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Employment Regulation

Part B: Employer perceptions of
maternity and paternity leave and
flexible working arrangements

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Glossary of abbreviations

APL – Additional Paternity Leave

KIT – Keeping in Touch days

NICs – National Insurance Contributions

OPL – Ordinary Paternity Leave

RRFW – Right to request flexible working

SMP – Statutory Maternity Pay

SML – Statutory Maternity Leave

SPP – Statutory Paternity Pay

SPL – Statutory Paternity Leave

Executive Summary

Background

In 2011, the Modern Workplace Consultation presented a range of proposals designed to increase flexibility in the workplace, in line with the Government's 'family-friendly', 'work-life balance' policy programme. This report considers employers' views about shared parental leave and extending the right to request flexible working to all employees (under the current legislation only parents and carers have this right). Since undertaking this research, the proposals for shared parental leave have changed; see footnote below for the Government's current proposals.¹ The earlier proposal, which was presented to employers during this study allowed either parent to use any remaining maternity leave after the mother had returned to work, providing that both parents met certain qualifying conditions. The first 18 weeks of maternity leave can only be taken by the mother and leave must be taken in blocks of at least one week. Currently, eligible mothers can take 52 weeks in total, 39 of which are paid, and this will remain unchanged, if that is what the mother wants. Currently, there are two weeks of paid paternity leave and eligible fathers may take up to 26 weeks of Additional Paternity Leave, once the mother has returned to work. Shared parental leave allows for greater flexibility, as parents do not lose their remaining leave when they return to work. Instead, either parent can return to work for a period (for example to work on a specific project) whilst the other cares for the baby. They can then take more leave at a later date if they choose.

Research design and aims

This report examines employers' current experiences of managing maternity and paternity leave and requests for flexible working, as well as views about the proposed changes to leave and flexible working. Specifically this research explores:

- How employers manage maternity and paternity leave and pay, the challenges posed by their regulatory obligations, and their motivations for acting in the ways they do;
- How employers manage employee requests for flexible working, the challenges posed by their regulatory obligations, and motivations for acting; and
- Employer views of a set of early proposals for shared parental leave and an extension to the right to request flexible working.

¹ The Government has since published their response to this consultation:

<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/m/12-1267-modern-workplaces-response-flexible-parental-leave>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82793/12-1269-modern-workplaces-response-flexible-working.pdf

The research used a qualitative interview approach with a wide spread of businesses in terms of size, industry sector and geographical location. Subsidiary outlets of larger firms were excluded from the sample as their employment practices are often dictated by head office. A total of 42 businesses took part in the research. Interviews were conducted between the 16th April and 27th July 2012. A single interview was conducted with micro and small businesses with either the owner or manager as it was likely that there was only one person who was the decision maker. For larger businesses a case study approach was adopted and interviews were conducted with an individual holding a designated HR function as well as one or two line managers.

Maternity leave and pay

Administration of statutory pay and leave was not considered overly burdensome. Employers were aware that some steps (such as confirming the date of leave in writing) were required by law and carefully checked the rules each time they dealt with maternity / paternity leave.

Getting up to date information on statutory requirements was considered straightforward. Small and micro employers checked online or via third parties (payroll providers, lawyer / accountant). Larger organisations had written policies and/or HR professionals were on hand to advise line managers.

Agreeing and planning for maternity leave was considered more challenging, although the impact of paternity leave was minimal as periods of absence were short and treated as holiday.

Recruiting temporary staff to cover absence was not always possible, either because specialist skills were required or because small employers, or those struggling in the recession, could not afford to pay for temporary or agency workers.

Employees' plans sometimes changed at short notice, for example starting leave early, particularly if they booked their leave date close to their due date or giving very little notice if they wanted to delay their return late. As a result, employers did not always have sufficient cover in place and thought that maternity leave could be unpredictable. However, notification periods were rarely enforced as this was considered impractical and potentially damaging to relationships with staff.

Employers were cautious about communicating with employees about maternity leave. They believed that negotiating with employees could be considered discriminatory, if they felt under pressure to change their plans. Therefore, there was limited contact with employees who were on maternity leave; this was usually employee-led and dependent on personal relationships with staff.

Only very large organisations had a systematic approach to managing employees' return to work. Even here though, the HR managers in one large organisation actively discouraged line managers from contacting staff who were on leave for fear of being seen to pressurise the individual to return to work early.

Overall, the use of Keeping in Touch (KIT) days was not common. For professional employees, this tended to be employee-led and largely for work-related activities (e.g. for client meetings, training and events). Use in large organisations for non-professional staff was more informal, such as socialising with colleagues or bringing their baby into work over lunch breaks.

Although employers ultimately supported maternity leave and pay, both for business reasons and because it was morally right, it was considered expensive and disruptive for employers. Attitudes to maternity leave and pay differed according to size and financial stability:

- **Unfair to employers** – micro and small employers, particularly those who were struggling to cover costs during the recession, thought that the cost of recruiting and paying for temporary cover, as well as the disruption and impact on productivity were too burdensome for small businesses. (It was apparent that some of these employers were not aware that they could reclaim statutory pay).
- **Balances the needs of employers and employees** - For some medium and large businesses offering enhanced pay was not affordable given the current economic climate. Statutory pay and leave was considered an adequate compromise.
- **Unfair to employees** – Statutory pay was not considered to be a liveable wage for employees. Therefore, where affordable, medium and large employers offered enhanced maternity and paternity pay as this was considered part of being a responsible employer.

Flexible working practices

Across all employers, allowing staff a degree of flexibility was common practice, although the degree of flexibility differed according to employer size and business culture:

- **Informal** – common amongst small and micro employers, employers allowed flexible arrangements (i.e. working from home or working hours) on an ad hoc basis or for a short period;
- **Reduced hours and part time** – again, small and micro employers allowed some employees (those with a 'valid reason' such as caring responsibilities) to change their working arrangements permanently;
- **Flexi-time** – usually within professional teams in small and medium organisations, flexi-time was agreed in principle for all staff and employees could work longer or shorter days to meet project or personal requirements;
- **Flexi-working package** – tended only to be viable in medium and large businesses, employers offered all the arrangements discussed above as well as a range of less common practices, such as term-time working, job sharing and

compressed hours. These were always agreed on a formal basis following the statutory request for flexible working.

Benefits of flexible working

For flexible working to be considered worthwhile, employers said that they would want to see tangible benefits to the business, as well as the accepted 'paternalistic' reasons, such as improving employee morale. Employers that operated flexibly noted the following benefits:

- Employees worked longer hours and were more efficient;
- The business could operate out of hours in order to engage with international clients or members of the public who worked during the day;
- Flexible working was valuable in both attracting and retaining staff, particularly more experienced or senior staff who were more likely to require flexible working arrangements to meet family commitments;
- In one case, offering flexible working allowed a large public sector organisation to avoid redundancies as many employees chose to reduce their working hours.

Barriers to flexible working

Practical barriers (such as, fixed operating hours and limited staffing capacity) prevented some micro and small businesses from offering flexible working arrangements. There were also cultural or attitudinal barriers that prevented take-up amongst employers that had the capacity to do so. These were:

- The potential to create divisions within the workforce because flexible arrangements were suitable for some staff (managerial / back office) but not for others (shop floor / client facing);
- Employees made unreasonable requests and did not take into account the impact on the business;
- Part time employees were less engaged and less concerned about completing work to a high standard.

The formal right to request flexible working requires employees to show that their request could be implemented without disruption to the business. This ensures employees did not make requests which were unreasonable. However, small and micro employers preferred to agree arrangements informally. Some of these employers indicated that employees did not consider the impact on the business and therefore arrangements had to be short-term.

Shared parental leave

Whilst employers were supportive of proposals to enable mothers to return to work sooner, they were not convinced that shared parental leave was the most effective method as it would be difficult for mothers and fathers to maintain continuity if they were regularly taking leave. Employers believed that arranging cover for multiple short periods of leave would be more complex than planning for an extended absence. There was a tendency for employers to focus on this aspect of the proposal as it presented a number of challenges. These were:

- Additional work would be required to arrange cover for several short periods of leave;
- The difficulty and expense of hiring temporary workers for each period of leave, particularly as it may not be possible to secure the same worker for every period of leave and this would require training more than one person;
- It may prove impossible to re-arrange cover if plans changed at short notice.

For these reasons, employers indicated that it may not be possible or worthwhile to recruit temporary staff to cover absences, particularly for professional posts where temporary workers required a long time to bed in. Therefore, work would have to be redistributed within the team, which would increase their workload.

Employers were also concerned that men may start to take more paternity leave than they had in the past, although they did not think this would happen straight away as this required a significant cultural shift. It was not considered likely that men would take significant amounts of time off work to take responsibility for childcare, particularly in male-dominated working environments.

It was also assumed that employers would need to liaise with one another to ensure that parents did not take more than their shared leave entitlement. Employers were concerned about the additional administrative burden this would create.

Shared parental leave may be considered unfair by other staff who would have to take on additional work during short periods of leave if providing cover was not viable. It may also be unfair to employers who offered generous enhanced pay and leave as both male and female workers would take more leave, particularly if their partners worked in organisations which had a less generous remuneration package. Employers said this would discourage them from offering enhanced pay and leave packages.

Right to request flexible working

Employers thought that extending the right to request flexible working to all employees would have a limited impact because they could still decline requests that were detrimental to the business. However, there was a perception across the employers that flexible working was intended for employees with family commitments

and indicated that they would not be inclined to accept requests unless employees had a 'good reason'.

There were mixed views about changing from a statutory process to a code of practice. On the one hand, decisions could be made more quickly and this reduced the risk of being taken to a tribunal for missing a stage in the process. On the other hand, the statutory process was transparent and ensured that employees were clear about the reasons why a request was turned down. Employers were concerned that 'reasonable consideration' was too subjective and this may result in further disputes with employees.

Conclusions

- Current practices (maternity, paternity and flexible working) were embedded in employers' practices and were not considered overly burdensome, although employers were concerned about the rules relating to discrimination and were consequently overly cautious when communicating with staff on maternity leave;
- Family friendly working practices were largely supported in principle, because they were considered morally right, but not considered practical by some employers;
- Statutory pay was not considered enough to live on, but in the current climate employers could not afford to offer enhanced pay;
- Flexible arrangements were offered across the sample but few used formal processes to agree arrangements – those that did find this was useful in reaching a mutually beneficial agreement;
- There was limited support for shared parental leave. It was considered difficult to manage and employers questioned whether there would be sufficient appetite in any case;
- Employers' response to changes to flexible working indicated that statutory processes had merit as they ensured transparency and employers were clear they were operating according to defined standards.

Implications

- Employers will need to be convinced that there is an appetite amongst mothers and fathers for shared leave arrangements and that this is effective in enabling women to return to work earlier;
- The one week minimum period of leave may prove to be a controversial element of the proposal, particularly if employees request multiple periods of leave or one week on / one week off arrangements;

- Minimum notification periods were considered unenforceable. Given employers' anxiety about employee's plans changing at short notice, guidance on other ways to safeguard against this would be beneficial.
- Maintaining better contact with employees whilst on maternity leave should be encouraged as this may help to reduce unpredictability of return dates;
- A clear definition of 'reasonable consideration' of requests to flexible working was considered vital to avoid disputes with staff. In fact, employers that used the formal right to request flexible working procedure said they preferred to follow a defined process as this was more transparent and gave rise to fewer disputes.

1. Introduction

This report results from a programme of research focused on how employers view, and respond to, the employment regulatory framework. The research is divided into two distinct parts. The first focuses on the strategies that employers adopt when working within the provisions of the current labour market regulation framework, in terms of taking someone on, managing staff, and letting staff go. The findings of this part of the research are reported elsewhere². The second part of the research addresses the theme of work-life balance and explores employers' responses to *family friendly policies* including maternity and paternity leave and flexible working.

1.1 Policy Background

Individual employment rights to maternity and paternity leave, and the right to request flexible working (RRFW), are key legislative planks in the UK government's 'family-friendly', 'work-life balance' policy programme. While rights to maternity pay and leave have been on the statute book since 1975, paternity leave and the RRFW are of more recent vintage; both were introduced in 2003 (Pitt 2011). By providing and extending these entitlements, policy-makers have sought to balance two objectives: to enable employees to combine work, family and caring responsibilities in a manner which suits them while, at the same time, limiting the burdens the rights potentially impose on employers, such as creating greater uncertainties for business planning (BIS 2011).

1.2 Research Aims

This report investigates employer experiences of managing maternity and paternity rights, and employee rights to request flexible working, and considers their likely responses to the proposed introduction of Shared Parental Leave and the proposed changes to the RRFW. Specifically, the study explores:

- How employers manage maternity and paternity leave and pay, the challenges posed by their regulatory obligations, and their motivations for acting in the ways they do;
- How employers manage employee requests for flexible working, the challenges posed by their regulatory obligations, and motivations for acting; and

² <https://www.gov.uk/government/publications/a-research-paper-on-employer-perceptions-and-the-impact-of-employment-regulation>

- Employer views of the proposed introduction of Shared Parental Leave, the revised Right to Request Flexible Working and related changes proposed in the Modern Workplaces consultation document.

1.3 Methodology

The research adopted a wholly qualitative approach, exploring the practices of private and public sector businesses through a series of in-depth interviews. A key element of the design was to ensure that a wide range of views were captured, both in terms of the nature of the business as well as different players and decision makers within the business.

In discussing family friendly and flexible working practices with micro and small employers, there was likely to be only one person who was the decision maker. In these instances we conducted a single interview - usually with the owner or managing director. For larger companies, however, there was often a designated HR function that set the employment policies, with decisions being made either at the HR level or further down the organisation at unit, or line manager level. For these employers, we adopted a case study approach, interviewing a representative of the HR function to explore their policies and practices and one or more line managers and / or an HR administrator to understand how the policies are put into practice at the local level.

Most of the in-depth interviews were conducted face-to-face and lasted up to an hour in length. In three instances, interviews were carried out by telephone so as to meet the availability of the respondent. Telephone interviews were carried out only as part of case studies, where at least one respondent was interviewed face-to-face.

1.3.1 Achieved sample

The sampling framework was designed to provide a wide spread of businesses in terms of size, industry sector, experience of maternity / paternity leave, whether they have any flexible working arrangements and geographical location. The achieved sample is shown in the Table 1 below:

Table 1: Achieved sample

Total number of employers	42 ³
Employer size	
Micro (1-9)	10
Small (10-49)	14
Medium (50-249)	9
Large (250+)	9
Industry sector	
Manufacturing & Construction	10
Manual Services	8
Office Based Services	17
Retail / Hospital / Accommodation & Catering	4
Arts / Education	3
Sector	
Private	37
Public	5
Experience of maternity or paternity leave	42
Flexible working arrangements	
Formal	18
Informal	14
Informal agreement, then formal process	7
No experience	3
Location	
England	26
Scotland	8
Wales	8

1.3.2 Data collection and analysis

All of the interviews were exploratory and interactive in form and were based on topic guides (Appendix A), which allowed questioning that was responsive to the issues which arose during the course of the interview.

The topic guide covered the following issues:

- A mapping exercise, exploring the processes of managing maternity and paternity leave;
- Employers' understanding of their statutory obligations and views about the impact of maternity and paternity leave and flexible working on their business;

³ For micro and small employers single interviews were conducted; for the nine medium size business case studies, 16 interviews were conducted; for the nine large business case studies, 18 interviews were conducted.

