational culture. Furthermore, the evidence suggests that an expansion of the statutory right would not be sufficient in its own right to create a far-reaching shift in employers' attitudes towards investment in training, as this is determined by a combination of several structural factors such as sector of operation, resource constraints and lack of funding.

7 Conclusions

This appraisal of the Right to Request Time to Train was undertaken through a mixed-methods design which sought to gather the views of employers, union representatives, employees and stakeholders about the operation and perceived effects of the Right five years on since its initial introduction, and combined these findings with evidence emerging from the 2012 and 2014 Employers Perspectives Survey (EPS) and other survey evidence. The design of the appraisal means that it has some limitations which may limit the generalisability of the findings.

Nonetheless, the following key conclusions and implications can be highlighted:

- The introduction of the Right to Request Time to Train regulations in 2010 to cover employees of large organisations with more than 250 employees was not perceived to have had an adverse effect in terms of the administrative and regulatory burdens it had placed on employers. Large employers were, by and large, able to accommodate the Right within their existing procedures and processes, and had not encountered specific issues with the practical implementation of the statutory regulations.
- Awareness and understanding of the regulations, however, varied according to employer size, sector of operation and organisational culture, suggesting that there is still some ground to cover to ensure maximum take-up amongst employees and consistent implementation on the ground. Additional promotion could probably be beneficial in this respect.
- The formal take-up of the Right on part of employees of large organisations had so far been limited and, in all likelihood, lower than may have been expected when the Right was first introduced. This was for two main reasons. First the Right was perceived by some employees and employee representatives to be unnecessary, given that other, more generous and comprehensive procedures to request training were already in place in their organisations. Secondly the Right was thought by some not to be substantial enough to function as an effective lever to obtain access to training where needed (in those cases where employers did not have positive attitudes to training or faced structural barriers that prevented them from allowing time off to staff).
- There was however evidence to suggest that the Right could successfully be used by employees to increase access to training in some specific scenarios. Specifically, it appeared that the Right was either used informally, as a reference point that would give confidence to employees to raise and discuss training needs with employers; or as a strategic 'last resort' in cases where all other avenues to demand training had been exhausted. In this respect, even if it was considered to be a 'light touch' piece of regulation, its existence was generally greatly appreciated by employees and union representatives, as its effects, even if not very sizeable, were generally perceived to have been positive and better than what would have happened if the Right had not come into operation.

- Due to the low take-up and the fact that the population of employers to which it had applied so far had been large employers who were already more likely to have established supportive training cultures in place, the soft effect of the Right in terms of increasing investment in training and changing organisational cultures is perceived to have been limited so far. This perceived positive effect on investments in skills and organisational culture could be expected to be greater if the Right was to be extended to SMEs. However, by itself, the extension of statutory regulations is not likely to be sufficient to initiate far-reaching behavioural changes amongst employees and employers, as barriers to the provision of training in SMEs, where they exist, tend to be more structural and related to lack of resources and engrained organisational skills cultures.
- Overall, the concerns about the burdens that the introduction of the Right would place on employers appeared to not have materialised, as take-up on the ground has been limited and requests easy to process and accommodate. A hypothetical extension of the Right to SMEs may cause some additional costs to employers in the initial set-up phase, as micro- and small- employers especially may need to invest some resources to undertake 'first steps' to put in place procedures to handle any potential requests. However, as the actual volume of requests received would probably remain low the majority of consulted small and medium sized employers did not think that the any sizeable burden would be placed on them by an extension of the regulations. Many SME employers already provide training to their staff; hence the introduction of the Right would not constitute a significant change to the status quo. However, it was recognised that careful communication about relative costs and benefits of the regulation would be necessary to overcome the fears that some smaller employers may have about the administrative burdens potentially arising from the regulations. Moreover, employers stressed the positive benefits that would incur to businesses and to the economy, in terms of increased productivity and increased retention, if employees were to actually access relevant training as an outcome of their requests.
- In order for the Right to have a greater effect on employers' investment in training and on facilitating additional access to training on part of employees any extension of the Right to cover SMEs would need to be accompanied by additional public interventions. These could include high visibility promotional campaigns to further increase awareness amongst employers and employees, and/or the establishment of funding mechanisms to partly support the costs of employers' investment in training.

