working families

changing the way we live and work

Review of Employment Practices in the Modern Economy – response from Working Families

1 Introduction

1.1 Working Families is the UK's work-life balance charity. We support working parents and carers to tackle discrimination, achieve flexibility in the workplace, and navigate the in-work benefits system through our free legal advice service. We also work directly with employers on enabling them to create family friendly workplaces that work for people and the economy.

1.2 We welcome the opportunity to submit evidence to the Review. Our evidence is based on the experiences of parents using our Legal Advice Service, our work examining best practice amongst employers, and the Modern Families Index, our annual, comprehensive survey of working parents across the UK. Our submission outlines the key points that we planned to raise at the evidence session where we were scheduled to speak which was unable to go ahead due to the General Election. We are especially keen to see the Review recommend:

- Levelling the playing field on parental rights between workers and employees;
- Extension of parental rights to people who are self employed;
- Meaningful flexibility as the norm in the labour market;
- Consideration of childcare within industrial strategy; and
- Abolition of employment tribunal fees.

We are also enclosing some of our existing publications and submissions which we believe are relevant to the scope of the Review.

1.3 We are working in partnership with the Child Poverty Action Group on the Britain Works project, examining how to improve the experience of work for low-income families in the UK, and the employers they work for. This is the subject of a separate submission.

1.4 If you have any queries or would like any further information, about this response or the Britain Works project please contact

2 Flexible working in the UK

2.1 Flexibility in the UK labour market is complex. On the one hand, all employees who have 26 weeks of service have a legal right to request flexible working but, on the other, many working parents feel they cannot make use of this right because of culture and practice where they work. Our research found that almost half of working parents are uncomfortable raising the issue of their workload and hours with their employer[1].

2.2 There are different issues with flexibility for people in different parts of the labour market. Research with parents in Scotland found that those on lower incomes have less access to flexible working than higher income groups but they are as likely to take up flexible working when it is available to them[2]. We have also conducted polling showing that parents earning over £70,000 a year are far more likely to be working flexibly than those on lower incomes[3]. There is therefore an emerging 'flexibility gap' where many parents recognise that flexibility would help achieve a better balance but feel this is something that they cannot attain.

2.3 And there are also issues for those parents who do work flexibly. Our research found that overall, 37% of working parents feel resentful towards their employer about their work life balance. But we also found that 37% of parents who work flexibly feel resentful towards their employer about their work life balance[4]. Flexible working is not an end in and of itself – especially if it simply means flexibility to work long hours at a time or place of the employee's choosing. Or if it means that 'flexibility' is imposed upon employees, leaving them with uncertainty about their future working hours or income. We need secure, properly designed jobs that fit in the hours allocated to them.

2.4 Crucially, policy solutions must tackle the twin challenges of delivering enough time and enough money for families to thrive. Currently, only one in five families feel that they have the right balance for their family[5].

3. Security, pay and rights

3.1 During the lifetime of the review there has been significant commentary and focus on the implications of different employment statuses in the UK labour market. The experience of parents and carers calling our free Legal Advice Service mirrors many of the concerns that have been raised.

3.2 Advising parents on short or zero-hours contracts or contracts whereby their employer has classified them as 'self-employed' has been a consistent feature of the work of our Legal Advice Service in recent years. For some parents and carers, working for an agency or working casually does help them balance their responsibilities at work and at home. But for many of the parents and carers we speak to on these type of contracts, flexibility is a façade - and working hours are being imposed on them by their employer. A

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[1] Working Families and Bright Horizons *Modern Families Index 2017*
[2] Family Friendly Working Scotland *Family Friendly Working and Low Income Families* 2017
[3] *Flexible working? Only if you earn enough* Working Families press release 5 October 2017
[4] Working Families and Bright Horizons Modern Families Index 2017
[5] Ibid

refusal to work shorter, longer or simply different hours can easily lead to there being no work at all.

3.3 For parents and carers this type of insecure work, with varying and unpredictable weekly hours, can result in significant variations in income, making it hard to arrange (or retain) childcare and disrupting social security payments. They also make it very difficult if not impossible for workers to successfully request a change in their hours or working pattern to accommodate a change in their family circumstances, or to resist a problematic change in their hours or working pattern imposed – without consultation – by their employer.