- Employers' responses to the proposed introduction of Shared Parental Leave;
- Employers' responses to the proposed changes to the rights to request flexible working; and
- Overall beliefs about flexible practices in the workplace.

In order to test the research approach and materials, a small pilot study of ten interviews was undertaken between the 16th and 23rd April 2012 inclusive. As a result of the findings, the discussion guide was revised and simplified in agreement with BIS. The main stage of fieldwork was conducted between 30th May and 27th July 2012.

All the interviews were recorded and transcribed verbatim for subsequent analysis. The transcribed interviews were subject to a rigorous content analysis (Matrix Mapping), which involved systematically sifting, summarising and sorting the verbatim material according to key issues and themes within a thematic framework. Themes were constructed based on a preliminary review of the data, as well as the coverage of the topic guide and the researchers' experiences of conducting the fieldwork. Data from each interview transcript was then summarised and transposed under the appropriate subject heading of the thematic matrix. Matrix mapping allows the analyst to review the summarised data; compare and contrast the perceptions, accounts, or experiences; search for patterns or connections within the data and seeks explanations internally within the dataset.

The findings have been illustrated with the use of verbatim quotations. The quotations have been edited for clarity but care has been taken not to change the respondents' meaning in any way - alterations are shown using parenthesis and ellipses. Quotations attributions will include the size of the business and the job role of the respondent.

1.4 Structure of the Report

Following this overview of the research methodology and objectives, the report is structured as follows:

- Chapter 2 - is a literature review, providing context to the research findings;
- Chapter 3 - describes employers' practices relating to maternity and paternity leave and pay, and explores the drivers of these;
- Chapter 4 - describes how employers manage flexible working arrangements;
- Chapter 5 - explores employers' responses to the proposed introduction of Flexible Parental Leave;
- Chapter 6 - explores employers' responses to the proposed changes to the right to request flexible working (RRFW); and
- Chapter 7 - draws together findings and presents a set of concluding comments.

2. Literature review

2.1 The UK Legal Context

In this section, we set out the principal maternity and paternity rights, and the key elements of the Right to Request Flexible Working (RRFW). These rights are complex and have evolved over time. Both the eligibility conditions and the scope of the entitlements afforded have expanded, partly as a response to European Union Directives. Employers have specific legal obligations towards pregnant employees, mothers, fathers and carers with regards to paid and unpaid time off work. Government conducted the Modern Workplaces consultation on proposals to reform maternity and paternity rights, and the RRFW (BIS 2011) Although not published at the time of this research, Government has responded to the parental leave element, proposing to introduce Shared Parental Leave and pay by 2015 (HM Government 2012)⁴. Government is consulting stakeholders on the administration of the proposed new system of Shared Parental Leave and Pay and Acas has launched a consultation on a draft Code of Practice for the RRFW (BIS 2013). The consultations are now closed.

Pregnant employees have rights to paid time off for ante-natal care, maternity leave and pay, and protection against unfair treatment or dismissal, although eligibility conditions vary for different rights. At the time of this research, employees were required to inform employers of the pregnancy at least 15 weeks before the expected week of childbirth and must tell them when they plan to start their statutory maternity leave and pay (SMP). Mothers were entitled to 52 weeks statutory maternity leave. Qualifying pregnant employees were entitled to 39 weeks Statutory Maternity Pay (SMP), the first six weeks at 90 per cent of average gross weekly earnings, followed by 33 weeks at a flat rate for 2012/13 of £135.45 per week (or at 90 per cent of salary if this is less) and 13 weeks unpaid leave.⁵ Employees could work up to 10 days (Keeping in Touch days) during maternity leave without losing entitlement to SMP. Mothers were entitled to return to the same job following the first 26 weeks of maternity leave, and entitled to return to the same job, unless it is not reasonably practicable to do so, in which case they were entitled to return to a similar job of equal standing during the second 26 weeks of maternity leave. For current entitlements see the Government's online information portal.⁶

Employees' terms and conditions are protected and normal employment rights (except pay) are retained. Dismissal or selection for redundancy for a reason connected to pregnancy, birth or maternity leave is automatically unfair. Employees are required to give employers eight weeks notice if they plan to return to work before the 52 week maternity leave period is up; no notice is required if the full 52-

⁴ Government response to consultation: <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/m/12-1267-modern-workplaces-response-flexible-parental-leave>

⁵ Qualification depends on length of service and earnings.

⁶ <https://www.gov.uk/maternity-pay-leave/overview>

week period is taken and employers can assume this will be the case unless they are notified by the employee. Employers are free to offer their own enhanced pay and leave packages, above the statutory entitlement, in order to attract, retain and motivate staff, and are entitled to recover up to 103 per cent of statutory maternity payments from government, depending on the level of National Insurance Contributions (NICs) paid.⁷ Employers are required to notify employees on maternity leave about workplace changes they would have been notified about had they been at work.

Statutory Paternity Leave (SPL) entitles fathers employed by current employers for 26 weeks to up to two consecutive weeks paid leave within eight weeks of the birth (Ordinary Paternity Leave, OPL) which they must take in a single block; Ordinary Statutory Paternity Pay is paid at the same rate as SMP. Employers may, as with maternity practices, implement their own enhanced paternity pay and leave packages. Under Additional Paternity Leave (APL), fathers may take up to 26 weeks leave in addition to OPL after the 20th week following birth and the mother has returned to work without using her entire statutory maternity leave entitlement. Again, employees' terms and conditions are protected during and after the leave period.

Employees with 26 weeks continuous employment at their current employer who are parents of children aged under 17, or disabled children aged under 18, or are responsible for caring for other adults, have a statutory right to request a flexible working pattern that their employer must consider seriously; employers can only reject the request if there are good business reasons⁸. Flexible working patterns refer to a wide range of practices that differ from the 'standard' full-time, Monday to Friday, 9-to-5 working week at a fixed workplace. These include reduced hours, job-sharing, starting and finishing at different times, flexi-time arrangements, home working, compressed working weeks and annualised hours. Employees are required to make their requests in a written application, stating that the request is being made under the statutory right to apply for flexible working, and setting out the desired working pattern and how the employer might accommodate it. Employers should meet with employees within 28 days to discuss the application and should notify employees of their decision within 14 days of that meeting. Employees have the legal right to make only one request for a changed working pattern per year, although employers may voluntarily consider employee requests at any time if they wish.

Following the 2011 Modern Workplaces consultation the government decided to implement Shared Parental Leave, intended to enable parents to share the maternity leave period in a more flexible manner than the law currently permits (HM Government 2012). The proposals for a revised RRFW extend the entitlement beyond parents and carers to all employees, and aim to simplify the statutory

⁷ Smaller employers with an annual liability for Class 1 NICs of less than £45,000 are able to reclaim an additional 3 per cent to compensate for NICs paid on statutory maternity pay (HMRC 2012).

⁸ Allowable business reasons for rejecting a request can be found here: <https://www.gov.uk/flexible-working/after-the-application>

procedure for making and responding to employee requests for a changed working pattern.

There is little up to date evidence on how employers manage their flexible and family-friendly working practices. Most studies are now several years old and this has been a fast-moving area of policy and legislation in recent years; for instance, Additional Paternity Leave and Pay came into force in April 2011. This study helps to fill the gap in the evidence base by exploring employer attitudes to flexible and family-friendly working, their particular employment practices, the benefits of such practices, and the challenges and constraints such practices pose. In the aftermath of the global financial crisis and recession, many businesses are struggling to survive. Employers may not perceive implementing flexible and family-friendly working practices as a priority - or, alternatively, they may attach greater importance to such initiatives in order to recruit, retain and motivate the skilled labour required to survive and prosper in difficult times.

2.2 Literature on Flexible and Family-Friendly Working Practices

There are two broad types of research on flexible and family-friendly working practices: studies carried out by employer/business groups and academic studies often conducted on behalf of government. Employer-based studies tend to take a critical view of maternity and paternity rights, and of the RRFW. Business groups, although they often agree in principle with government objectives, emphasise the difficulties employers face in implementing flexible and family-friendly working practices and the likely impact this may have on business performance and the national economic recovery (HCAPPSBG/FSB/ACCA 2009; FSB 2010, 2011; CBI 2011; IoD 2011). Although the empirical data supporting such claims is not always presented, maternity rights are perceived as imposing heavy burdens upon employers, particularly smaller ones. Problems include the administration costs associated with processing and making payments to employees, loss of important skills, covering maternity leave absences through recruitment or redistribution of workloads among existing employees and any associated training, a perceived inability to communicate with employees on maternity leave and late notification by mothers of decisions not to return to work or to change their working arrangements. Small businesses employ more women and young people (Urwin 2011) and so may experience maternity leave frequently. Such burdens, it is argued, deter employers from recruiting women of a certain age.

Employees' right to request flexible working is perceived by some as unnecessary, administratively cumbersome, and as introducing an undesirable formal element into what are depicted as satisfying informal relations between employees and their employer (e.g. FSB 2010). Such rights are considered unnecessary because employees may request changed working times from their employer on a voluntary basis already; a new legal right is not needed to do this. Surveys report that many small businesses already use part-time workers, employ workers on flexible hours or permit staff to work at home.

Implementing maternity and paternity rights is seen as adding further complexity to payroll administration, which diverts employers, especially micro and small ones, away from productive, profit-seeking activities into unproductive, regulation-handling tasks, or as increasing the administrative workload of dealing with employee requests (HCAPPSBG/FSB/ACCA 2009). Furthermore, the requirement for employees to apply for a flexible working pattern in writing, and for employers to respond in kind, is argued to be anathema to most small employers. Such formalisation is perceived as undermining the personal, informal approach to people management that employers and employees prefer (FSB 2010).

Employer/business groups have also been critical of the changes proposed in the *Modern Workplaces* consultation. Proposals concerning Shared Parental Leave are considered to impose further costs on employers and the exchequer, while extending the RRFW to all employees is believed to produce negative rather than positive impacts on employers (IoD 2011). Extending the scope of the RRFW beyond parents and carers to all employees would aggravate the burden imposed on employers. On the other hand, the proposal to replace the current statutory procedure for requesting a change in working patterns with a duty on employers to consider requests in a 'reasonable manner' supported by a statutory code of practice is welcomed (IoD 2011). The Federation of Small Businesses has called for a complete and simplified reform of maternity and paternity leave and for micro firms to be exempted from the extension of the RRFW for all employees (FSB 2012).

Academic studies tend to take a less employer-centred approach, instead focusing as much on employee perceptions and take-up of their legal entitlements as on employer attitudes and responses. The Third Work-Life Balance Employer Survey data show that approximately a third of workplaces reported employees becoming pregnant during the previous two years, with most employees taking maternity leave.⁹ A large majority of employers (80 per cent) whose employees had taken maternity leave reported paying Statutory Maternity Pay (SMP) with 15 per cent reporting higher pay than the statutory minimum (Hayward et al. 2007). Three in ten workplaces, 29 per cent, report fathers taking paternity leave within the previous two years, although in most cases this was a single employee. The vast majority of fathers taking leave took Statutory Paternity Pay. Approximately, one in five workplaces offered enhanced paternity pay and leave packages beyond the statutory minima.

Data from employees suggests that almost three quarters of fathers who took time off following the birth of their baby took some or all of their leave as paternity leave (Chanfreau et al. 2011). Half of those taking paternity leave took the statutory two weeks. Fathers taking paternity leave tended to work in large private or public sector organisations, in organisations where family-friendly working arrangements were available, and to receive higher rates of pay.

⁹ The Third Work-Life Balance Employer Survey is a workplace-, rather than employer-based survey, involving 1,492 private and public sector workplaces with five or more employees. So, some workplaces may have been part of larger organisations.

The Third Work-Life Balance Employer Survey data demonstrate that employer availability and take-up of flexible working practices increased in the UK between 2003 and 2007; 95 per cent of workplaces reported the existence of at least one of six specified practices (part-time working, job-sharing, flexitime, compressed working week, working reduced hours for a limited period, working from home on a regular basis) (Hayward et al. 2007). The working arrangements most commonly available were part-time working, reduced hours for a limited time and flexitime; the ones most commonly taken up were flexi-time, working from home and part-time working.

Data from the Fourth Work-Life Balance Employee Survey corroborates this picture of the availability and take-up of flexible working practices, with 68 per cent of employees who said that one or more flexible working arrangements were available reporting that they actually worked flexibly (Tipping et al. 2012).

A majority of workplaces in the Third Work-Life Balance Employer Survey reported that each of the five flexible time arrangements covered were available to all employees, not just those prescribed by statute: more than six in ten employers who provided such arrangements reported that all employees were eligible (Hayward et al. 2007). Furthermore, almost all workplaces (92 per cent) reported that they would consider a request for a change to a working pattern from *any* employee (Hayward et al. 2007). The impact of the RRFW depends on employees knowing about their entitlement and being prepared to act on it, as well as on employer responses. The Employee Survey suggests that 75 per cent of employees are aware of the RRFW, with 22 per cent of employees making a request in the previous two years, most commonly for a change in the number or days they work (Tipping et al. 2012).¹⁰ Women were more likely to make a request than men.

For employers, flexible and family-friendly working practices can produce benefits of lower labour absence and turnover, increased retention of skilled staff and improved motivation and productivity (e.g. Scheibl and Dex 1998; Bevan 2001; CIPD 2005; Harris and Foster 2005). But such practices also potentially entail costs for employers or constraints on their action, including high financial costs of replacing staff who take up new work-time arrangements or career breaks, for example; increased administration costs; disruption to existing workplace practices and relationships; and perceived loss of human capital or productivity arising from individuals reducing work-time commitments.

Employers' family-friendly and flexible working practices are associated with a range of organisational factors – ownership, size, trade union presence, workforce characteristics and performance. Employers in the public sector, large organisations, those with recognised trade unions, a higher proportion of female employees, and enjoying high levels of performance are more likely to offer flexible working arrangements to employees and to have them taken up (Dex and Smith 2002; Forth et al. 2006; Hayward et al. 2007). Studies of employees find similar associations between maternity leave, paternity leave and flexible working, and organisation size and trade union presence (Chanfreau et al. 2011; Tipping et al. 2012).

¹⁰ Requests are only reported if they concerned a change in working arrangements for a sustained period of more than one month.

Business size might be a key influence on employer attitudes towards flexible, family-friendly working and on actual employment practices. Micro and small employers often find it difficult to introduce such arrangements because of resource constraints. Smaller employers often lack the money, managerial capacity and administrative support to implement maternity, paternity and flexible working practices without incurring heavy costs and disruption to working routines. Operating workplace crèches, for example, is simply beyond the means of the vast majority of micro and small employers. Covering maternity leave also poses a particular challenge for smaller employers. Because each worker contributes a large proportion of overall output in small businesses, any absences can create significant problems as remaining employees have to take on greater workloads, or replacements have to be recruited (e.g. Dex and Scheibl 2001; Harris and Foster 2005). Small employers may be unable to reallocate responsibilities without incurring high costs in the form of lost output, recruitment or retraining.