Annex 1: Employers' sample composition

Table 2: Composition of the sample of employers interviewed

Employer	Sector	Size (no. of employees)	Region	RRTT requests received
Employer A	Public sector	>250	East Midlands	Yes
Employer B	Public sector	>250	Scotland	Yes
Employer C	Education	>250	Scotland	No
Employer D	Manufacturing	>250	Wales	Yes
Employer E	Public sector	>250	East Midlands	Yes
Employer F	Education	>250	South West	No
Employer G	Manufacturing	>250	Wales	Yes
Employer H	Other	>250	East Midlands	No
Employer I	Education	>250	South East	Yes
Employer J	Education	50-249	North West	No
Employer K	Legal, professional, administrative	>250	London	Yes
Employer L	Manufacturing	10-49	South East	No
Employer M	Transport & logistics	>250	South East	No
Employer N	Education	50-249	South East	No
Employer O	Construction & engineering	>250	Scotland	No
Employer P	Legal, professional, administrative	>250	South West	No
Employer Q	Manufacturing	>250	West Midlands	No
Employer R	Legal, professional, administrative	>250	National	No
Employer S	Hospitality	>250	South East	No
Employer T	Other	10-49	South West	No
Employer U	Hospitality	2-9	East of England	No
Employer V	Charity	2-9	South East	No
Employer W	Hospitality	50-249	Wales	No
Employer X	Other	10-49	East Midlands	No
Employer Y	Other	10-49	London	No