> Simon is a single parent working for a provider of services to the elderly. Although employed on a zero-hours contract, Simon has always worked five full days, including Saturday and Sunday, each week. After an unavoidable change in his childcare arrangements, Simon made a formal request to swap the weekends for two days in the week. However, this has been refused by his employer, and Simon fears he may have to give up his job.

3.4 Because of their employment status 'workers' are not entitled to the same family-friendly rights 'employees' are – parental leave and time off for emergencies, for example. We are concerned that some rogue employers are actively using zero hours contracts as a way to evade their legal responsibilities. For example we have seen instances where the hours offered to a pregnant woman are steadily reduced so that sometimes she is no longer working enough to be able to claim Statutory Maternity Pay, or women are told on their return from maternity leave that there are no shifts available for them.

> Mandy had worked for a bank on a zero-hours contract for several months without any indication from her employer of dissatisfaction with her work. However, when Mandy informed her employer she was pregnant, her manager stated there had been complaints about her work. When she challenged this, the manager changed the story to "you haven't been working hard enough". Mandy's hours were then reduced to zero. In effect, she was summarily dismissed.

3.5 In short, parents and carers on these types of contracts are afforded little of the security, autonomy and control they need to combine work and family life that parents and carers with more secure contracts and fixed income streams enjoy. Some parents in insecure work believe they have no rights at all because of their employment status. In many instances parents are often afraid of asserting the rights they do have. The fact that some have a legal right to request a working pattern that matches their caring responsibilities, for example, is of little value when there is such an imbalance of power.

3.6 These issues could be addressed by:

1) **Levelling the playing field on parental rights between those classified as 'workers' and those classified as 'employees'.**
   This would protect and support parents and carers in insecure work, remove any incentive on the part of the employer to exploit their staff and simplify the complicated employment status landscape for employers and employees. This change would mean, for example, that all agency workers would have the right to paid time off for antenatal appointments, (not just those who have been with a hirer for 12 weeks), that all agency workers would be entitled to statutory maternity, paternity, adoption or shared parental leave (not just those employed by the employment

business/temporary work agencies), and that all workers would be able to ask for unpaid parental leave (not just employees with a year's service).

2) **Extending parental benefits to self employed people.**
In the 2017 Budget statement, the Government recognised the need to examine historical differentials in National Insurance contributions for self employed people in exchange for fewer parental rights. And there has also been a significant growth in self employment in the UK, meaning that many more families include self employed people. Extending parental benefits would mean, for example, that self employed fathers would receive Statutory Paternity Pay to take time off when their child is born, and that self employed adopters would qualify for Statutory Adoption Pay. Further consideration should also be given to the impact of the requirement to take complete leave from work in order to qualify for Maternity Allowance, as this can have a detrimental impact on both self employed women's business sustainability and on their family's wellbeing. The Review could explore a more flexible approach to combining work and care, while remaining eligible for statutory allowances.

3.7 The Review could also consider calling on the Government to require businesses to publish the number of staff with these types of contracts and how long they have worked for them. This would make it less attractive for employers to use these types of contracts in the long term.

4 Under-represented groups

4.1 Working parents make up more than a third of the UK workforce. But the way we design, organise and advertise work restricts many people with family responsibilities from being economically active in the first place; causes many others to downshift or drop out of the labour market entirely, and is a barrier to returning to work.

4.2 Flexible and well-designed jobs are an essential part of ensuring that under-represented groups in the UK labour market are achieving their full potential. Our research shows that currently too many jobs involve working damagingly long hours: one in five UK parents working full time is putting in the equivalent of five extra weeks a year in unpaid work. A third of working parents feel burnt out regularly[6]. At the same time, there is a shortage of quality part-time jobs, resulting in 1.5million people being stuck in roles below the level of their skills and experience[7].

4.3 We need a culture change in UK workplaces – jobs should be designed and recruited flexibly as the norm rather than the exception. We developed the *Happy To Talk Flexible Working* strapline through a government working group, to enable employers to make explicit the flexibility attached to each of their vacancies[8]. Anecdotal evidence from employers confirms that applying flexibility on a vacancy-by-vacancy basis, specifying what is on offer, is more effective in recruiting candidates than general or blanket statements about being a flexible employer.