Despite this, small employers might implement flexible, family-friendly practices informally without having formal policies. Informality provides much-valued flexibility in implementing such arrangements, enabling variable treatment for different employees, and facilitating adjustment to changing circumstances (Harris and Foster 2005). Decisions regarding work-time arrangements working from home, and even career breaks might be taken without reference to formal policies or individual employment contracts (e.g. Scheibl and Dex 1998). Forth et al. (2006) report flexible practices in SME workplaces although to a lesser extent than larger employers. Interestingly, employees in SME workplaces are often more likely to report particular practices than managerial respondents, suggesting perhaps that informal arrangements were in operation despite the absence of a formal policy.

Larger employers, in contrast, possess the resources to implement flexible, family-friendly working practices and are better able to absorb absences due to their larger workforces. The problem for larger employers is to ensure the consistent application of formal procedures throughout the organisation to avoid employee accusations of discriminatory or unfair treatment. Line managers might act autonomously without recourse to formal procedure, leading to inconsistent approaches, employee resentment and possible litigation. HR departments may have to monitor and, where appropriate, correct managerial responses to maternity, paternity and RRFW requests.

Cultural and workplace norms might also militate against the introduction and/or take-up of flexible, family-friendly, working arrangements. Employers with predominantly male workforces may perceive maternity and, especially, paternity leave as unnecessary or irrelevant and seek to minimise its impact by offering only the statutory level of paid leave and discouraging employees from take-up. Owing to occupational gender segregation, some sectors and businesses are likely to be more affected by others. Fathers' use of Additional Paternity Leave has so far been very low. Almost 90 per cent of employers do not report any take-up and 60 per cent do not expect fathers to take it up in future (Woods 2012), perhaps partly reflecting deeply-rooted social norms regarding the appropriate public and private roles of men and women in UK society as well as financial pressures.

The introduction of flexible, family-friendly employment practices might be dependent upon successful business performance. Studies find an association between performance and such practices (e.g. Gray 2002), although this leaves open the question of causation: do flexible, family-friendly employment practices contribute to higher levels of performance – or are higher-performing businesses better able to afford such practices? Struggling businesses might find flexible, family-friendly, working practices a luxury they cannot afford whereas successful businesses possess the required resources to design, implement and manage such employment systems. In the current weak macroeconomic environment, new working practices might be treated as too costly or too risky to implement. Conversely, employers might perceive actions to attract, motivate and retain key staff - including flexible, family-friendly practices – as essential to this task (e.g. Scheibl and Dex 1998).

Little research is available on the likely take-up of Shared Parental Leave if it was to be introduced. A Netmums survey of 1,500 mothers in April-May 2012 found that 17 per cent of respondents claimed their partners would be keen to take shared leave, 28 per cent reported they might want to but it would not happen in practice, while 31 per cent said the family could not afford for the father to take the time off (Working Families 2012). Whether, of course, take-up would reflect these figures in practice is a moot point. Take-up will depend on the precise shape of the legal provisions, and employer and employees' (mothers' and fathers') circumstances at the time of their introduction.

3. Maternity/paternity leave and pay

This section focuses on the findings in relation to the processes that employers use for dealing with maternity and paternity leave, together with any differences that are apparent between employers of different size, sector and business culture. In addition, employers' attitudes to statutory pay, reasons for offering enhanced pay and the factors which influence these, are also discussed.

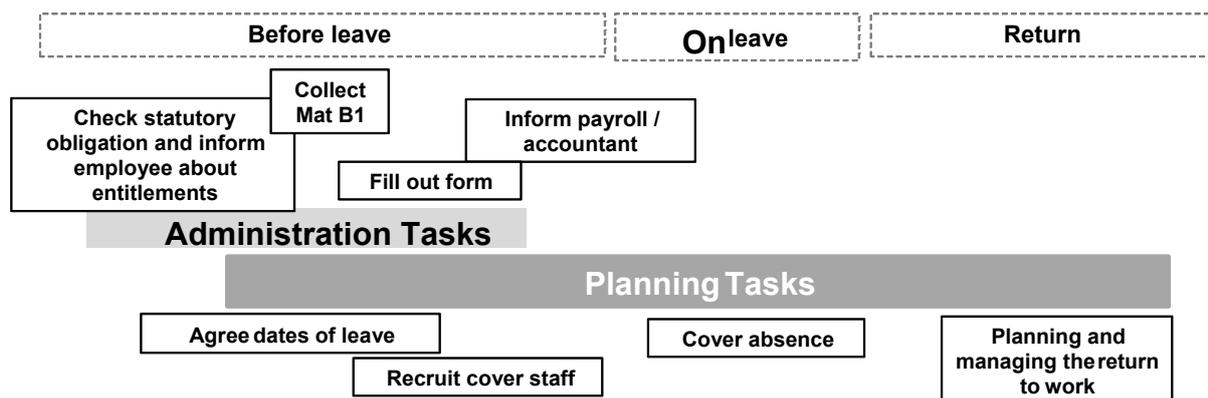
Key Findings

- Statutory entitlements to maternity/paternity pay and leave were considered morally right, although covering the absence and dealing with staff who changed their plans was challenging, particularly for small employers or those struggling financially during the recession.
- Staff sometimes changed their plans at short notice. Minimum notification periods were rarely enforced as employers were concerned about damaging relationships and believed employees who were not ready to return to work would not be productive in any case.
- Although it was recognised that ongoing communication addressed the unpredictability of a return date, employers were cautious about appearing to pressurise employees. Any contact, including Keeping in Touch (KIT) days, tended to be employee led, unless a line manager had a very close personal relationship.
- Only one business treated maternity leave as an opportunity to grow, although some medium and large businesses used temporary promotions to up-skill junior staff. Small businesses and those struggling in the recession could not always afford to cover maternity/paternity leave. For roles that required specialist knowledge, it was not always practical to arrange cover, given the amount of time it would take to get temporary workers up to speed.
- The process for requesting paternity leave was more informal. As fathers were only entitled to two weeks leave, the impact on the employer and other staff was less severe. No employers had received a request for Additional Paternity Leave and few believed they were likely to, particularly in male dominated environments where staff were unlikely to take full statutory paternity leave.

3.1 Process of dealing with maternity leave and pay

The diagram below illustrates the maternity leave process (Figure 1).

Figure 1: Maternity leave process



In discussing maternity leave, it was clear that the process was dominated by negotiation and planning tasks, with the administration being considered to be relatively straightforward and the least burdensome aspect of managing the process.

Prior to maternity leave starting, there were a set of administrative tasks which were a necessary part of the employer's statutory obligations, and included carrying out a risk assessment and sending the employee written confirmation of the date they are due to return to work. These tasks were considered to be very straightforward and represented a minimum of an administrative burden. The administration of statutory maternity pay (SMP) was generally said to be straightforward, it either being handled internally through commercial payroll software or contracted out to a third party such as an accountant or payroll bureau. Employers, managerial and HR staff did not report any difficulties with managing SMP; those undertaking the payroll tasks also said that payroll software made the process of handling SMP very easy.

By contrast, the most time-consuming aspect of maternity leave was negotiating with the employee and planning how their role would be covered, as well as their return date. Employers also said that return to work plans could change, which could add to their burden. However, they felt it was neither morally right nor practical to hold mothers to their original plans.

The key stages of the maternity leave process were:

- checking statutory obligations;
- administration tasks;
- negotiating leave and return to work dates; and
- covering the absence and planning the return to work.

These are discussed in turn below, highlighting any differences between different types of employers.

3.1.1 Checking statutory requirements

Checking employees' rights and entitlements was the first step for employers when informed about a pregnancy. Although employers were generally aware of an employee's statutory leave and pay entitlements and their entitlement to attend ante-natal appointments, there was a tendency to check the rules each time maternity leave arose in case they had changed. Employers with infrequent experience of maternity leave were concerned that they may have forgotten certain elements and it was therefore safer to double check the current regulations.

In businesses with written policies, line managers were able to refer to these for step by step guidance on the process and also direct employees to the relevant documentation regarding their entitlements, making the process very transparent.

'Policy procedure [...] was sort of my guideline, because [...] it's not something you deal with a lot compared to other things [...] and obviously legislation changes [...] everything is online for us that we can just print off and it's up to date.' (Line manager, Local Authority, very large, experience of maternity and paternity leave, experience of flexible working)

Written policies were more common in large businesses, although small and micro businesses employing a high proportion of professionals were also more likely to have adopted formal written maternity policies. These businesses were also more likely to offer enhanced maternity pay. (For further details on the drivers and barriers to the development of written policies see Jordan et al. 2013, section 3.1).

For those businesses that did not have written maternity policies, information about maternity leave requirements and entitlements was sourced on a 'need to know' basis. These employers operated on a more informal basis and did not have the time or the inclination to learn all the rules and swatting up on the regulations, reflecting their approach to employment regulation generally.

'It's up to them. Legislation is just too complicated to completely update everybody all the time. If we were doing that, we would be doing nothing but updating them 24 hours a day.' (Legal, Medium, limited maternity and paternity leave, limited flexible working)

Employers had different approaches to advising employees about their rights and entitlements. Employers were more likely to offer support to unskilled or semi-skilled workers who they believed may have difficulty interpreting information about their entitlements. By contrast, there was an expectation that employees with professional qualifications should be responsible for reviewing the entitlements and deciding their own arrangements.

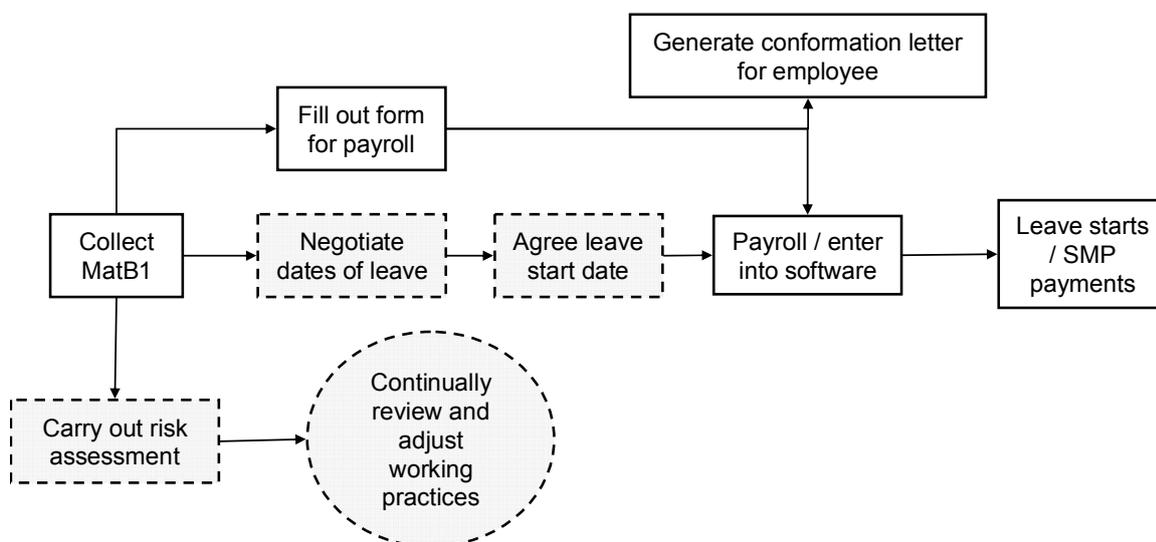
Overall, employers said that they had little difficulty in finding information about the statutory entitlements of their employees and the procedures for implementing maternity leave and pay. On-line sources tended to be frequently used, together with paid-for professionals (e.g. accountants), sector-specific organisations, payroll software providers and payroll bureaux.

3.1.2 Administration tasks

The administration of maternity leave was not considered particularly onerous. There were very few steps in terms of setting up maternity leave and pay, shown in white in the diagram below (Figure 2), and generally involved simple paperwork which was considered straightforward.

Although employers believed that tasks such as paying statutory maternity pay and calculating statutory holiday pay may be more complex, this was outsourced or handled by an in house payroll function. Tasks which required negotiation or discussion with staff, which are shaded in the illustration (Figure 2), were more complex, particularly carrying out risk assessments.

Figure 2: Maternity leave administration process



Risk assessments, although not difficult, were more time consuming. Health and safety, for example, required careful thought, particularly where the employee was in a physical role (such as manufacturing or construction), or sectors where employees

were required to be on their feet all day (e.g. retail), or worked in environments which were stressful (such as the legal or financial professions). Whilst this was triggered by the regulatory requirement to carry out a risk assessment for pregnant employees, employers also expressed paternalistic concern for their employees' welfare.

Businesses of all sizes in professional sectors also discussed making particular allowances for pregnant employees, including reducing their workloads, ensuring later start times and arranging regular meetings with HR or line managers to monitor stress levels.

3.1.3 Planning leave and return to work dates

Leave and return to work dates were usually confirmed by the employee when, or very shortly after, the employer was notified of the pregnancy. Employers said that employees rarely opted to take the full 52 weeks when first planning their leave arrangements, instead deciding to return to work when the paid period, either for statutory maternity pay (SMP) or enhanced occupational pay, expired. However, sometimes mothers changed their plans at short notice. This was said to be particularly challenging when mothers gave notification that they would return to work early (i.e. within the 52 weeks maternity leave) and then cancelled this at very short notice or simply did not turn up on the planned date.

Employers said that there were occasions when they would prefer maternity periods to start at an earlier date. When employees chose to work up to a week or two before their due date, it was considered necessary to have at least one month of temporary cover in place as there was a risk that employees may have to leave at short notice if they went into early labour, became ill or too tired towards the end of their pregnancy. However, there was no indication that employers would suggest that plans were changed or revised, for fear of litigation.

In terms of returning to work, not all employers required the full eight week notification period; instead it was common to ask for between four to six weeks, even in large professional organisations. Although the eight week period was defined in maternity leave policies, in practice employers said they would be much more lenient.

Nevertheless, they found that even these reduced requirements were not always adhered to by employees, and in some instances employees failed to give any notification at all and did not return to work on the planned date. Early women returners were generally welcomed as it solved a 'cover' problem; late returners were more problematic but could generally be accommodated either by existing workers providing cover or extending contracts, where additional cover had been arranged.

Failure to give adequate notice was more common amongst semi-skilled or unskilled workers. Employers whose workforce was predominately professional indicated that these workers were more career minded, more adept at forward planning and were more conscious about the impact on the business, other colleagues and client relationships should they change their plans at short notice.

Maintaining good ongoing communication with staff helped to mitigate some of the unpredictability associated with return to work dates. In large and medium-sized businesses, the employee sometimes kept in contact with their line manager and team in an informal way as they had a friendly interest in how the mother was getting on. This had the benefit of flagging up whether there was any likelihood that the mother would change her plans. However, employers were largely cautious about contacting employees too much whilst they were on leave in case the employee felt they were being pressurised to return early.

'I would not encourage managers to start contacting our staff when they are on maternity leave. Because they are not working. They are on maternity leave which means you don't work. You can't work and be on maternity leave. That's why the government introduced these ten keeping in touch days. You can't do both. And I wouldn't feel comfortable advising a manager to go and break the law basically.' (HR manager, Entertainment, Large, experience of maternity and paternity, experience of flexible working)

'It's their time [...] to spend with their baby [...] if you get in touch with them you are not giving them their maternity leave and will probably have a case on your hands.' (HR Manager, Property Management, Large, experience of maternity and paternity, experience of flexible working)

3.1.4 Covering absence

Employers generally said that they had three options when covering maternity leave:

- recruit a temporary member of staff;
- share the workload within the team; or
- promote, or second, an employee from another part of the business.