Figure 6: Sample composition: region

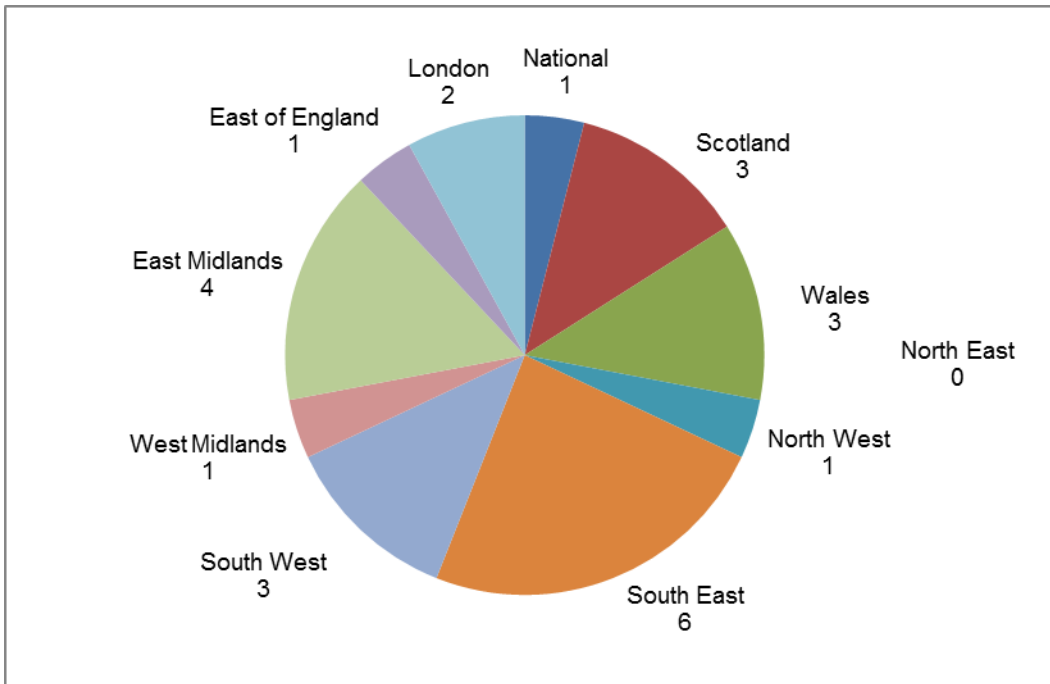


Figure 7: Sample composition: sector

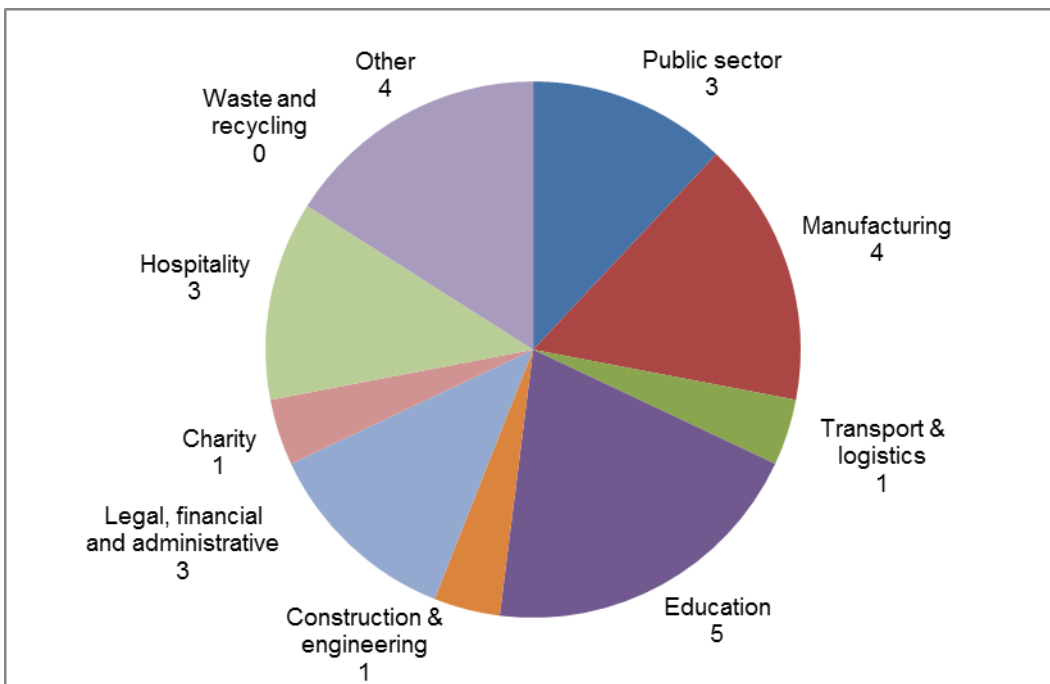


Figure 8: Sample composition: size

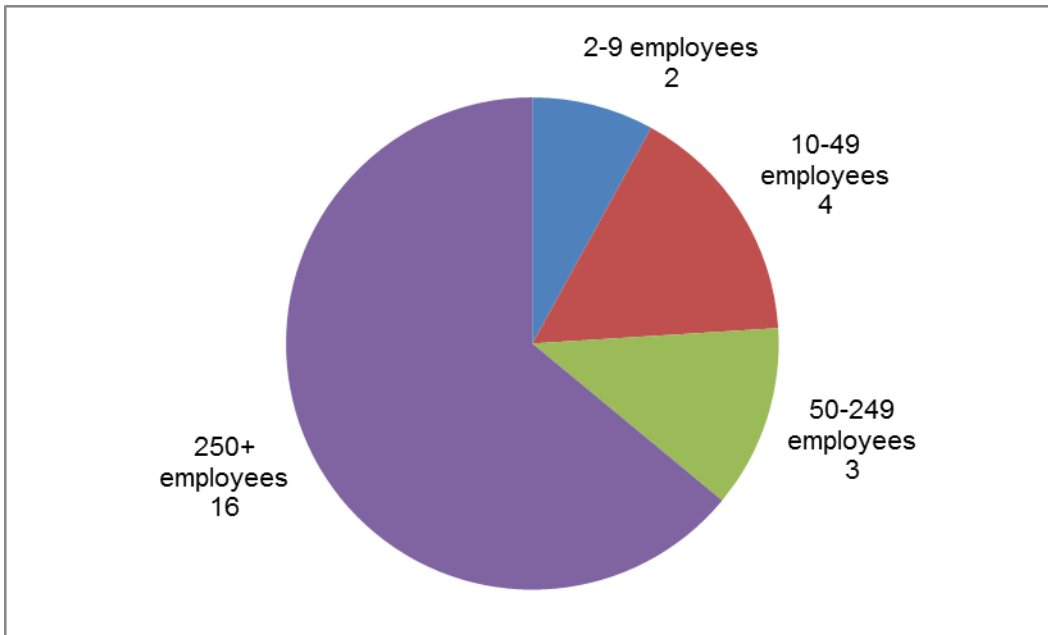
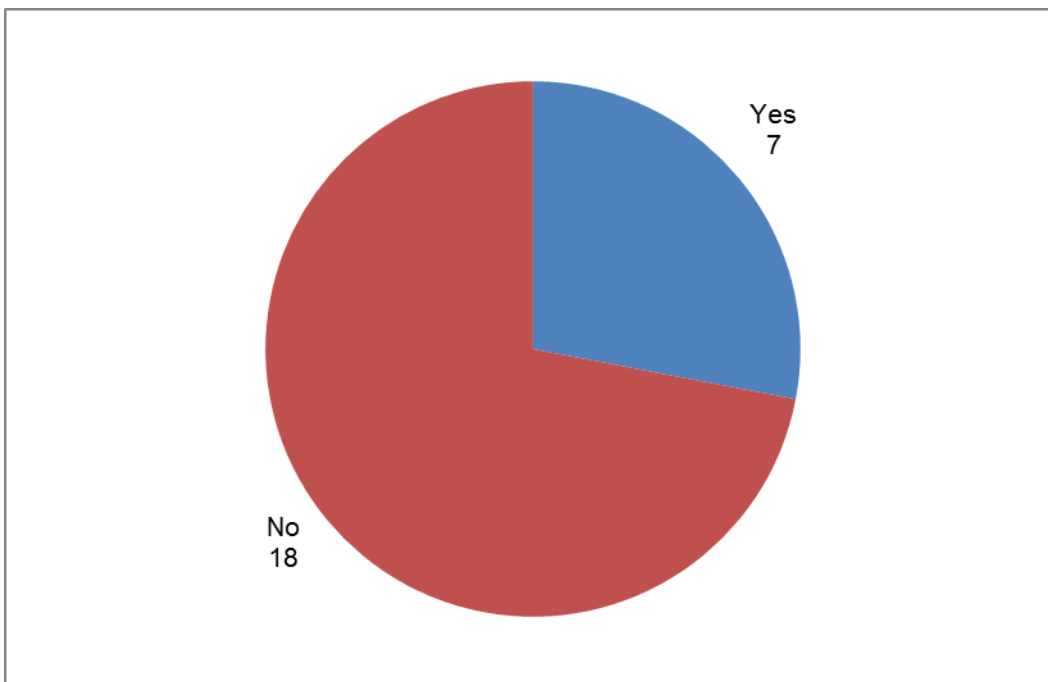


Figure 9: Sample composition: RRTT requests received



Annex 2: Detailed description of methodology

Qualitative data collection and analysis

Sampling of employers, employees, ULRs and stakeholders

The starting point for the **identification of eligible employers** was the UK Commission for Employment and Skills' Employer Perspectives Survey. The survey used stratified sampling and deliberately overrepresented larger businesses relative to their share of the UK enterprise population. IES was granted access to the contact details of a sub-sample of participating employers from the 2012 and 2014 waves of the Survey who had consented to be recontacted for the purposes of further research. Only representatives of large establishments were questioned about their awareness of and experiences with the Right to Request Time to Train as part of the Survey. IES initially contacted only those employers from the 2014 sample who had reported having received requests. However, due to low response rates, the sampling strategy was adjusted to include respondents from the 2012 sample who had received requests. IES also contacted selected employers who had stated that they had heard of employees' right to request time to train, but had not directly received requests, as the initial sample was weighted heavily in favour of public sector and educational organisations. The Employer Perspectives Survey sampling frame provided the contact details of the individuals who had completed the survey, i.e. the most senior person at a site responsible for human resources. However, in many cases, individuals left their roles in the time that had elapsed since completing the survey, and new staff often had no knowledge regarding their organisation's experience with the Right.