4.4 Crucially, this approach prompts hiring managers to firstly think through the best way of getting the job done - to meet the needs of the business in terms of hours required,

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[6] Working Families and Bright Horizons *The Modern Families Index 2017*

[7] Joseph Rowntree Foundation and Timewise *How flexible hiring could improve business performance and living standards*, 2016

[8] www.workingfamilies.org.uk/campaigns/happy-to-talk-flexible-working/

location and timing of the work, and form of contract – and the flexibility that is appropriate for the role. And secondly to design the job in a way that matches the hours attached to it. As long as we continue to rely on employees to request flexible working, we will continue to see post hoc changes made to roles to accommodate flexibility as a 'favour' to an employee, rather than a way to do business[9].

4.5 The UK civil service is already a flexible employer, winning a Top Employers for Working Families Innovation Award in 2016 for the civil service job share finder tool[10]. The Review should explore the extent to which the Government can lead by example as an employer offering meaningful flexibility, using the *Happy To Talk Flexible Working* strapline. And how the Government can propagate best practice amongst suppliers, and offer support to smaller employers to bridge knowledge and expertise gaps in moving to flexible recruitment.

4.6 Lack of affordable childcare is a major barrier to entering paid employment at all, or limits the hours and type of employment that parents can undertake. There has been a marked increase in the cost of childcare in recent years, with parents in the UK spending a far greater proportion of their wages on childcare costs than parents in other OECD countries[11]. Our research suggests that seven out of ten working fathers and eight out of ten working mothers would consider their childcare needs before taking a new job or a promotion[12]. There is a risk that both genders now feel they have to downgrade their careers if they have children, reducing the UK's capacity for productivity and growth. The estimated annual costs of under-utilising women's skills alone is estimated to be between 15 and 23 billion pounds[13].

4.7 This 'childcare crunch' is experienced even more acutely by parents with disabled children. Specialist childcare to meet the sometimes complex needs of disabled children is in short supply and is considerably more expensive than care for children who are not disabled. Our evidence suggests that one in three in-work parents of disabled children is paying more than £10 per hour for childcare, more than twice the national average cost . Two-thirds of parents in work who have disabled children and who took part in our research have avoided promotion, declined promotion or accepted a demotion in order to balance work and caring responsibilities[14].

4.8 The commitments that the Government has made to increase the availability and affordability of childcare for working parents are welcome but these need to recognise the flexible and varying needs of families, and should be evaluated according to their impact on parental participation and progression in the labour market. While the 15 hour childcare offer was introduced to support child development, the increase to 30 hours is predicated on parents being in work. Further investment is needed in the UK's childcare infrastructure so it delivers for working parents, employers and the economy - this should be explicitly included in the Government's industrial strategy.

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[9] Working Families *Top Employers for Working Families Benchmark Report* 2016

[10] Working Families *Top Employer for Working Families Special Awards – the case* studies 2016

[11] Equality and Human Right Commission *Women, Men and Part-time Work* 2013

[12] Ibid

[13] Department of Work and Pensions (*Flexible Working: working for families, working for business A report by the Family Friendly Working Hours Taskforce* 2010

[14] Working Families *Off balance: parents of disabled children and paid work* 2015

4.9 Maternity discrimination is on the rise in the UK – with 54,000 women a year treated so badly at work that they give up their jobs[15]. Our experience is that the introduction of employment tribunal fees is discouraging good claims where women have experienced this type of discrimination. The number of our callers to our helpline feeling able to pursue a case to tribunal has fallen to close to zero. The Government estimates that the introduction of fees has meant pregnancy and maternity discrimination claims falling by 40% and sex discrimination claims falling by 70%[16].

4.10 Additionally, many workers who win their claims never receive a penny of compensation. Given that the Government has had to issue 60 penalty notices as a result of 164 warning notices to employers for failure to comply with orders to pay compensation since April 2016, this clearly remains a significant problem[17]. For the women we support, they may have saved a modest amount of money to support their new families, used their savings to go through the process of pursuing justice at an employment tribunal, been successful at tribunal, and yet end up in a situation where they and their family don't receive any of the money that they are owed.

