

3. Transparency: Flexible working and family-related leave and pay policies

This chapter sets out measures which aim to complement the government's aims and objectives set out in chapter 1 and to improve access to flexible working for all. It looks specifically at measures to enable job applicants and existing employees to make more informed decisions about job opportunities and access the flexibilities they may need to stay in the labour market.

The chapter asks questions about:

- Employers publishing their family related leave and pay and flexible working policies;
- Whether there should be a requirement for employers to consider advertising jobs as flexible.

Please respond to the questions in this chapter by **11 October 2019**.

Introduction

The government believes that more needs to be done to improve clarity, certainty and understanding of employers' policies if we are to maintain and increase momentum on closing the gender pay gap. This is also important to enable people to achieve more choice and flexibility to balance their commitments in and outside of the workplace.

There are a range of employee rights and employer obligations in place which help employees achieve more control and balance in their commitments. Employees with more than 26 weeks' service have the right to request flexible working. An employer can only reject a statutory request when there are solid business reasons to do so. Many employers also offer informal flexible working, where they agree working patterns and hours of work outside the statutory scheme, often temporarily. Despite the existence of the statutory right, prospective employees may not be aware of what the employer's approach to flexible working is.

Many employers also go beyond the statutory minima when it comes to family-related leave and pay and provide enhanced contractual entitlements and top up statutory pay at their own expense. Yet, job applicants and existing employees are often unaware of the fact that their employers' offer is more generous than the statutory schemes.

This is why in October 2018, the government made a commitment to consider creating a duty for all employers to assess whether a job can be done flexibly and make that clear when advertising; and to consult on requiring employers with more than 250 employees to publish their parental (family-related) leave and pay policies to align with the overarching approach to gender pay gap reporting. This chapter consults on ways to encourage employers to be more transparent about their approach to flexible working and to parental leave policies.

Publishing family-related leave and pay and flexible working policies

If a requirement to publish family-related leave and pay and flexible working policies was introduced, large organisations might be required to provide a link to the relevant policies on their website. As the purpose of the requirement is to achieve greater transparency, we believe that this should be the case whether their offer exceeded the statutory minima or not. Where the offer does not exceed the statutory, a simple statement should suffice.

1. Do you agree that large employers (250+ employees) should publish their family-related leave and pay policies on their website?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please give reasons for your answer.

2. Do you agree that large employers (250+ employees) should publish their flexible working policies on their website?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please give reasons for your answer.

3. Do you agree that transparency of these policies will help employers to recruit and retain staff?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please give reasons for your answer.

4. Do you agree that, where the employer has a policy on family-related leave and pay which extends the statutory minima, reworking and publishing an internal policy document on a public-facing website would be simple and inexpensive?

- Strongly agree
- Agree
- Neither agree nor disagree

- Disagree
- Strongly disagree
- Don't know

Please give reasons for your answer.

5. Do you agree that, as for family related leave and pay, reworking and publishing a flexible working policy on a public-facing website would be simple and inexpensive?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please give reasons for your answer.

In considering the value of the information organisations might publish, it is important to know what information people would find most useful.

6. How helpful would the following information be if it was held (and viewable) on a central database – for instance the Gender Pay Gap Reporting Portal:

a) Whether flexible working may be available from the start

- Very helpful
- Quite helpful
- Neither helpful nor unhelpful
- Not very helpful
- Not at all helpful
- Don't know

b) Approach to place, hours and times of work

- Very helpful
- Quite helpful
- Neither helpful nor unhelpful
- Not very helpful
- Not at all helpful
- Don't know

c) Approach to informal flexible working (such as later starts to accommodate health and other appointments)

- Very helpful
- Quite helpful
- Neither helpful nor unhelpful
- Not very helpful
- Not at all helpful
- Don't know

d) Enhancements to different types of family-related leave and pay, for example: Maternity Leave and Pay; Paternity Leave and Pay; Adoption Leave and Pay; Shared Parental Leave and Pay; parental leave taken in respect of older children; or, any other contractual enhancements to family-related leave and pay.

- **Very helpful**
- **Quite helpful**
- **Neither helpful nor unhelpful**
- **Not very helpful**
- **Not at all helpful**
- **Don't know**

Please give reasons for your answers.