As the Employer Perspectives Survey only questioned representatives of large establishments regarding their awareness of the Right, a different sampling frame had to be used to recruit small and medium-sized employers. For this purpose, a sub-sample of establishments with less than 250 employees drawn from across England, Wales and Scotland was obtained from the population of SME employers who had responded to the 2013 Employer Perspectives Survey and had given consent to be recontacted for future research.

Due to the short time frame available for the conduction of fieldwork, IES contacted eligible employers by phone to introduce IES and the research, and if possible to obtain consent and arrange a suitable date for an interview. Interviews were confirmed by email, and potential respondents were assured of the anonymity of their responses and were provided with further information about the study in the form of a shortened interview topic guide if requested.

The **identification of employees** eligible to participate, i.e. those who had experience with requests under the Right, was based on a snowballing approach. Both employers and Union Learning Representatives who described having experience with requests were asked to forward an invitation to participate in the research to employees involved in requests. A number of Union Learning Representatives had moreover made requests of their own.

Union Learning Representatives were invited to participate in interviews on IES's behalf by UnionLearn. UnionLearn could draw on its internal mailing lists to send out an email introducing IES and the research, inviting Union Learning Representatives to contact IES.

The starting point for the **identification of stakeholders** to be interviewed was the list provided by BIS in the ITT. This comprised

- Trades Union Congress (TUC), UnionLearn, Confederation of British Industry (CBI), Institute of Directors (IoD), Federation of Small Businesses (FSB), NIACE and BIS officials.

In consultation with BIS, the decision was made not to interview BIS officials, as this seemed less relevant at this stage of the lifecycle of the policy.

IES identified a number of additional stakeholders as potentially relevant to the research, namely;

- Chartered Institute for Personnel and Development (CIPD) and the Campaign for Learning. British Chamber of Commerce, UKCES, and ACAS.

In most cases, IES was able to identify the individuals most likely to be in a position to respond to questions about the Right based on its existing connections with these organisations or on publically available information. The stakeholders were initially contacted by email, and were introduced to IES and the research project. IES then followed-up with a telephone call to obtain consent and arrange a suitable date for the interview. During the first exchanges with the stakeholders, it became clear that the organisations selected do not tend to track the effect of the Right to Request Time to Train on their constituents. Even stakeholders with an interest in ensuring employees' access to training that were involved in promoting the Right after its introduction are no longer active in this area. As a result, a number of stakeholders indicated that they would have nothing to contribute to an interview, and declined participation for this reason.

Interviewing methodology

The interviews with all participant groups took the form of semi-structured, qualitative interviews. During the inception phase of the project, detailed topic guides for each group

(i.e. large employers, small and medium-sized employers, Union Learning Representatives, employees and stakeholder organisations) were developed based on the research questions. Key themes were standardised across the groups in order to ensure that comparisons could be drawn between the perspectives of different groups.

The interviews were conducted via telephone by IES researchers. They varied in length depending on participants' levels of experience of the Right, but tended to last between 30 and 45 minutes. The researchers reassured participants of the confidentiality and anonymity of their responses⁶ at the beginning of each interview, and their consent was requested to record the interviews. Full transcriptions were considered inappropriate in light of the restricted timeline, budget, and aims of the project. Recordings were hence used by the researchers in compiling detailed field notes immediately following the interviews.

Qualitative data analysis

The analysis followed the principles of framework analysis (Huberman and Miles, 2002), and was structured by the aims and objectives of the appraisal. IES developed a thematic framework based on the key themes and questions of the research (i.e. awareness and understanding, (barriers to) implementation, success factors, role of social dialogue and organisational culture, perceived effect on training etc.). The detailed notes compiled for each interview were then screened by the researchers who had conducted the interviews, classified and organised based on the categories of this framework. Additional categories emerging from the data were added to the framework in an iterative process. The audio recordings were consulted where required. The findings structured by the thematic framework were then drawn out to provide more general conclusions, which were combined with short illustrative examples of single cases of best practice or issues in relation to the Right.