> Camilla was on a zero hours contract but was working at least 30 hours every week. When she became pregnant, suddenly she found there were no shifts at all available for her – even though all her colleagues continued their usual hours. In effect, she was fired. She had just over £3,000 in savings but there was no way she could afford to spend nearly half of them on an uncertain tribunal case, especially with a baby on the way.

4.11 Abolition of employment tribunal fees would ensure that women who have experienced pregnancy and maternity discrimination are able to pursue justice, to ensure that there is no incentive for employers to flout the law, and to ensure that efforts to increase women's participation in the labour market and close the gender pay gap are not undermined.

Working Families
May 2017

Enclosures:

- Modern Families Index 2017
- Top Employers for Working Families Benchmark Report 2016
- Working Families responses to:
  - Business, Energy and Industrial Strategy Committee Inquiry into the future world of work and rights of workers
  - Building Our Industrial Strategy Green Paper
  - Women and Equalities Select Committee Fathers at Work Inquiry
  - Women and Equalities Select Committee Gender Pay Gap Inquiry
  - Women and Equalities Select Committee Pregnancy and Maternity Inquiry

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[15] Equality and Human Rights Commission *Pregnancy and maternity-related discrimination and disadvantage: summary of key findings* 2015

[16] Ministry of Justice *Review of the introduction of fees in the Employment Tribunals: consultation on proposals for reform* 2017

[17] Employment Tribunals Service: Written question - HL4265, 4 January 2016

Working Families response to Building our Industrial Strategy Green Paper

Question 2 Are the ten pillars suggested the right ones to tackle low productivity and unbalanced growth? If not, which ones are missing?

It is disappointing that the strategy does not include childcare in the ten pillars, given that other factors which enable employment such as skills development are included. The Department's own figures estimate that working parents make up around 36% of the UK workforce: the ambitions of the strategy cannot be met without supporting this part of the labour market.

For many working parents, lack of affordable childcare is either a barrier to entering paid employment altogether, or limits the hours and type of employment they can undertake. There has been a marked increase in the cost of childcare in recent years, with parents in the UK spending a far greater proportion of their wages on childcare costs than parents in other OECD countries[1]. One in five parents would like to use more childcare but cannot due to the cost and one in ten cannot find provision for the hours that they need[2]. Overall, affordability and availability of childcare are an issue for four in ten working parents[3].

We are concerned that childcare is also having an impact on career progression – our research suggests that seven out of ten working fathers and eight out of ten working mothers would consider their childcare needs before taking a new job or a promotion[4]. There is a risk that both genders now feel they have to downgrade their careers if they have children, reducing the UK's capacity for productivity and growth. The estimated annual costs of under-utilising women's skills alone is estimated to be between 15 and 23 billion pounds[5].

This 'childcare crunch' is experienced even more acutely by parents with disabled children. Specialist childcare to meet the sometimes complex needs of disabled children is in short supply and is considerably more expensive than care for children who are not disabled. Our evidence suggests that one in three in-work parents of disabled children is paying more than £10 per hour for childcare, more than twice the national average cost[6]. Two-thirds of parents in work who have disabled children and who took part in our research have avoided promotion, declined promotion or accepted a demotion in order to balance work and caring responsibilities.

The commitments that the government has made to increase the availability and affordability of childcare for working parents are welcome but these need to recognise the flexible and varying needs of families, and should be evaluated according to their impact on parental participation and progression in the labour market. While the 15 hour childcare offer was introduced to support child development, the increase to 30 hours is predicated on parents

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[1] Equality and Human Right Commission (2013) *Women, Men and Part-time Work*
[2] Working Families and Bright Horizons (2017) *The Modern Families Index 2017*
[3] Ibid
[4] Ibid
[5] Department of Work and Pensions (2010) *Flexible Working: working for families, working for business A report by the Family Friendly Working Hours Taskforce*
[6] Working Families (2015) *Off balance: parents of disabled children and paid work*

being in work. A commitment to evaluating current policy with a view to significant review of, and investment in, the UK's childcare infrastructure so it delivers for working parents, employers and the economy should be explicitly included in the Industrial Strategy as part of employment policy.