A summary of the options available and the types of organisations using each approach, is as follows (Table 2):

Table 2: Approaches to covering absence

Recruiting temporary staff	All employer sizes – for transferable skills	<ul style="list-style-type: none"> ➤ Administration roles and skilled and unskilled labour required no specialist knowledge of the business and therefore temporary cover was suitable if the business could afford it
Sharing workload	<p>Micro employers</p> <p>All employer sizes – professional roles and roles which required firm-specific knowledge i.e. of products and services, client relationships, systems and processes</p>	<ul style="list-style-type: none"> ➤ Affordability, particularly those affected by the recession ➤ Tendency to avoid recruiting until team is over capacity ➤ ‘family’ culture, belief that temporary staff may not work well within the team ➤ Difficult to recruit replacement staff for senior or very specialist skills ➤ Professional employees only take a few months leave, not enough time for new recruit to be trained up
Promoting internally	<p>Large and medium-sized businesses</p> <p>Skilled and semi-skilled roles</p>	<ul style="list-style-type: none"> ➤ Replacement staff had a good understanding of the role and business ➤ Junior staff gained experience of more senior roles, building up the skill set in the business ➤ Replacement staff satisfied as earned more during that period ➤ If employee’s plans change, replacement staff can stay in role as, unlike temporary staff, they were not looking for work towards the end of the contact

Covering maternity leave could be problematic for employers, primarily because of the cost of recruitment, but also the additional time commitment and stress of the recruitment process, training new temporary employees and concerns about whether the temporary cover would be suitable.

It should be noted that there was little evidence of employers recruiting staff on a permanent basis to cover maternity leave, primarily because at the time of the research few of the businesses involved in this research were looking to grow. There was one exception - a small professional organisation with an expanding business.

3.1.5 Managing the return to work and use of keep in touch (KIT) days

A systematic approach to managing the return to work was evident in very large businesses or for senior and professional staff where employees required in depth knowledge of their client accounts, clients or projects. Some employers discussed return to work meetings and use of KIT days to ensure employees were up to speed on changes within the business when they returned. However, in this respect it was noticeable that few employers, of any size, mentioned the ability to have KIT days and for women on maternity leave to be able to work for up to ten days without bringing an end to their maternity leave or affecting their SMP.

In small businesses, employers did little in terms of managing the return to work. If temporary cover was used, they arranged a brief handover period of a day or two. Otherwise, their manager or the owner-manager arranged a meeting to bring them up to speed.

In principle, ensuring that employees were kept well informed and remained engaged with developments in the business was considered important to ensuring that employees returned to work and felt part of the team. This was because employers were very aware that they cannot force employees to take KIT days and again, this was predominately left to the employee to arrange if they wanted to use these days.

KIT days differed significantly for employees in either professional or non-professional roles. In professional roles KIT days were very much work related, such as attending team meetings, client events / meetings or attending training. For skilled and unskilled roles, such as retail, catering and manufacturing, employees attended social events or occasionally brought their baby into work. The purpose here was to ensure that employees still felt part of their team and were confident about returning to work.

'They just come in at lunchtime [...] and they'll bring the baby in [...] and we kind of encourage them to do that. [...] I think it's important because, if they become cut off from the workplace, [...] it's such a big change to your work life [...] the last thing I want is someone for maybe to not have the confidence to come back to work or to think that we don't want them back to work.' (HR Manager, manufacturing, Medium, experience of maternity and paternity leave, limited experience of flexible working)

3.2 Process of dealing with paternity leave and pay

The process for dealing with paternity leave was much more informal than for maternity leave, primarily because leave was for a shorter period and required less advance planning.

The impact of paternity leave on businesses was limited. Shorter absences were much less disruptive and the impact on other staff was limited. Returning to work was straightforward; employees required no support and employers said it was much less common for fathers to request flexible working on their return compared to mothers.

There was no experience of Additional Paternity Leave across the sample. When the concept was introduced, employers were extremely resistant. This was in part due to cultural attitudes to paternity leave, which were evident across all sectors but was particularly evident in male dominated environments. Whilst maternity leave was embedded in working culture, paternity leave was not; it was not taken by all fathers and employees did not always take the full period, or took annual leave as opposed to paternity leave as they received full pay, particularly in senior professional roles.

'I'm sure some Dads weren't taking any time off... if there's a big deal and your neck is on the line...' (HR manager, financial services, Large, experience of maternity and paternity leave, experience of flexible working)

'Normally people don't take paternity pay these days because it's such a drop in salary, so they normally just book two weeks' holiday, or they'll have, like, a week of paternity pay and a week of annual leave.' (HR manager, Building management, Large, experience of maternity and paternity leave, experience of flexible working)

3.3 Understanding of statutory requirements

Micro and small employers, as well as line managers in larger businesses, were aware that employees had statutory leave and pay entitlements and that there were other procedural requirements for which employers were responsible.

They were not confident that they could accurately remember in detail what these were and also noted that rules may change as they did not deal with maternity and paternity pay and leave very frequently. They therefore said they would check the current requirements each time a staff member took maternity leave.

HR managers had better awareness of employers' responsibilities although they too would check current policy. In large businesses, HR advisors were frequently approached for support by line management staff who were not confident dealing with leave themselves and had neither the time nor the inclination to learn the rules; this was considered to be HR's responsibility.

'The poor line managers need some support [...] most of the time I deal with everything because they find it quite uncomfortable. It's something [...] they can get quite jittery about [...] it's almost like a big stinky fish [...] they just throw that in to me [...] I do lots of coaching [...] but they still [...] hover outside my door.' (HR manager, Construction, Medium, experience of maternity and paternity leave, experience of flexible working)

3.4 Attitudes to statutory pay and leave

Across all sizes of business, employers regarded statutory maternity and paternity leave and pay as an integral part of their obligations as an employer. Although maternity and paternity leave did present some challenges in providing sufficient cover, employers thought that 'it was the right thing to do'.

In terms of maternity leave, there was a moral aspect to employers' attitudes in that it was considered immoral and damaging to society to force new mothers back into work before they were ready or to force them out of the workforce if they had children. Employers also recognised that maternity pay and leave were key to staff retention. Without it employers would lose trusted and skilled employees at the point when they became parents.

Paternity leave was viewed very differently. It was considerably less burdensome, there was little planning and negotiation involved and as such it was perceived by employers and other staff as additional holiday.

Attitudes to statutory leave and pay were influenced by business size, sector and financial stability of the organisation. These factors determined the affordability of offering enhanced pay to staff and recruiting temporary cover for the absence (See table 2 above). However, the impact of economic decline on attitudes to statutory leave and pay should be noted. Many employers who took part in this research had experienced a decrease in business or difficulties managing their cash flow. This was particularly the case for micro employers as well as small and medium employers providing professional services, or whose business was closely linked to manufacturing or construction. In extreme cases, for example where redundancies had been made or employers were struggling to pay their bills, employers could not afford to cover the absence. However, distributing the workload internally placed too great a strain on the workforce. Consequently statutory leave was considered overly burdensome in the current economic climate, although it was recognised that maternity and paternity leave was essential for employees.

"To the staff [...] I think it's brilliant and I endorse it, as an employer I blinking hate it [...] oh my goodness [another request] will cripple us." (Professional services, Micro, limited experience of maternity leave, no experience of paternity leave, experience of flexible working)

There were three distinct views about statutory pay and leave.

- **Unfair to the employer** – This was primarily evident amongst micro businesses, although small and medium employers also expressed this view where they were struggling financially or found it difficult to recruit cover for specialised or senior roles. The key challenges for employers were the cost of recruiting cover staff, the disruption and the impact on productivity, particularly in micro businesses reliant on individuals for specific roles. However, it was also apparent that these employers were either not reclaiming the cost of statutory pay or were unaware that they were doing so through their payroll.
- **Balances the needs of employers and employees** – Expressed primarily by line managers in medium and large businesses which could not afford to offer enhanced pay - they considered that statutory pay balanced the needs of employers and employees. While HR managers were generally of the view that employers should try to offer enhanced maternity pay for retention purposes, they also recognised that businesses which were struggling financially were not in a position to do so.
- **Unfair to employees** – As well as aiding recruitment and retention, employers said they offered enhanced maternity pay because statutory pay was not considered a liveable wage, particularly if employees' salaries were much higher. Consequently, employers were concerned that mothers would return to work too soon if the gap between their salary and their maternity pay was too great. Where affordability was not too great a concern, offering enhanced pay was considered part of being a responsible employer.

'Some people rush back to work because obviously they can't afford to be off and obviously that statutory [pay] is quite low.' (Large, Retail, experience of paternity and paternity leave, experience of flexible working)

'Now, to go from a decent salary to you know, just over a hundred quid a week is a massive jump, and I think that would really deter people from number one, getting pregnant, number two having the amount of maternity leave time off they have.' (Medium, Entertainment, limited experience of paternity and paternity leave, limited experience of flexible working)

Enhanced maternity pay was only evident amongst very large businesses or professional businesses, which were performing well. There were a number of benefits to offering enhanced pay:

- Retention, especially in businesses with a high proportion of female staff in senior roles
- Attracting female staff
- Enhancing the employer brand
- Compensating for low salaries or a pay freeze.

There was no evidence of employers offering Additional Maternity Leave beyond the 52 week statutory entitlement; employers considered 12 months to be reasonable, even generous. Unlike enhanced pay, which employers considered to be instrumental in attracting and retaining staff, they believed there would be no demand for more than 52 weeks leave as employees could not afford to remain out of work without income.

4. Flexible working practices

Key Findings

- Whilst offering flexible working arrangements was commonplace across employers, the degree to which this was formalised and the range of options available differed greatly. This was influenced by business culture and the size of the business. Very large employers tended to use formal arrangements for flexible working and offered a range of different options including compressed hours, job-sharing and term-time working. Micro and small businesses preferred to operate informally, agreeing ad hoc changes for a limited period.
- Employers that used a formal right to request process said that requests were usually reasonable because employees were required to show that their arrangements would not adversely impact the business. However, there was reluctance across employers to adopt formal processes, particularly small and micro employers who believed this undermined personal relationships with staff.
- Employers recognised that there were paternalistic reasons for offering flexible working arrangements, for example improving work-life balance. More importantly however, there were real business benefits which included employees working in their free-time, operating out of hours to suit clients and retaining and attracting experienced employees.
- Business culture and attitudes sometimes discouraged employers from offering a wide range of flexible working options, even when they had the capacity to do so. For example they believed that employees would make unreasonable requests and part-time staff would be less engaged.
- In some cases, employers were also concerned that flexible working would create divisions between employees who were able to work flexibly (i.e. managerial / back office) and those who were not (i.e. shop floor /client facing).

4.1 Flexible working practices available

Employers offered a variety of different flexible working options, with larger businesses generally offering a wider range of flexible arrangements compared with micro and small employers. There were differing degrees of flexibility offered to staff (Table 3). Briefly these were:

- **Informal arrangements** – this included changing start and finish times, reducing or compressing hours, but usually for only between a day and a week at the most. Requests were agreed informally and were rarely declined as they were only for a very short period. Only one employer had a formal written policy (micro professional) as staff were thought to be 'taking advantage' by home-working too frequently.
- **Reduced hours and part time work** – In addition to informal arrangements, employees with a '*valid reason*' (usually carer responsibilities) were allowed to reduce their hours on a permanent basis. Although formal policies were in place, arrangements were usually discussed informally between the employee and line manager. If agreed, a new contract was generated. The statutory right to request procedures were used if a request was turned down and the employee raised a dispute.
- **Flexi-time** – In addition to informal arrangements and reduced hours, employees could choose to work longer or shorter days around core office hours in order to meet project or personal requirements. Where these were in place, employees discussed their flexi-time arrangements with team or line managers; there was no need for a formal agreement for each employee as flexi-time was agreed in principle for all staff at a company level.

Flexi-working package – This included all the arrangements discussed above as well as a range of less common practices, such as term-time working, job sharing and compressed hours. These were always agreed on a formal basis following the statutory request for flexible working.

Arrangements were cumulative, that is, businesses which offered reduced hours also agreed to informal arrangements on occasion.

Table 3: Flexible working practices

	Who	Why	Culture
INFORMAL	<ul style="list-style-type: none"> ➤ Micro employers - all sectors, reliant on core team of full time staff ➤ Small employers, unskilled and shift based, i.e. retail, manufacturing 	<ul style="list-style-type: none"> ➤ Reduces absenteeism by providing flexibility for staff during family emergencies or to meet short term childcare needs 	<ul style="list-style-type: none"> ➤ Employees must have a <i>genuine</i> reason – bereavement or family illness ➤ Flexible working offered for paternalistic reasons and to reduce absenteeism, It was believed to increase productivity and/or profitability
REDUCED HOURS / PART-TIME FOR SOME	<ul style="list-style-type: none"> ➤ Small employers, professional / office based workers ➤ Medium employers, predominately male (construction / manufacturing) 	<ul style="list-style-type: none"> ➤ Necessary to retain new parents or people reaching retirement age 	<ul style="list-style-type: none"> ➤ Flexible working considered necessary to retain new mothers, No other perceived benefits (i.e. increased productivity) ➤ Intended for mothers returning to work and employees reaching retirement ➤ Not viable for client facing staff as clients expect contact five days a week ➤ Can create animosity between full time staff and '<i>some-times</i>' workers
FLEXI-TIME	<ul style="list-style-type: none"> ➤ Professional services, micro, small and medium employers(Legal and Financial) 	<ul style="list-style-type: none"> ➤ Cannot offer reduced hours to fee earners, therefore this allows some flexibility 	<ul style="list-style-type: none"> ➤ Beneficial to employer - Employees work longer hours overall ➤ Not a 9 to 5 business ➤ Ensures staff will work over-time when necessary ➤ Role specific, not appropriate for support staff

**FLEX-
WORKING
PACKAGE**

- Large and medium public sector employers or public sector as a client
 - Large / medium employers that worked alongside local authorities (where flexi-working was more common) or influenced by a trade union
 - Very large, retail, manufacturing and finance
- Several benefits including hot-desking to reduce rent; offering 24 hour service or early / late opening to meet the needs of overseas clients; and enhances productivity
 - Avoid redundancies by allowing employees to voluntarily reduce hours
- Use statutory process for ongoing arrangements. However, line managers have the flexibility to agree short term arrangements informally in response to family emergencies
 - Employees are grateful, more loyal, work harder, work longer hours

4.2 Benefits of flexible working

Regardless of whether they offered flexible working arrangements, employers recognised that there were paternalistic reasons for offering flexible working, for example enhancing employees' work-life balance and enabling families to spend more time together. They also recognised that this might contribute to increased work commitment and loyalty, whilst also reducing absence and aiding retention. However, in order to *sell* flexible working to senior management, HR managers said that it was necessary to show tangible benefits to the business. These included:

- Enhanced productivity – some employers (particularly HR managers in organisations that offered a range of flexible working options) believed that employees who worked flexibly were more efficient and worked longer hours. There was a perception that these employees were more willing to work in their own time and were more agreeable when the employer needed them to take on additional work;

'You tend to see better value for money for the employer and you know, [employees with flexible arrangements] work longer hours [...] you do tend to get that additional engagement from employees too [...] people are more committed.' (Construction, medium, experience of maternity and paternity leave, experience of flexible working)

'If you try to accommodate them and support them it's much friendlier, and when you want something from them, it does go both ways, and that is something in my experience that I have come across' (Retail, large, experience of maternity and paternity leave, experience of flexible working)

- Providing services out of hours – offering flexible working arrangements allowed employers to provide out of hours services, for example when working with international clients or providing services in the evenings and at weekends to fit around the working day for customers;

'You've got to be working in all time zones[...] so the only way to do that was to say do you mind working funny hours at the end of the day, not too often but when you do, then you get something back.' (Shipping, Large, experience of maternity and paternity, experience of flexible working)

- Reducing labour costs to avoid redundancies – in one case, a large public sector organisation offered flexible working to all staff as a means of reducing labour costs. A sufficient number of employees voluntarily opted to reduce their working hours to avoid the organisation having to make redundancies.
- Attracting experienced employees – employers recognised that offering flexible working arrangements was not only valuable in retaining staff but also helped to attract employees from other employers. There was a perception that flexible arrangements may be particularly effective in attracting more senior and experienced employees as they tended to need flexible working to work around family commitments.