7. To what extent do you believe that a job applicant's decision on whether to apply for a job would depend on the publication of the information mentioned above?

- **A lot**
- **Somewhat**
- **Not at all**

Please give reasons for your answer.

A requirement to report or a voluntary approach?

Greater transparency around what is on offer could allow individuals to take a view on whether a particular job is right for them. It should also make for a more effective recruitment process.

While many employers embrace flexible working and family-friendly policies, others have yet to recognise the benefits. As a result, job applicants (including those who already work in an organisation in another role) are required to ask about relevant policies at interview. Many are reluctant to do so for fear of being discriminated against. One way of dealing with this might be to introduce a statutory requirement for large employers to publish their policies.

There are already a number of mandatory reporting regimes in place, including gender pay gap reporting (mandatory for all large businesses, i.e. those with 250+ employees). These provide incentives on businesses to take action to improve their performance, so we are mindful of introducing additional regulation without testing a voluntary approach in the first instance – particularly given the impact the reporting requirement alone appears to be having in raising the profile of these issues.

However, the potential for change to be driven by greater transparency around existing policies should also be weighed against the potential stimulus for change which an action plan might provide. Around 50% of large employers already voluntarily supplement their gender pay gap information with a narrative or an action plan, which sets out the steps they are taking to narrow the gap. It may be that a dynamic action plan is a more effective way of driving cultural change also on this issue.

8. How effective do you believe a voluntary approach to encourage greater transparency about an organisation's approach to flexible working and family-related leave and pay (e.g. through the Gender Pay Gap Reporting Portal) might be in providing information about employers' policies?

- Very effective
- Fairly effective
- Not very effective
- Not at all effective
- Don't know

Please give reasons for your answer.

9. How effective do you believe creating a facility on the Gender Pay Gap Reporting Portal on GOV.UK to record details about an organisation's policies on flexible working and family related leave and pay would be:

a) To provide a central point of information for employees or prospective employees?

- Very effective
- Fairly effective
- Not very effective
- Not at all effective
- Don't know

b) To let employers record the information as a part of the annual cycle of Gender Pay Gap Reporting?

- Very effective
- Fairly effective
- Not very effective
- Not at all effective
- Don't know

Please give reasons for your answers.

10. How effective do you believe it might be to encourage employers to set out how they are using greater transparency about their employment policies as part of their gender pay gap action plans?

- Very effective
- Fairly effective
- Not very effective
- Not at all effective
- Don't know

Please give reasons for your answer.

11. Do you agree that it would make sense to enforce a reporting requirement of this kind in the same way as gender pay gap reporting (i.e. a requirement to provide this information as part of the gender pay gap reporting process)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please give reasons for your answer.

A requirement to say whether jobs may be open to flexible working in the advert

If employers were to be required to say in a job advert whether flexible working was available, there would be a need to strike a balance between what information it was practical to provide, and what a candidate would find helpful.

12. Thinking about the balance between what it is practical to provide in a short job advert and what is useful to a candidate, which of the following is the best option (please select one)?

- A simple statement (such as “Happy to Talk Flexible Working”)
- A short statement covering the organisation’s approach to place, hours and times (e.g. “core hours”) of work
- A simple statement and a link to a published policy
- A short statement covering the organisation’s approach to place, hours and times of work and a link to a published policy
- Other (please set out)

Please give reasons for your answer.

If a such a requirement was introduced, it would need to be backed up by an effective and proportionate means of enforcement.

13. If a requirement was introduced to state in job adverts whether flexible working may be available or not:

- a) Who might the enforcement power sit with? Please describe.**
- b) What should be the process for reporting a breach? Please describe.**
- c) What should be the penalty for a breach? Please describe.**

Saying whether flexible working is an option in the job advert only goes so far – we would not know how many jobs are being advertised as open to flexible working and which employers do so.

14. If a requirement to provide a link to your flexible working policy on the gender pay gap reporting portal was introduced, do you agree that it would be helpful also to ask employers to record whether they had advertised jobs as open to flexible working?

- **Strongly agree**
- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Don't know**

Please give reasons for your answer.