



HOUSE OF COMMONS ALL-PARTY PARLIAMENTARY SMALL BUSINESS GROUP

Flexible Working: Challenges for Business



Federation of Small Businesses
The UK's Leading Business Organisation

ACCA

ACCA (the Association of Chartered, Certified Accountants) is proud to be providing secretarial support to the APPSBG.

ACCA is the global body for professional accountants, with over 131,500 members and 362,000 students worldwide. ACCA has its headquarters in London and 144,700 of our members, students and affiliates are based in the UK. 56% of our members in the UK work in or for a small and mediums-sized enterprise (SME) and we have over 100 years' experience in understanding and supporting small firms. Independent research shows consistently that accountants are the first choice advisors of small businesses. Given that our members advise their small business clients on a daily basis on tax matters, we are well placed to comment on issues affecting SMEs.

FEDERATION OF SMALL BUSINESSES

The Federation of Small Businesses is sponsoring the inquiry into flexible working.

The Federation of Small Businesses is the UK's largest campaigning pressure group promoting and protecting the interests of the self-employed and owners of small firms. Formed in 1974, it now has 215,000 members across 33 regions and 230 branches.

The Federation of Small Businesses aims to be and remain the largest and most effective organisation promoting and protecting the interests of the self employed and small business owners within the UK.

THE ALL-PARTY PARLIAMENTARY SMALL BUSINESS GROUP

The All-Party Parliamentary Small Business Group (APPSBG) was set up by a cross party group of MPs to raise awareness among Parliamentarians of a broad range of issues of concern to small businesses, including red tape and environmental legislation. The group also looks at the vital role played by SMEs.

The APPSBG, chaired by Andy Love MP, exists to further the aims of small businesses and to provide feedback on small business issues to Parliament.

Founded in 1997, the APPSBG has grown in prominence and is now believed to be the largest all-party parliamentary group in the UK with around 400 members from the House of Commons and House of Lords.

ACCA acts as secretariat to the group.

The activities of the APPSBG and ACCA are critical in gathering the facts on issues facing smaller businesses, bringing them to the attention of Parliament and Government and feeding into policy development and legislation.

This inquiry has been sponsored by the Federation of Small Businesses (FSB).

Committee secretariat and contact for inquiries

Veena Hudson
Head of Public Affairs, ACCA
Email: Veena.Hudson@accaglobal.com
Telephone: 020 7059 5615

Flexible Working: Challenges for Business

House of Commons All-Party Parliamentary Small Business Group

Contents

Executive summary	5
Summary of recommendations	6
1. Introduction	7
2. Small business structures	9
3. Advantages to SMEs of flexible working	10
4. Disadvantages to SMEs of flexible working	11
5. Support for small businesses	13
6. Financial issues	15
7. Equality and diversity	17
8. Conclusion	19
Annex: list of respondents	20

Executive summary

Flexible working has many advantages for both the employer and the employee, including increasing the staff morale and loyalty, reducing staff turnover and absenteeism as well as decreasing overhead costs. However, there is still a significant stigma and an overwhelming assumption that flexible working is designed for, and only available to, some workers; specifically parents, carers, and women.

There is a lot of potential in flexible working. Our respondents agree that SMEs could benefit greatly from introducing such working arrangements and many of them already do – often through informal arrangements. However, we cannot lose track of potential difficulties they may encounter.

The flexible working challenges for business, especially small and micro businesses, are not to be underestimated. These are many and diverse, and include issues such as administrative and financial strain due to backlog of applications. SMEs often do not have HR and managerial expertise or clerical assistance to deal with growing numbers of applications and training sessions for business consultants, especially if the right to request were to be extended to all employees. Increasing the right to request may place many SMEs under significant administrative strain.