'I think it widens the pool of talent that you can get because a lot of those people wouldn't be able to do most jobs. So yes I do think there is a benefit' (Hospitality, large, experience of maternity and paternity leave, experience of flexible working)

4.3 Barriers to and challenges of flexible working

Employers raised a number of challenges to offering flexible working which employers raised:

- **Fairness** – Flexible working was better suited to certain roles which may be considered unfair by some staff. For example, in retail and manufacturing sectors the working hours for shop/factory floor staff are dictated by opening hours with no option for home working, whereas managerial staff could work more flexibly. As a consequence, these employers were cautious about offering flexible working as it created divisions between sectors or levels of seniority.
- **Impact on the business** – One reason given by small and micro employers for only agreeing to short term arrangements was that employees did not take into consideration the impact of their request for flexible working on the business. In small and micro businesses, resource constraints meant that there were limits to the degree of flexibility they could offer, for example, if there were only a limited number of people able to do a particular task and they were all required during peak times. These employers did not anticipate any additional benefits to the business from being *more* flexible; rather they only offered flexible arrangements to reduce absenteeism amongst staff who were experiencing personal difficulties.
- **Impact on staff engagement** – Small employers, where staff had traditionally been on full time contracts, questioned the effect that reduced or compressed hours would have on engagement. There was a perception that part time staff were less aware of what was happening within the business, were less embedded in the team and therefore were less concerned about completing their work to a high standard.

"They might not take responsibility because they can walk away from it for three days" (Manufacturing, Small, experience of paternity leave, no experience of flexible working)

- **Impact on employer relationships** - employers believed that client relationships would be damaged if key individuals were not available to answer queries throughout the working day;

Business culture could also act as a barrier. One very large financial organisation, for example, had the capacity to facilitate flexible working and had a formal flexible working policy and yet the HR manager estimated that only 5% of the workforce had formal flexible working arrangements in place. While employees were allowed to take time in lieu when they exceeded their contracted hours, due to the business culture staff did not necessarily feel comfortable being seen to work shorter hours.

"I'd love to work flexibly, it would be a great idea to do that I just don't think its something that would ever happen [...] if I rock up at 10 and leave at 6 it would be ok for a couple of occasions but I work in an open plan floor of 160 people and if I did that for three days in a row people would notice, and talk" (Financial services, Large, experience of maternity and paternity leave, flexible working policy but limited arrangements in practice)

Developing formal flexible working arrangements

Having a formal process for agreeing flexible working arrangements was considered instrumental in aiding negotiation because it was necessary for employees to consider how their arrangement would affect the business and how to mitigate this. Employers that required a written request for flexible working said that employees rarely made unreasonable requests because they were required to show how their request could be accommodated. By contrast, where there was no formal process in place, employers said that requests were often unreasonable and would have a detrimental effect on the business if actioned.

However, small and micro employers were particularly keen to retain an informal approach to people management as they believed that this maintained *'personal'* relationships with employees. An informal approach allowed employers to treat employees as individuals, not necessarily to evade formal legal rules but to be able to base their decision on more personal factors such as whether the employee's personal circumstances or previous performance made their request more worthwhile.

5. Shared Parental Leave

Key Findings

- When considering Shared Parental Leave there was a tendency for employers to focus on the periods of leave employees could take, rather than other aspects of the proposals. Planning for multiple short periods of leave was considered challenging as it may not be possible to secure a temporary worker for such periods, particularly for skilled or professional workers.
- Employers were also concerned that male employees would begin to take more leave than they had done before, although this may take a long time to take effect and would require a significant cultural shift.
- The impact on other employees was also raised as a potential issue, particularly if male employees started to take more leave and it was not possible to cover short periods of absence. This may be considered unfair by other members of the team having to take on an additional workload.
- Employers that offered enhanced paternity pay said they would not extend this past two weeks as they did not want to encourage male employees to take more leave.

5.1 The proposals for shared parental leave

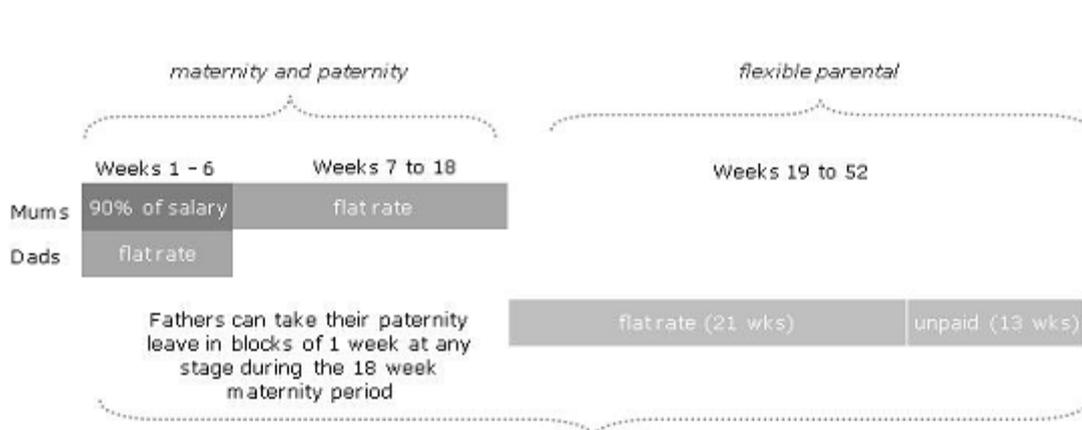
Employed mothers can take 52 weeks of maternity leave in total. Where they meet the eligibility criteria, they can also receive statutory maternity pay for 39 weeks. The first 6 weeks of pay are enhanced to 90% of the mother's salary and the other 33 weeks are at 90% of salary or the flat rate. Some employers offer an enhanced occupational maternity package. Fathers are entitled to two weeks of paternity leave, which are paid at the statutory rate unless employers provide an enhanced paternity package.

The Government consulted in the summer of 2011 on proposals for shared parental leave as shown in Figure 3 below. Under these proposals for shared parental leave, mothers would automatically receive 18 weeks of maternity leave, which would be paid for qualifying mothers; fathers would receive an additional four weeks of leave paid at the statutory rate, but this additional leave could not be transferred to the mother. The couple could then allocate the remaining weeks between them as parental leave, twenty-one of which would be paid. Mothers and fathers would be required to give two months notice of their intention to take shared parental leave. Employers would not be able to deny the actual amount of time that employees

request to take off but could deny employees' requests to take time off in discontinuous blocks of leave, rather than one continuous stretch.

In November 2012, the Government indicated in its response to the Modern Workplaces consultation that no changes were proposed to maternity leave and all employed pregnant women and new mothers would continue to be entitled to 52 weeks of leave. However, a woman in a working couple would be able to end her maternity leave early and any untaken maternity leave and pay would be available for the parents to take as shared parental leave and pay.¹¹

Figure 3: Original (2011) proposal for shared parental leave reviewed in this study



5.2 Initial responses to shared parental leave

When first presented with the proposal for shared leave, as illustrated above, employers' initial reactions were generally negative. There was a perception that the administration of shared parental leave would be more complex because leave could be taken in blocks of a minimum of one week. Participants tended to focus on this element of the proposal as it was considered more challenging to plan for leave taken in intermittent blocks rather than one continuous period (this is discussed further in section 5.3.1). There was also a focus on the extra 4 weeks of paternity leave that formed part of the original proposal, but will not now happen. Considered responses were more mixed; employers recognised that in principle there was merit in the idea of shared parental leave as it enabled fathers to spend more time with their child and enabled mothers to return to work sooner. These arrangements would

¹¹ Details of the proposal, at the time this report was published can be found here:

<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/m/12-1267-modern-workplaces-response-flexible-parental-leave>

therefore be fair to mothers and beneficial to employers, particularly those with a high proportion of female staff.

Some employers, especially micro businesses and those employing predominately male staff, argued that shared parental leave meant that male employees were *'equally as bad as'* female employees, in terms of the cost and burden of dealing with parental leave requests. Micro employers were already experiencing difficulties covering maternity leave and were concerned about covering more leave by male staff; businesses with a predominately male workforce had not previously had to worry about maternity /paternity leave as paternity leave was short and there were few instances of maternity leave but under the proposals, these employers were concerned that if fathers decided to take more than two weeks this would be an additional burden.

'Well if the plan is to make men and women equal and the plan to solve that issue is [to introduce shared parental leave]. Well okay 'let's make males as much of a liability as females', then I am not sure that is much of a plan in the eyes of certain people, to make both sexes equally bad for want of a better expression.' (Service sector, small, predominately male workforce, experience of maternity and paternity leave, experience of flexible working)

'Oh my God, is my first reaction. That could be an administration and planning nightmare.' (Construction, medium, predominately male workforce, experience of maternity and paternity leave, experience of flexible working)

'Devastating...it would have the potential to decimate the business.' (Services, micro, mixed male/female workforce, experience of maternity leave, experience of flexible working)

Employers were also concerned that employees working for different organisations could both take time off at the same time, if they could afford to do so, and that this would require additional administration through liaising with another employer.

'Gosh that's going to be a lot of admin between different companies isn't it to make sure that is being taken correctly. I can see that being an issue in terms of the administration of it. It doesn't matter then if you have got predominantly male or female employees you need to make sure no one is doing what they should or shouldn't do.' (Legal, micro, mixed workforce, limited experience of maternity leave, no experience of paternity leave, experience of flexible working)

5.3 Considered response to shared parental leave

After further consideration employers recognised some benefits of shared parental leave, particularly in creating a fairer environment for new mothers. Firms that were more positive tended to employ a large proportion of professionals, such as in the banking, legal or arts sectors, where maternity leave was difficult to cover due to the required level of expertise. Therefore, enabling mothers to return to work sooner would ease the burden on other staff. However, these employers also indicated that it would be more effective for new mothers to return on a part time basis than for intermittent periods as they would find it difficult to keep up to date with projects if they were not present on a weekly basis.

Despite recognising that shared parental leave may benefit employers by enabling new mothers to return to work sooner there were still a number of reservations:

1. Taking intermittent blocks of leave would be difficult to cover;
2. Male employees may take more leave than they had done previously;
3. Non-parents may consider the proposals unfair, particularly if they were required to cover more leave being taken by male employees;

These challenges are discussed in more detail below.

5.3.1 Taking intermittent blocks of leave

As described above, arranging cover for multiple short periods of leave was considered to be more challenging than planning for a single extended period. Employers tended to fixate on this one element of shared parental leave and this strongly influenced their resistance to the proposal. However, the proposals allowed for employers to deny requests for discontinuous periods of leave, although employers did not take this into account when reviewing the proposals. The chief concerns of all the businesses in the study were related to the lengths of absence that employees would be allowed to take, the amount of notice employees' would need to give, and whether changes could be made at short notice.

'Obviously there would be a lot more disruption and it would be a lot more difficult to cover. I think one person being off for 9 months is easier to cover than one person having 2 weeks here, 2 weeks there and splitting the leave.' (Local Authority, very large, mixed workforce, experience of maternity and paternity leave, experience of flexible working)

'At least if somebody goes on maternity leave for nine months, you can get cover in for nine months and there is consistency and continuity. To have somebody dipping in and out, one week or one month at a time would be impossible.' (Entertainment, medium, mixed workforce, experience of maternity and paternity leave, experience of flexible working)

Employers were acutely aware that childcare arrangements can change, parents at times need to change their return to work dates and that this can happen at short

notice, although this was considered the exception. Under shared parental leave, amending complex arrangements for covering multiple periods of leave would be more time-consuming, although this would only be the case if the change affected more than one period of absence.

Another source of concern was the adequacy notice periods. Employers said they would need several months notice in order to reassign work or arrange cover for more complex leave arrangements. However, they recognised that the employee may not be able to predict a long time in advance the patterns of leave they might require.

'I think the problem remains that with the best will in the world even if you give five months' notice, for example...I've been there, I've seen it, I've done it...the reason you take the parent leave, it is not a luxury, the reason you take it is because your partner needs support and you can't say okay I know my partner is going to be in the greatest need of support in 5 months' time, it just doesn't work like that.' (Finance, medium, predominantly male professionals, females in part-time administrative roles, experience of maternity and paternity leave, limited experience of flexible working)

Securing the same temporary worker for every period of absence may not be possible and therefore recruiting staff to cover intermittent periods of leave would be challenging. Employers were concerned that it would be necessary to train a new temporary worker for each period of leave and this may not be worthwhile for short absences. For professional workers, it was not practical to employ temporary staff for less than a few months as it took much longer for them to embed into a new team. In addition, highly skilled, professional and managerial staff were not willing to accept very short contracts - a minimum contract of three months was considered acceptable. Some specialised skilled workers, for example electricians and chefs, were in high demand, with employers saying it was difficult enough to find suitable workers for permanent positions, let alone for short term temporary roles.

'You can get temp receptionists at the drop of a hat, if it was an architect working on a particular project, it is not always as easy to get someone just to come in for 4 or 6 weeks to cover a dad on paternity leave... if someone is off for a set 3, 6, 9 months you can possibly get someone in on a short term contract to cover that. But if they are off for a month here or a couple of weeks here then another month here it is a lot more difficult to get someone in who is going to be productive.' (Local Authority, very large, mixed workforce, experience of maternity and paternity leave, experience of flexible working)

'How do I get someone [talking about experienced kitchen staff] that's prepared to come and work for us for a month and then go off for a month and then come back for a month. The only way I could do that is an agency worker and an agency will cost me so it's just not feasible.' (Hospitality, large, mixed workforce experience of maternity and paternity leave, experience of flexible working)

For these reasons, employers argued that it would either be necessary to cover intermittent leave internally or to employ a temporary member of staff for the full period, effectively paying two people to do one job during the periods when the employee was back at work.