We are pleased to note that the strategy includes the recognition that improved productivity means working smarter, not harder. This is a point we have long recognised in our work with employers on building the business case for flexible working. International evidence shows that not only are there decreasing returns on added working time, the returns in the form of added production diminish more rapidly for longer working times[7].

However, the strategy does not include any detail on how the ambition for UK employees to work smarter rather than harder will be achieved. In particular, there is no reference to flexible working or new models of working to maximise productivity and work with the grain of people's lives.

We would welcome the opportunity to work with the government on joining up policy debates and solutions around flexibility and productivity – flexible and well-designed jobs are an essential part of ensuring that UK employers get the best out of their workforce and of ensuring that people in the UK labour market are achieving their full potential. Because the situation now is that too many jobs involve working damagingly long hours: Working Families' 2017 *Modern Families Index* shows that one in five UK parents working full time is putting in the equivalent of five extra weeks a year in unpaid work. 30% of working parents feel burnt out regularly – rising to 46% among millennials. Asked what they would do about burn-out, 29% of respondents would go off sick, a quarter would cut back hours and 11% would resign even without alternative work to go to.

At the same time, there is a shortage of quality part-time jobs, resulting in 1.5million people being stuck in roles below the level of their skills and experience, which is a cost to the economy[8].

As the UK enters new trading relationships it is crucial that outdated approaches to work – working longer hours and its consequent effect on employee productivity and retention – do not become even more prevalent. The strategy could encourage a fresh approach to job design and working hours, so that people can perform better at work in appropriately designed roles which do not damage their wellbeing or family lives. We would like to see the Industrial Strategy include a move to flexibility by default, and recommend that the government promote the use of the *Happy to Talk Flexible Working* logo and strapline, developed for the DWP by a private sector employer working group chaired by Working Families[9].

We would be interested to explore the potential for a 'concordat' approach for the government to engender best practice amongst businesses. Family Friendly Working Scotland, a partnership project led by Working Families, has been working with the Scottish government on increasing employer understanding of the benefits of, and the take-up of, flexible working. The Scottish Business Pledge includes asking businesses to develop

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[7] International Labour Office (2012) *The effects of working time on productivity and firm performance: a research synthesis paper*

[8] JRF and Timewise (2016) *How flexible hiring could improve business performance and living standards*

[9] https://www.workingfamilies.org.uk/campaigns/happy-to-talk-flexible-working/

family-friendly workplaces as a way to boost competitiveness and performance[10]. A similar approach in England may help businesses strengthen their commitment to agility, paying economic dividends.

Question 4 Are there important lessons we can learn from the industrial strategies of other countries which are not reflected in these ten pillars?

Nordic countries have more generous leave entitlements for fathers and mothers that promote gender equality in the workplace and facilitate women's participation at work. These are bolstered by high quality, state subsidised childcare that is available when parental leave runs out.

We believe that promoting gender equality at work and facilitating women's participation should be central to the Industrial Strategy, and to achieve this we recommend the introduction of independent, properly paid, leave for fathers.

Question 14: How can we enable and encourage people to retrain and upskill throughout their working lives, particularly in places where industries are changing or declining? Are there particular sectors where this could be appropriate?

We welcome the commitments to supporting people to retrain and upskill throughout their working lives. The strategy should consider the particular needs of parents looking to retrain. We support the recommendation from the Family and Childcare Trust and Joseph Rowntree Foundation for the childcare element of Universal Credit to be extended to jobseekers and parents participating in work preparation activities, including education and training, who do not have access to another childcare support scheme[11].

We welcome the recent announcement that the government will invest £5million in 'returnships' to enable people who have taken time away from the labour market for caring responsibilities to return to employment. However, we are concerned that this was described by some commentators as a policy exclusively for mothers or for women. This perpetuates the notion that it is women who should bear all childcare responsibilities, and that initiatives to support re-entry to the labour market are 'a favour' to mothers, rather than a way to maximise skills in the UK economy. The government should make clear that this programme is open to everyone who has taken time out for caring responsibilities, and that it will support the ambitions of the Industrial Strategy.

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[10] https://scottishbusinesspledge.scot/

[11] Joseph Rowntree Foundation (2016) *Creating an anti-poverty childcare system*