Survey data analysis

Employer Perspectives Surveys 2012 and 2014

The findings from the qualitative interviews were complemented by small-scale **secondary analysis of data from the Employers Perspective Survey (EPS)**. The EPS is a large-scale, telephone-based survey of establishments. The EPS sampling population encompasses establishments across all sectors in England, Scotland, Wales and Northern Ireland. All establishments with two or more individuals working at them are

⁶ Representatives of stakeholder organisations were instead asked whether they were happy to speak on record on behalf of their organisation.

included. Its sampling frame is the Inter-Departmental Business Register, with the sample primarily drawn from the Experian database. The EPS employs stratified sampling, by nation, establishment size, and industrial sector, with size and sector quotas calculated on an interlocking basis within each country. IES considered the results of the 2012 and 2014 waves of the EPS. The 2012 Employer Perspectives Survey had a sample size of 15,004 establishments, 14,004 of which were in England, Scotland and Wales. Among these, 637 had at least 250 employees. The 2014 Employer Perspectives Survey had a sample size of 18,059 establishments, of which 16,054 establishments were in England, Scotland and Wales. Among these, 500 were establishments with at least 250 employees. The response rate of the 2012 EPS was 42 per cent; that of the 2014 survey was 41 per cent (cf. UKCES 2012, 2014 – Technical Reports).

The aim of IES' use of the EPS data as part of the appraisal was to draw out any further insights about the characteristics of employers who had received requests under the Right or were aware of the policy. Both the 2012 and the 2014 waves of the Employer Perspectives Survey only questioned respondents representing establishments with at least 250 employees about their awareness of the Right.⁷ The restriction meant that it was not possible to make statements about the levels of awareness of the policy among smaller establishments, which might know about the policy despite not being subject to it, or about awareness and uptake among small establishments that are part of large employing organisations and hence subject to the Right.

The EPS covers employers' perspectives on recruitment, training provision, the level of engagement with various forms of vocational and occupational qualifications etc. While it would have been highly relevant to conduct analyses linking employers' awareness of and up-take of the Right to such information, this was not feasible due to the small sample sizes. Hence IES' analyses are largely descriptive and focus on bivariate correlations between key variables like country and sector. Conclusions should be treated as indicative only.

Unionlearn survey of union representatives 2013

The appraisal also drew upon the **Unionlearn survey** of union representatives on the effect of the Right to Request Time to Train, which had been conducted by Unionlearn in 2013. The survey adopted a convenience sample, and was disseminated through an open invite placed on the Unionlearn website. In practice, many union learning

⁷ The EPS appeared to assume that only establishments with at least 250 employees were potentially subject to requests under the Right to Request Time to Train. However, smaller establishments that are part of large organisations might potentially be subject to requests. The restriction meant that it was not possible to make statements about the levels of awareness of the policy among smaller establishments, which might know about the policy despite not being subject to it, or about awareness and uptake among small establishments that are part of large employing organisations and hence subject to the Right.

representatives and interested parties would have been notified of the survey through Unionlearn's email alert system, where individuals can opt in to receive details about Unionlearn activities. It is therefore not possible to work out a survey response rate, given that there was no clear sampling frame from which survey respondents were sampled. 560 respondents submitted data to the survey. Of those, c. 50 per cent were industrial representatives/shop stewards, c. 45 per cent were Union learning representatives, c. 35 per cent were Union health and safety representatives, and c. 25 per cent performed other union roles. Just over one per cent of responses came from HR employer-side industrial relations staff.⁸

IES was granted access to the headline findings of this survey by Unionlearn, including the open field responses. These findings provided additional insights into the operation of the Right on the ground from the perspective of employee representatives. It hence added valuable information to the findings from the qualitative elements of the research, in which employee side views were less well represented. However, the conclusions from the survey have to be treated with caution, as IES was not able to independently verify the nature of the sampling frame and methodology of the survey.

⁸ N.b. Respondents could indicate that they performed multiple roles within their employing organisation.

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