Very large employers had the internal resource to redistribute work to other staff, particularly in sectors where many workers were shift-based or part-time, for example hospitality and retail. In these sectors it was more feasible to change shift rotas, offer other staff additional shifts or bring in temporary workers at short notice, particularly for low skilled roles. However, this would add an extra administrative burden if an employee wanted to take several short periods of absence and it may not be possible to rearrange cover if patterns of absence were changed at short notice. Similarly, large employers with a high proportion of administrative staff indicated that arranging cover for short periods of absence would be possible, although they were concerned about the significant amount of line management time that would be spent identifying capacity issues and arranging suitable cover.

For micro and small employers redistributing work internally was considered more problematic as workloads could become unmanageable for the small number of staff. . While, shared parental leave may be beneficial as mothers may return to work sooner which would reduce the burden on other staff, employers that tended to recruit temporary workers to cover maternity leave thought this would not be viable for numerous shorter absences, for the reasons described above. In these instances, the 'intermittent blocks' aspect of shared parental leave would adversely impact on other staff as they would be required to take on additional work which would have previously been given to a temporary worker. Compounding these issues, under shared parental leave, male staff may also be taking several short periods of leave which they would not have taken previously, over and above the two weeks statutory leave. This issue is discussed further in the next section.

5.3.2 Men taking leave they have not taken in the past

Employers were concerned about men taking more leave under the new proposals, particularly those with a high proportion of male staff. This was because a) it was initially proposed that statutory paid paternity leave would be extended by four weeks,¹² and b) introducing shared parental leave for working couples may prompt fathers to consider taking more time off to help with parental duties. In male dominated sectors, this would not be off-set by mothers returning to work as only a minority of the workforce was female.

However, employers did not believe that this would have an immediate impact. There was a perception that this would require a significant cultural shift; employers believed that at the moment there was limited appetite amongst male workers for more parental leave and this was supported by the lack of interest in Additional Paternity Leave (no employer that took part in this research had received a request).

¹² This is no longer part of the Governments proposal for shared leave. For the most up to date proposal see <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/m/12-1267-modern-workplaces-response-flexible-parental-leave>

The work involved in managing shared parental leave, should male employees start to take more leave, in terms of planning return to work dates and cover for extended periods of leave, was of concern to employers. In particular, employers with mainly professional staff often found it difficult to cover maternity leave and thought that the additional burden of making similar arrangements for male staff would be very difficult to manage. Senior staff were already stretched and thought to be unable to provide cover for absent male colleagues.

'I'm concerned about the fact that 100% of the workforce [in department] can claim maternity leave that would have an impact on business...At the end of the day we've got a business to run. It's very disruptive - although we support it - it is disruptive having people on maternity leave. It puts pressure on the rest of the group and that's absolutely fine for when we are managing that for the women in the group but to manage that for the whole group that's going to be really difficult.' (Architects, large, mixed male/female workforce, experience of maternity and paternity leave, experience of flexible working)

'From the situation the dads are at, that is obviously going to affect because it's going to make absenteeism, although it would be authorised absenteeism, it is going to increase the overall absenteeism so yes, it will have a detrimental effect to businesses without a shadow of a doubt.' (Legal, medium, mixed male/female workforce, experience of maternity and paternity leave, limited flexible working)

'The key thing is uncertainty in terms of your workforce. Now in our case what we do is knowledge based. We don't produce widgets and if you are paying somebody for their knowledge and their skill and you can't rely on them to be around...you can get somebody else in to make a widget, you can't get somebody else in to consult with a multi-million pound organisation that is going through a very very controversial piece of change which if it goes wrong could cost them tens of millions.' (Finance, medium, predominantly male professionals, females in part-time administrative roles, experience of maternity and paternity leave, limited experience of flexible working).

Businesses employing predominantly skilled male workers, such as electricians, chefs, etc. expressed considerable concern about covering periods of paternity leave that staff were not currently taking, or of shared parental leave. Given the leanness of businesses in the current economic climate, existing employees would not be able to provide the additional cover required. Employers indicated that they would have to use agency staff but at an increased cost to the business. They also expressed worries about the availability of suitably skilled agency staff as experience had suggested that there were often issues of poor competence when employing agency staff.

'It could have a fair impact if the person employed is in a role where he is supervising or in charge of a project... But certain clients might sort of have something to say about certain people leaving... In our industry it probably would cause a few problems...Because a few of our sites are [rural] and so to lose somebody we may have to try to replace them for six weeks, but you probably wouldn't get the calibre of the person.' (Construction, medium, experience of maternity (limited) and paternity leave, limited experience of flexible working)

5.3.3 Perceptions of fairness

For the reasons described above, employers were concerned about the impact that some aspects of the shared parental leave proposals would have on the workload of other members of staff. That is, the fact that employers may not buy in temporary cover for short periods of absence and male employees may start to take more leave than they had done in the past. Employers felt that because of this, the proposed changes may be considered unfair by other members of staff.

Intermittent periods of leave would, employers believed, highlight to the remaining workforce that they were taking on additional work. Employers felt that a long-term absence, such as a twelve month maternity period became acceptable to employees over time; they inherited the workload of the outgoing person and within a short space of time it had become accepted. With employees dipping in and out of the workforce through the ability to take shared parental leave in discontinuous blocks, the additional workload that others inherit becomes much more obvious. Businesses felt that non-parents in particular would see this as very unfair.

Employers also thought there was a 'theoretical' unfairness which could adversely impact employers that chose to offer enhanced shared parental pay to both male and female employees. Employers believed that decisions about which parent should take more leave may be influenced by enhanced pay rates offered by each employer. Therefore employees who worked at an organisation which offered enhanced pay may take more leave whilst their partner or other parent returned to work. Ultimately this may discourage employers from offering enhanced parental pay packages. For employers whose male workforce were predominately receiving low salaries at a similar level to SPP may again be incentivised to take the full period of paid statutory paternity leave as there would be little drop in income. This was felt to be a particular risk for micro and small businesses with a low turnover of staff and a high proportion of male staff disadvantaging these employers.

5.4 Cultural attitudes to taking parental leave

Regardless of employers' reservations, there was a perception that the changes would take a long time to have an impact due to embedded cultural attitudes to parental leave. In addition, while some of the firms that primarily employed professional workers were more positive about the notion of shared parental leave, they thought that in practice few employees were likely to take advantage of it, because it was not the culture for men to take large amounts of leave. Based on their experience of the current paternity leave arrangements, employers of all sizes and industries thought that men's appetite for further parental leave was small. This was for three reasons.

First, some of the employers in the study indicated that not all of their male employees who were eligible to take paternity leave, did so, or took only one week rather than the two weeks to which they were entitled. These employers were operating in industries that employed a high proportion of men, or where there was what they described as a 'macho' attitude towards taking time off for child-related activities, typically banking, construction, and electrical installation and where the pressure from colleagues to conform to the norm was very strong. Employers were dubious that employees in these sectors would take additional leave if parental leave was introduced.

'I wouldn't personally anticipate a huge take-up of dads taking the flexible parental leave'. (Local Authority, very large, experience of maternity and paternity leave, experience of flexible working)

Second, and to some extent linked with the male-dominated working environment, employers considered that men in certain types of industries had strongly-held views about gender roles – men went to work, women looked after babies until the child was of school age and then they may return to work. The manual occupations, such as construction and semi-skilled engineering, were thought to reflect these gender roles most powerfully with a consequent impact on the potential take-up of parental leave.

Third, employers in the study were mostly offering full pay during the two weeks of paternity leave, although the minimum requirement is for statutory pay. However, employers currently providing paternity pay at full pay said they would not enhance this if statutory paternity leave and pay were extended. Therefore extended paternity leave or shared parental leave would not be financially viable for male employees over long periods. .

'I don't know anybody where I work who is on £120 a week'. (Banking, large, experience of maternity and paternity leave, experience of flexible working)

'I don't think we would have a huge uptake on that [fathers entitled to six weeks paternity leave] because that's a month and a half of not having your full wage when you've got a new baby in the house.' (Manufacturing, medium, experience of maternity leave, limited experience of paternity leave, limited experience of flexible working)

5.5 Potential impact of shared parental leave

As described above, employers primarily focussed on the potential for employees to take multiple short periods of leave and this strongly influenced their views about the impact of shared parental leave.

Few employers believed that the shared parental leave proposals would have a positive impact on them or their staff. Indeed, due to their concerns about intermittent leave, discussed above, there was a perception that the proposals could be detrimental to both employers and employees. This was with the exception of some small and medium sized organisations with an equal or high ratio of female staff in managerial posts. These employers said that it would ease the burden on other staff, -who were covering their workload during leave - should mothers return to work more quickly.

However, it was considered unlikely that the impact of shared parental leave would be felt immediately. Employers believed that in the short term the appetite for shared parental leave would be limited, particularly in respect of fathers. Nevertheless, the publicity surrounding a change in legislation may prompt interest in shared parental leave arrangements and employers were concerned about the impact on their business, should more male staff begin to request multiple short periods of leave across the shared leave period. There was also some anxiety amongst employers that if they refused more complex requests, for example, working for one week and then taking one week's leave throughout the shared leave period, that disputes or tribunals might arise, and be a further potential burden on the business.

'I'm sure they could wangle a discrimination claim out of that potentially.'
(Hospitality, large, experience of maternity and paternity leave, experience of flexible working)

Again, focusing on the intermittent periods of leave aspects of the proposals, employers believed that the potential benefits for new parents were also limited. Employers were not convinced that mothers would benefit from '*dipping in and out*' of the workforce, whether it was weekly, fortnightly, or monthly. Such a working pattern, it was argued, provided neither continuity for the baby nor for the employee, who would spend more time 'getting up to speed' than actually working. Fathers too would find it difficult to maintain continuity in their work. Employers considered that their existing arrangements, which included returning part-time and job-sharing, were much more effective ways of easing the 'back to work' transition for new parents.

6. Right to request flexible working

Key Findings

- Employers believed the Right to Request Flexible Working (RRFW) proposals would have a limited impact on them because they could decline requests that were unreasonable;
- Broadening out RRFW to all employees did not chime with most employers' attitudes. From their perspective, the purpose of flexible working was to enable employees to meet family or care needs. Employers said that they expected employees to have 'a good reason' for requesting flexible working and this would influence their decision about whether they granted the request.
- Having clear guidance and a definition of 'reasonable consideration' was considered critical. Although employers recognised that removing the statutory process ensured that they did not risk legal action for missing a stage in the process, employers were concerned that a lack of clarity about what would constitute 'reasonable consideration' could result in disputes with staff and subjectivity meant that tribunal outcomes were unpredictable.

6.1 The proposals for changes to the right to flexible working

Currently, the right to request flexible working gives parents and carers the statutory right to request a contract variation, generally for a more flexible working arrangement, and places an obligation on employers to consider requests seriously. Government proposals in the Modern Workplaces consultation response¹³ are to replace the existing statutory process for considering requests, with a duty to consider requests 'reasonably' alongside a new Code of Practice to guide employers in considering requests but also to extend the right to all employees.

¹³ <https://www.gov.uk/government/publications/modern-workplaces-consultation-government-response-on-flexible-working-impact-assessment>

6.2 Employers' responses to the proposed changes to flexible working

6.2.1 Views about giving 'reasonable' consideration

As discussed in chapter 4, employers already allow a wide range of flexible working options for employees, some of which are arranged formally and some of which are arranged through informal discussion. As discussed earlier, current legislation incorporates a statutory process for considering and responding to the requests, with guidance available to determine what is a reasonable or unreasonable request.

Employers taking part in this study were presented with the proposed changes to the Flexible Working regulations as part of the interview. On the removal of the statutory process, there was limited support from employers who had used this in the past. The statutory process provided a '*line in the sand*' that protected both employers and employees in a number of ways: employers could feel confident that they were handling requests fairly; refusals were properly explained, which reassured employees that their request had been given proper consideration; and perhaps most importantly, employees were asked to show that their request could be implemented without damaging the business. This discouraged employees from making unreasonable requests in the first place. Without having a statutory process for flexible working requests, employers were concerned about increased subjectivity, particularly with regards to whether they had given a request 'reasonable consideration'. Employers were concerned that increased subjectivity may lead to more disputes with employees who were not satisfied that employer's had given their request proper consideration.

'I think a statutory process is probably essential because otherwise why would you sit up and take notice? Why would you do anything? Why would you consider these requests? I think where you're looking at reasonableness I think it basically means that the only people who benefit from that are solicitors.' (Construction, medium, experience of maternity and paternity leave, experience of flexible working)

'It has to be defined...otherwise it's open ended.' (Consultancy, Micro, experience of maternity leave, no experience of paternity leave, very limited experience of flexible working)

'Reasonably is just typical of UK employment law; saying something reasonable but not giving you any idea of what that actually means... I mean, were we supposed to go in [to meetings] before and act unreasonably? It means nothing.' (Property developer, large, experience of maternity leave, experience of paternity leave, experience of flexible working)

The perception of increased subjectivity raised the following concerns for employers who had used the statutory process in the past:

- Employers could decline requests for flexible working without due consideration as the process would no longer be as transparent as it had been in the past;

'I think less people will request flexible working if this change came in to effect because currently the company doesn't like letting people work flexibly, so if it was left up to them to decide what was reasonable, they would be even more unreasonable than they are already.' (Construction, medium, experience of maternity and paternity leave, experience of flexible working)

- The lack of a statutory process would lead to more employee – employer disputes; and
- Employees would be more likely to take employers to industrial tribunals.

'I think it leaves it open to managers to say "I had a conversation, it's all sorted, I've told them they can't do it" and that's it and two months down the line, something happens and there is no record of anything, even if a meeting happened. [The current system] is clear-cut and transparent, not bureaucratic or onerous. It's good practice to make sure everybody is doing the same thing so you know as much as you can that each employee is being treated in the same way.' (Entertainment, medium, experience of maternity and paternity leave, experience of flexible working)

6.2.2 The pros and cons of the proposed changes to flexible working

Employers that had used the statutory process in the past could see the benefits of the potential changes:

- Decisions could be made faster as there was no longer a statutory process to follow; and
- There was a reduced risk of being taken to an industrial tribunal on a technicality, such as missing a stage in the process.

However, employers could also see the benefits of retaining the statutory process, which were:

- A transparent process that employees could see;
- A defined and obligatory negotiation process which ensured that there was an opportunity for a compromise solution; and
- Employees must currently show how the change is both viable and of benefit to the business.

Overall, employers did not think the change in regulations would affect take up of flexible working:

'I don't think it will increase numbers. We advertise flexible working every year so yes, I don't think we would get a sudden influx of people. I think it would remain the same.' (Retail, large, experience of maternity and paternity leave, experience of flexible working)

'They are all manic about their jobs anyway because we have had to make cutbacks, so I don't know whether they would actually broach the subject and say "I want flexible part time work", because they know we have had to lay people off in the past.' (Manufacturing, small, experience of maternity leave, no experience of paternity leave, limited experience of flexible working)

6.2.3 Views about extending the right to request to all workers

Most employers in this study were of the view that it was only employees with children, or who had caring responsibilities that asked for, and deserved, opportunities for flexible working. They could not see that employees that did not have family commitments deserved flexible working opportunities unless it was under exceptional circumstances or benefitted the company in some way, such as undertaking courses of relevant study. However, some large employers and medium-sized professional employers were already offering flexible working to all staff as it engendered increased staff satisfaction, which was considered to be beneficial to the business.

Overall, employers of all sizes and sectors did not see that extending the right to request for all workers would have a significant impact on their business, although some expected an increase in applications and some thought that they would receive more trivial requests.

"I think we are already there because of our flexible options so for us that wouldn't be a problem" (Property management, large, experience of maternity and paternity leave, experience of flexible working)

'Our own current policy is only open to those employees outlined by government policy. Opening up flexi working requests to all will increase the work in trying to meet requests and probably increase the inequality and resentment between factory workers for whom flexi time is often not suitable in terms of business needs and senior management.' (Manufacturing, medium, experience of maternity and paternity leave, experience of flexible working)

'...expect more silly requests...because we do get people like my man who wanted to drop nights but didn't really want to drop nights; it was just the wife who'd been giving him a hard time that week.' (Manufacturing, medium, experience of maternity leave, experience of paternity leave, limited experience of flexible working)

With the exception of those employers that had extended the consideration of flexible working to all employees, the remainder indicated that reasons that were not concerned with family, caring or training were unlikely to be granted.

6.2.4 How employers would approach requests for flexible working if the proposed changes were introduced

Asked how employers would respond to the changes in requests for flexible working, employers were mixed in their approaches. Micro and small employers had generally used an informal method of agreeing flexible working practices and did not intend to change their approach.

Consequently, it was only the medium and large employers for whom a change in practice might be relevant. In the main, they preferred to retain the statutory process as it provided both transparency and a paper trail that was of benefit to both sides and reduced the potential for disputes arising.

Overall, the pervading view amongst employers that had used the statutory process was that removing it would reduce the likelihood of losing an industrial tribunal case on a technicality, but without the statutory – more transparent – process, decisions could be more subjective and open to challenge, giving rise to more disputes and more industrial tribunal cases. On balance, they favoured retaining the statutory process.

'There would not be a major change as we already offer flexible working. Even though the employee would no longer have to go through a statutory process, they would still be expected to submit a request in writing, attend a meeting to discuss it and have resolution sent to them in writing, so process would be very similar.' (Science and Technical consultancy, large, experience of maternity leave, experience of paternity leave, limited experience of flexible working)

'We would still use the statutory process anyway otherwise we will probably end up in a tribunal.' (Property developer, large, experience of maternity leave, experience of paternity leave, experience of flexible working)

Employers' reasons for granting or refusing flexible working would remain broadly the same – employees had to have a good reason for wanting flexible working, such as caring responsibilities, or be undertaking relevant training – and the employee had to show that it was both viable and beneficial for the company. There were a few exceptions where employers said that they did not agree with the principle of flexible working and they would be able to refuse requests for flexible working under the proposed changes more easily.

7. Conclusions

As discussed in chapter 2, there is little up-to-date evidence on how employers manage their family-friendly and flexible working practices.

In terms of **maternity leave**, employers generally accept the principle of statutory leave with the principle and the processes having become embedded in their working practice. Neither maternity nor paternity leave is considered to be administratively burdensome. However, the key challenge facing employers is in providing cover for maternity leave that is of the right quality and is cost neutral; in many cases this is not possible and so the additional workload is redistributed across existing members of staff.

Employers commented that even though women might agree a return to work date in advance, in practice this did not always occur. Extending maternity leave at short notice was problematic, but employers were loathe to deny any such requests, partly because it might upset the employer-employee relationship, partly because they did not want to be seen as pressurising the employee, and partly the potential that it raised for dispute, or being taken to a tribunal. This concern about upsetting the employee on maternity leave is a continuing theme throughout the research, as is little use of keep in touch sessions; which could be seen to place further pressure on the employee to return to work early.

While employers are very aware of the right to **paternity leave**, there remained a considerable strength of feeling that childcare was primarily the mothers' responsibility, a view particularly in evidence in male dominated industries. As a consequence, paternity leave was not always taken, or only taken in part. While maternity leave was seen as an opportunity to look after a new baby, paternity leave was often seen as a holiday; interestingly, as paternity leave is so short it tends to be treated by employers as 'holiday' and cover is rarely arranged. There was no experience, within the sample of employers interviewed, of employees taking Additional Paternity Leave, which supported employers' belief that there was limited appetite amongst fathers to take a greater role in childcare.

Statutory **maternity pay** was generally seen as a fair way to compensate employees, although sectors with high rates of pay thought that it was insufficient to live on. As a consequence, some mothers may return to work before they were ready, or planned to return to work early and then change their mind, presenting challenges for employers in covering their absence at short notice. However, many of the micro and small employers that did not have HR support thought that maternity pay was a drain on the salary budget; it was clear that many either did not know that SMP could be reclaimed, or were not aware that their business was doing so.

The employers in the study offered a wide range of **flexible working practices**, the type of practice very much depending on the size and sector of the business. Typically, micro and small businesses did not recognise the wider benefits of flexible working to the business, seeing it primarily as a way of reducing absenteeism. By

contrast, larger businesses recognised that there were a range of benefits, including increased morale, retention, employee welfare and increased productivity as employees worked harder and for longer hours with no extra pay.

Flexible working was agreed in different ways. Small and micro employers made allowances for employees during periods of personal stress; such arrangements were rarely agreed formally and rarely ongoing. Larger employers did not always follow the statutory right to request process, especially those that did not have dedicated HR support, unless the request was declined or the employee submitted a formal request.

However, employers that followed the statutory procedure found that the requests employees made tended to be fairly reasonable because employees had to show that the arrangements they requested would not be detrimental to the business. Using the formal right to request process also resulted in transparency of the process, and employers thought, was less likely to result in disputes or threats of an industrial tribunal.

In principle there was some support for the idea of **shared parental leave** because it was thought to be more fair to mothers (who could return to work earlier without having to worry about childcare), to fathers (who could spend more time with their children) and employers (who could benefit if mothers returned to work sooner). However, employers were almost universally critical of the proposals presented to them for three key reasons:

- Focusing on the intermittent blocks of leave aspect, arranging cover for multiple short periods of leave was considered challenging; it might force employers to use expensive agency workers or distribute the workload internally which may not be manageable;.
- Male employees may take more leave if attitudes towards them taking parental leave changed;
- Greater unfairness to existing staff who have to cover the additional workloads of fathers in addition to mothers

Ultimately, however, there was a view that cultural beliefs would prevail and that men would be unlikely to take the additional leave unless it was cost-effective for them to do so.

Employers' overwhelming view was that the current system worked very well and that there was no demand for any change to the current arrangements. Focusing again on employees taking several blocks of leave, the proposals were considered to offer little benefit to parents in professional or senior roles because they would be unable to fit this intermittent type of leave into their client-focussed or service-driven work patterns.

In considering the **removal of the statutory process for requesting flexible working**, employers were very mixed in their attitudes. While some thought its

removal would speed up the process and in cases make it easier for employers to deny requests, the predominant view was that it would reduce transparency and increase the likelihood of disputes. On balance, employers generally preferred to retain the statutory process as it provided transparency of the process, and removed ambiguity and subjectivity, which could give rise to disputes.

Implications

- Current practices for managing family friendly working practices were deeply engrained. Therefore any changes may provoke strong knee-jerk reactions until employers see how new requirements bed-in.
- There was strong, in principle, support for family-friendly practices where these enabled women to return to work sooner. This was a strong positive message and may increase support amongst employers, although this declined when employers considered how shared leave might work in practice. They will need to be convinced that there is an appetite amongst mothers and fathers for these arrangements.
- The one week minimum period of leave may prove to be a controversial element of the proposal, particularly if employees do request multiple periods of leave or one week on / one week off arrangements. Employers need clear guidance about the extent to which they can negotiate periods of absence and whether they can refuse requests for patterns of leave that were particularly complex or difficult to manage.
- Minimum notification periods were considered unenforceable. Given employers' anxiety about requests for multiple periods of leave changing at short notice, guidance on other ways to safeguard against this would be beneficial.
- Where informal contact with employees on maternity leave was maintained, this was considered valuable in giving advance warning that the individual may want to change their return to work date. However, employers were nervous about contacting parents on parental leave as they did not want to be seen to pressurise employees to return sooner, or to work during their leave. Overall, maintaining better contact with employees whilst on maternity leave should be encouraged as this may help to reduce unpredictability of return dates and dissipate the view that employers should not keep in touch with women on maternity leave.
- There was little opposition to the proposed changes to flexible working. Broadening this out to all staff was acceptable as employers could refuse a request that was not viable for the business. However, a clear definition of 'reasonable consideration' was considered vital to avoid disputes with staff. In fact, employers who used the formal right to request flexible working procedure said they preferred to follow a defined process as this was more transparent for employees.

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Research materials

The research was qualitative in design, adopting in-depth interviews in order to examine employers' practices, and explore perceptions of employment legislation. The in-depth interviews were carried out by qualitative researchers who have extensive experience and have been trained in the techniques of non-directive interviewing. Each interview was exploratory and interactive in form so that questioning could be responsive to the experiences and circumstances of the business. Interviews were based on a topic guide, which listed the key themes and sub topics to be addressed and the specific issues for coverage within each. Although topic guides help to ensure systematic coverage of key points across interviews, they are used flexibly to allow issues of relevance for individual respondents to be covered through detailed follow-up questioning.

All members of the research team took part in a briefing to ensure the interviewing approach was consistent across the interviews. The interviews were conducted at the respondent's place of work. All interviews were digitally recorded and transcribed verbatim.

Material collected through qualitative methods is invariably rich but unstructured. The primary aim of any analytical method is to provide a means of exploring coherence and structure within a cumbersome data set whilst retaining a hold on the original accounts and observations from which it is derived. The analysis of the in-depth interviews was undertaken using a qualitative content analytic method called 'Matrix Mapping', which involves a systematic process of sifting, summarising and sorting the material according to key issues and themes. Information from each interview transcript was summarised and a map was produced which identified the range and nature of views, experiences, and issues for development and form the basis of this report.

Topic guide

BIS – Employment regulation

Main stage interviews V3

Part B

Job Number: 260107108

Date: May 2012

BIS Employment Regulation – Part B

Perceptions of maternity and paternity leave and flexible working

Aims:

- Understand how employers currently deal with requests for maternity / paternity leave and flexible working and how they accommodate these requests
 - Discuss the impact of specific regulatory requirements
- Explore employers' response to proposed changes to maternity and paternity leave regulations and the extension of the right to request flexible working to all employees, with a focus on:
 - the likely practical impacts of change and how to minimise the burden on businesses created by current regulation;
 - how employers would implement the changes and the effect on their current working practices.
- Explore employers' experience of flexible working and its impact on the business, including:
- motivations for, and barriers to, allowing diverse working arrangements (flexible working);
 - costs and benefits associated with diverse working arrangements;
 - understanding of the statutory requirements.

Approx timing	Key Questions
5	1. Introduction
	<ul style="list-style-type: none"> • Commissioned by the Department for Business, Innovation and Skills • Purpose of the research – to understand how employers manage maternity and paternity leave and requests for flexible working arrangements • TNS-BMRB are an independent research agency working on behalf of BIS • Length of interview – 60 minutes. • Confidentiality and anonymity – audio recordings and personal details will be held securely and will not be shared with BIS or used in our report • We use verbatim quotes to illustrate our reports but these will not be attributed using personal details and neither you nor your business would be identifiable.
5 min	2. Business context
	<p>I would like to begin with a few questions about the business / organisation</p> <ul style="list-style-type: none"> • Job title, length of time in business <ul style="list-style-type: none"> ○ Role; particularly in relation to managing people • Background to the business <ul style="list-style-type: none"> ○ Nature of business / sector ○ How the business is organised (e.g. subsidiary, part of a group, establish how the business fits within the rest of the organisation – where relevant) ○ How long THIS business established; how long GROUP

Approx timing	Key Questions
	<p>established, if relevant</p> <ul style="list-style-type: none"> ○ Current market conditions; how the business has fared over the past two years; have there been any changes to the business and reasons why <ul style="list-style-type: none"> ▪ Markets they operate in: <ol style="list-style-type: none"> 1. - local / UK / export 2. - dependence on particular customers ▪ Sources of competitive advantage – do they compete primarily on quality or price? ▪ Performance – sales & profit performance over past 2 years. ○ Number of employees – and changes in past two years; reasons for changes ○ Employee profile <ul style="list-style-type: none"> ▪ gender and age mix ▪ professional and skilled workers / unskilled ▪ full / part-time mix ▪ use of freelance, consultant, temporary staff ▪ extent of flexible working arrangements <p>I would now like to ask about what it means to be a good employer</p> <ul style="list-style-type: none"> • What makes a ‘good employer’? <i>[Note to researcher – offering occupational maternity scheme might be mentioned here if they offer OMP, along with other family friendly policies that employer implements]</i> <ul style="list-style-type: none"> ○ <i>If spontaneous, probe on maternity and paternity leave and flexible working arrangements:</i> <ul style="list-style-type: none"> ▪ <i>Why offer this to staff</i> ▪ <i>Is this solely about being a good employer?</i> • Within your business, how much of a priority is being a good

Approx timing	Key Questions
	<p>employer compared to other duties (such as paying invoices, attracting clients, meeting demand)</p> <ul style="list-style-type: none"> ○ Owner manager - Why? ○ Staff - What is it about the business that gives you that impression?
10 mins	<p>3. Mapping the process for dealing with maternity / paternity leave</p>
	<p>I'd now like to move on to some questions about what you do when someone asks you about taking maternity and / or paternity leave</p> <ul style="list-style-type: none"> ● How often do you need to deal with requests for maternity leave? <ul style="list-style-type: none"> ○ How many times have you dealt with maternity leave in the last two years? ○ How many employees in your company / your team have taken maternity leave in the last two years? ● Thinking of a recent example, can you take me through the process of maternity leave from the moment an employee informs you of their pregnancy? <i>[Note to researcher – use the information to map out every stage of the process with the showcard as prompt]</i> <p><i>[Note to researcher – <u>DO NOT PROBE</u> on regulation until the respondent has described all procedures.]</i></p> <p><i>For each stage of the process, <u>PROBE</u> for</i></p> <ul style="list-style-type: none"> ○ <i>The processes /administration involved</i> ○ <i>Who is involved at each stage (line management, HR, senior execs, others, etc.)</i> ○ <i>Degree of take up</i>

Approx timing	Key Questions
	<p><i>For leave and pay, PROBE for</i></p> <ul style="list-style-type: none"> ○ <i>What they offer in terms of pay and leave and who is eligible</i> ○ <i>Any issues in dealing with HMRC and HMRC systems?</i> <p><i>For covering absence, PROBE for</i></p> <ul style="list-style-type: none"> ○ <i>How and when they agree the return date</i> ○ <i>How fixed / flexible they are about the return to work date</i> ○ <i>How much notice the staff members has to give if they want to change their return date (forward and back)</i> <ul style="list-style-type: none"> ○ <i>What do they know about the notification period</i> ○ <i>Do they require staff to stick to this</i> ○ <i>How much contact they have with staff on leave, is this initiated by staff or employer</i> <ul style="list-style-type: none"> ○ <i>Any use of Keep In Touch days</i> ○ <i>How do they feel about discussing staffs plans after birth</i> <ul style="list-style-type: none"> ○ <i>Before leave</i> ○ <i>Once on leave</i> <ul style="list-style-type: none"> • How often do you deal with requests for paternity leave? <ul style="list-style-type: none"> ○ How many times have you dealt with paternity leave, and over the last two years? ○ How many employees in your company/in your team have taken in the last two years? • How does the process for paternity leave differ from dealing with and administering requests for maternity leave? <p><i>[Note to researcher - use the information given above to compare the described stages of the process with those of the maternity leave process.]</i></p> <p><i>PROBE fully using the probes above</i></p>

Approx timing	Key Questions
	<p>The right to Additional Paternity Leave was introduced last year. Have you had any requests for Additional Paternity Leave and what has been your experience?</p> <p><i>[Note to researcher - to explore awareness, understanding and impact of additional paternity leave], PROBE for:</i></p> <ul style="list-style-type: none"> ○ <i>If yes, explore impact on business (admin, processes, absence, statutory payments, cost to business)</i> ○ <i>What policy they have put into place</i>
10	<p>4. Understanding of Statutory Requirements and views about the impact of maternity and paternity leave</p>
	<p>I'd now like to move on and ask you about how you feel about the rules relating to maternity leave</p> <p>Understanding of statutory requirements relating to <u>maternity</u> leave</p> <p><i>NOTE TO RESEARCHER – repeat all the questions in this section for <u>paternity</u> leave</i></p> <ul style="list-style-type: none"> • Could you tell me what you see as the key features of the regulations/statutory/ requirements / what you are legally required to do in relation to maternity leave <p><i>Note to researcher - PROBE on:</i></p> <ul style="list-style-type: none"> ○ <i>Entitlements and Eligibility</i> ○ <i>Pay</i> ○ <i>What they are required to do</i> ○ <i>What they believe would happen if they could not / did not fulfil what they are required to do</i>

Approx timing	Key Questions
	<ul style="list-style-type: none"> • What are the main challenges presented by the statutory requirements? <p>Views about legal requirements in relation to maternity leave</p> <ul style="list-style-type: none"> • Do they meet or exceed the statutory minimum? <ul style="list-style-type: none"> ○ If business offers above the statutory minimum, why? ○ If not, why not? <ul style="list-style-type: none"> ▪ <i>Statutory minimum is: up to 52 weeks maternity leave and maternity pay of 90% of weekly pay for 1st 6 weeks, and £135.45 per week for subsequent 33 weeks</i> • How fair are the statutory requirements: <ul style="list-style-type: none"> ○ to all your staff ○ to your business • Do you think statutory requirements are appropriate to meet the needs of your staff / business? • What do other similar businesses do in terms of meeting the statutory requirements? <ul style="list-style-type: none"> ○ And exceeding them (e.g. in terms of length of leave or degree of pay) • What does your staff expect you to do? And how have you managed these expectations? <p>I'd now like to ask you about the impact this has on your business</p> <p>Effect on business</p> <ul style="list-style-type: none"> • How do maternity leave and pay affect the business <p><i>Note to researcher – Note whether the effect on business are related to occupational schemes or meeting statutory requirements; issues may already have come up in earlier sections, but if not, PROBE for:</i></p>

Approx timing	Key Questions
	<ul style="list-style-type: none"> ○ <i>Covering the period of absence</i> ○ <i>Deciding on the type of contract for maternity cover staff</i> ○ <i>Costs of administration / processing</i> ○ <i>Dealing with HMRC</i> ○ <i>Financial cost of maternity pay / paying staff to cover absence</i> ○ <i>Giving cover staff notice to leave</i> ○ <i>Familiarisation issues (time spent on investigating statutory requirements and changes to these)</i> <p>Benefits to the business</p> <ul style="list-style-type: none"> ● Have you experienced any benefits from offering the maternity leave and pay that you do <p style="text-align: center;"><i>Spontaneous responses - then probe on:</i></p> <ul style="list-style-type: none"> ○ <i>Recruitment / retention</i> ○ <i>Morale</i> ○ <i>Attachment to firm/engagement with firm</i> <p>I'd now like to ask you similar questions about how you feel about the rules relating to paternity leave</p> <p style="text-align: center;"><i>[NOTE TO RESEARCHER – don't forget to repeat the above questions for <u>paternity leave</u> also]</i></p> <p style="text-align: center;"><i>[statutory paternity leave and pay is: up to 2 weeks leave paid at a minimum of £135.45 per week]</i></p>
10 mins	5. Changes to maternity and paternity leave

Approx timing	Key Questions
	<p data-bbox="352 387 1386 533">Give respondents the SHOW CARD explaining possible changes to maternity and paternity leave <i>Discuss the changes they would need to make to their current procedures to incorporate this, using the map developed earlier to prompt discussion.</i></p> <ul style="list-style-type: none"> <li data-bbox="352 577 1369 667">• How they feel they feel what they do now will change under the new system? <ul style="list-style-type: none"> <li data-bbox="571 689 1251 779"><i>Spontaneous responses – the areas to cover in discussion:</i> <li data-bbox="571 801 1326 891">○ <i>Reallocation of maternity leave weeks 18-39 from maternity leave</i> <li data-bbox="571 913 911 947">○ <i>The shared element</i> <li data-bbox="571 969 1222 1059">○ <i>Fathers statutory minimum paternity leave increasing to 6 weeks</i> <li data-bbox="571 1081 1353 1216">○ <i>Would it still be necessary to cover leave if taken in smaller blocks (i.e. 2 weeks on and 2 weeks off; 1 week per month)</i> <li data-bbox="571 1238 1353 1440">○ <i>Impact of the 'shared leave approach' on what they currently provide, particularly schemes that go beyond the statutory minimum for both mothers and fathers</i> <li data-bbox="571 1462 1238 1597">○ <i>Any impact on existing schemes for fathers</i> <ul style="list-style-type: none"> <li data-bbox="643 1518 1278 1597">• <i>Would they reduce or increase what they currently offer to fathers</i> <li data-bbox="571 1619 1150 1653">○ <i>Admin/process issues they anticipate</i> <li data-bbox="571 1675 1315 1765">○ <i>Short term costs resulting from implementing the change</i> <li data-bbox="571 1787 1222 1821">○ <i>Long term costs relative to current system</i> <li data-bbox="571 1843 1315 1877">○ <i>How they feel about agreeing leave on this basis</i> <li data-bbox="571 1899 1078 1933">○ <i>Impact on relationship with staff</i>

Approx timing	Key Questions
	<ul style="list-style-type: none"> • How would you go about planning the pattern of leave a member of staff wanted to take <ul style="list-style-type: none"> ○ Would the proposed way of taking maternity/paternity leave change the way you plan for employee absences? In what ways? ○ How would you deal with staff who change their plans after they'd given birth ○ How would this affect the amount of contact you had with staff while they were on leave ○ ○ If staff request flexible leave, would you feel differently about getting in touch with them to discuss their plans after they had given birth • Any potential business benefits relative to current system?
10 mins	6. Dealing with requests for flexible working
	<p>I'd now like to move on to some questions about your experience of dealing with employee requests for flexible working.</p> <ul style="list-style-type: none"> • Do you, as an employer, make various forms of flexible working available? <p style="text-align: center;"><i>(SHOW CARD)</i></p> <ul style="list-style-type: none"> ○ <i>Part-time working</i> ○ <i>Job sharing</i> ○ <i>Flexitime</i> ○ <i>Working a compressed working week</i> ○ <i>Working reduced hours for a limited period</i> ○ <i>Working from home on a regular basis</i>

Approx timing	Key Questions
	<ul style="list-style-type: none"> ○ <i>Working only during school term-time</i> ○ <i>Reduced hours for a limited period</i> ○ <i>Annualised hours</i> <ul style="list-style-type: none"> • How often do employees make requests for flexible working arrangements? • How many times have you (personally) dealt with request for flexible working arrangements in the last 2 years? • How many of your staff / or what proportion have these arrangements in place? <p style="text-align: center;"><i>Note to researchers: Cover the following aspects relating to examples of request(s) the participant was involved with. If the employer is talking about requests in general, it would be useful to find out if that is always the way they handle requests or do they sometimes use discretion (for those who go down the more informal routes).</i></p> <p>Probe on specific requests:</p> <ul style="list-style-type: none"> ○ Who from ○ How was the request made ○ What was the precise nature of the request ○ Did you accept the request? If so: why? ○ Did you negotiate/ try to negotiate an alternative arrangement to the one requested? ○ Would you treat all requests the same as this one? <ul style="list-style-type: none"> • Have you ever refused a request for flexible working <ul style="list-style-type: none"> ○ Why ○ How did you handle this

Approx timing	Key Questions
	<ul style="list-style-type: none"> • How do you usually go about negotiating flexible working with staff? <ul style="list-style-type: none"> <i>Note to researcher - PROBE for:</i> <ul style="list-style-type: none"> ○ <i>How formal/informal they are, e.g. informal chat/written or email request etc.</i> ○ <i>How much time do they spend dealing with a request for flexible working</i> ○ <i>How much time do they spend negotiating a workable solution with their employee?</i> ○ <i>How they go about refusing a request</i> ○ <i>What happens if there is a disagreement / the employee appeals a decision</i> ○ <i>Who can request flexible working?</i> <ul style="list-style-type: none"> • <i>Any groups that are prioritised and reasons for this?</i> • What do you see as the main challenges involved in handling employee requests for changes to their working arrangements? • Have you noticed any differences in the way that people work who have flexible working arrangements? <ul style="list-style-type: none"> ○ In what ways <ul style="list-style-type: none"> Spontaneous, then <i>Probe for</i> <ul style="list-style-type: none"> • <i>Engagement</i> • <i>Motivation</i> • <i>Productivity</i> • <i>Loyalty / more attached to the firm</i> • <i>Any downsides in terms of the effect on the member of staff</i> • Is it worth it for the business to offer flexible working <ul style="list-style-type: none"> ○ Why

Approx timing	Key Questions
5 mins	<p>7. Understanding of Statutory Requirements and views about flexible working</p>
	<p>I'd now like to talk about how you feel about the rules relating to flexible working arrangements</p> <p>Understanding of legal requirements relating to flexible working</p> <ul style="list-style-type: none"> • What do you know about the right to request flexible working? <ul style="list-style-type: none"> ○ Who is eligible? ○ Obligations ○ What they would believe would happen if they did not fulfil their obligations? <p>Effect of flexible working on business</p> <ul style="list-style-type: none"> • Whether and how dealing with requests for flexible working impact on their business <p><i>Note to researcher - PROBE for:</i></p> <ul style="list-style-type: none"> ○ <i>Costs of administration / processing</i> ○ <i>Specific procedures / administration tasks</i> ○ <i>Familiarisation with statutory requirements</i> ○ <i>Putting the agreed arrangements into practice</i> ○ <i>Adjusting to the new ways of working</i> <p>Benefits to the business</p> <ul style="list-style-type: none"> • Does the business benefit in any way by offering flexible working arrangements? <p><i>[Note to researcher: cover the benefits in relation to <u>existing and potential employees</u> as well as for business model.]</i></p> <ul style="list-style-type: none"> ○ <u>Current employees:</u> <p><i>PROBE for:</i></p>

Approx timing	Key Questions
	<ul style="list-style-type: none"> ▪ <i>improved morale, greater engagement, greater effort...enhanced productivity; or feelings of 'obligation'; attachment to firm (less likely to leave); absence behaviour</i> ○ <u>Potential employees</u> <i>PROBE for:</i> <ul style="list-style-type: none"> ▪ <i>recruitment benefits</i> ○ <u>In terms of business model</u> <i>PROBE for:</i> <ul style="list-style-type: none"> ▪ <i>positive impacts in terms of what the business does, or its activities/processes/customers, e.g. changing working arrangements could allow business to have 24-hour cover.</i> <ul style="list-style-type: none"> • How they came to provide / allow flexible working/diverse working arrangements? <i>Spontaneous responses – then PROBE:</i> <ul style="list-style-type: none"> ○ <i>Employees demand</i> ○ <i>Company policy</i> ○ <i>Statutory requirements – the right to request</i> <ul style="list-style-type: none"> • <i>What the business did in response to the right to request legislation</i>
5 mins	8. Changes to flexible working
	<p>Show slide on suggested changes to flexible working regulations</p> <ul style="list-style-type: none"> • Potential impact on business

Approx timing	Key Questions
	<ul style="list-style-type: none"> ○ Discuss what the proposed changes would mean to them and if and how they might need to change their current procedures ○ Any concerns or perceived business benefits (e.g. concerns about ability to prioritise, impact on colleagues) ○ How they feel about the replacement of the statutory process with the duty to consider requests 'reasonably' <ul style="list-style-type: none"> ▪ What this means to them? ▪ How they think this might work in practice? ● Views about likely take-up of flexible working after the changes have been brought in <ul style="list-style-type: none"> ○ who would apply ○ would it deter some people; if so, who? ● How they would decide whether to grant flexible working <ul style="list-style-type: none"> ○ What criteria they would use
5 mins	9. Beliefs about greater flexibility in the workplace
	<p>I would now like you to talk about how you feel about having a diversity of working arrangements within a business, and about the statutory right to request flexible working</p> <ul style="list-style-type: none"> ● How do you respond to requests for greater flexibility ● How does the business respond to requests for greater flexibility ● How do other staff respond to requests for greater flexibility <ul style="list-style-type: none"> ○ How do junior staff feel about other people who request flexible working? ○ How do manager level staff feel about people who request flexible working? ● Are there any risks for staff in requesting flexible working? ● What other similar businesses offer in terms of flexible working? ● What your staff expect your business to offer

Approx timing	Key Questions
	<ul style="list-style-type: none"> • Are there specific types of employees who are more likely to request flexible working? [Note to Researcher, PROBE FOR] <ul style="list-style-type: none"> ○ who; why is this • Who should be entitled to work flexibly? [Note to researcher, PROBE FOR] <ul style="list-style-type: none"> ○ reasons why; reasons why not others • How are employees who work flexibly perceived? <i>Note to Researcher - Spontaneous and then PROBE:</i> <ul style="list-style-type: none"> ○ <i>No differently to other employees</i> ○ <i>Lacking commitment / drive</i> ○ <i>It's only for women / carers</i> ○ <i>Etc.</i> • How do you feel about allowing employees greater flexibility in arranging their leave and hours? <ul style="list-style-type: none"> ○ How you <i>personally feel</i> about flexible working? ○ Does this match the company ethos? ○ Impact on others, of people working flexibly • Are there any benefits to businesses generally of allowing flexible working? <i>Spontaneous and then PROBE:</i> <ul style="list-style-type: none"> ○ <i>Recruitment and Retention (and how it comes about)</i> ○ <i>Reducing unauthorised absence</i> ○ <i>Morale / engagement leading to greater effort or enhanced productivity</i>

Approx timing	Key Questions
	<ul style="list-style-type: none"> ○ <i>Greater sense of obligation to employers leading to greater effort and productivity</i>
2 mins	10. Close
	<ul style="list-style-type: none"> • How much do you think these changes that we discussed today will affect the way that businesses deal with their staff? <ul style="list-style-type: none"> ○ What types of business ○ In what ways ○ Why? • Part of the reason the government is bringing in these changes is to make the current system work better for employers, what are the key problem areas that the government should look at when changing the system? • How do you feel about the effect that employment regulation has on businesses in the UK? • Do you have any other issues they would like to raise (ensure they are 'on topic'). • DESCRIBE what happens next and reassure about confidentiality <p>Thank and close</p>

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