As the All Party Parliamentary Small Business Group (APPSBG) took written and oral evidence, a number of very clear themes emerged. These were:

- There is still much confusion surrounding flexible working and some small businesses are uncertain what the term actually refers to. Many SMEs offer flexible working without realising it, while many others are reluctant to offer it, because of the lack of clear definition.
- For employees the benefits of flexible working are clear. But flexible working can also hold benefits for employers, particularly in terms of retaining or recruiting the skills and experience of workers who want or need to reduce their working time and in providing the employer with greater flexibility in times of economic difficulty.
- SMEs are more likely to use informal practices to manage flexible working rather than formal procedures, thus reducing bureaucracy for employees and employers alike.
- More and more legislation is being brought forward to enable employees to request flexible working but this legislation is not always necessary. Sometimes it just creates an unnecessary administrative burden.
- The possible extension of the right to request to everyone could put even bigger strain on the SMEs, especially when the economy is beginning to emerge from recession.
- Part-time workers are often undervalued and it can be difficult to find agencies that cater for them, even though there are thousands of SMEs that could benefit from a part-time worker. Moreover, the part-time positions which are available are overwhelmingly concentrated at the lower end of the skills spectrum. Highly skilled professionals have particular difficulty finding part-time work and, as a result, are more likely to work freelance, or drop out of the workplace altogether.
- The way the current benefits system works often means that people or couples are better off living off benefits than working. This means that SMEs are missing out on valuable skills and experience and find it difficult to fill in the vacancies with fewer hours available.
- From SME's point of view, maintaining the right to refuse flexible working request is crucial.
- The Government itself needs to be an exemplar employer. It can do much to increase public confidence in flexible working by showing in practice how flexible working can be a win-win for both employer and employee.
- There is a positive environmental angle to flexible working, with fewer people needing to commute as they work from home, less office space needing to be resourced, or even just less congestion as people work staggered hours.

This report uses the evidence received from interested parties to consider the following key areas:

- The possibility of extending the right to request to everyone and how it would affect SMEs
- The stigma surrounding part-time and flexible workers
- The impact of the financial crisis on flexible working in SMEs

The report makes 12 recommendations covering the challenges that SMEs face with regard to flexible working.

SUMMARY OF RECOMMENDATIONS

- Any extension of the right to request should be on a voluntary basis. SMEs need a transition period to check their suitability for the scheme and to try out new working models in practice. Flexible working needs to be designed based on the business model of each SME and the demands of the particular positions, rather than being imposed through legislation. Although SMEs are pioneers in such arrangements, formalising these arrangements can often place a significant administrative burden upon them which places them at a significant competitive disadvantage.
- The fact that the request for flexible time can be refused on the basis of business needs should be publicised and explained to reduce the concerns of business owners and to improve understanding on the part of employees. On the other side of the coin, millions of workers are currently not aware of the existence or extent of the rights to request offered by their employers and the law.
- The APPSBG, does not support a full moratorium on employment legislation, but recommends that SMEs and particularly micro firms need to be given a chance to catch up with the current legislation and to implement new rules. Any new legislation needs to be designed from the bottom up using the 'think small first' approach. The next three years should be about helping the SMEs find their way out of the financial crisis.
- Support and training needs to be directed specifically to owners and to managers who supervise staff who work flexibly.
- The continued subsidised support and training for managers in SMEs is essential.
- Government support for SMEs offering flexible working must go beyond the advice provided by websites such as Directgov and Business Link, which often is not reaching those it needs to reach. Support should be directed through private sector business advisers such as accountants, who already provide advice to small businesses on a regular basis.
- Jobcentre Plus needs to take a more active part in offering (and helping employers design) flexible and part-time jobs. It needs to be more sympathetic and supportive to the employment needs of SMEs. Other agencies must be rewarded for finding part-time workers in the same way they are rewarded for full timers. In particular, part-time work should not simply be seen as something available to only low-skill workers.
- The benefits system is too inflexible and does not support people who wish to work part-time. The situation, where couples are often forced to take one full-time job instead of two part-time ones because of the way benefit system works, must change. Incentives should be provided, either through lower taxation or National Insurance contributions, to incentivise people to work part-time, getting them off benefits, and providing SMEs with talented, skilled staff as needed.
- The perception that flexible working is an arrangement for parents and carers only needs to be challenged, as it can cause resentment in the workplace among other employees.
- More research in this area is needed. For example, the Government sponsored Employment Relations Survey should be continued with wider coverage a more regular timetable. The survey is one of the few that provides large-scale, statistically reliable insights into a broad range of industrial relations and employment practices. The survey was last completed back in 2004, and micro businesses only surveyed for the first time in that year too. This means that there is currently a real dearth of thorough longitudinal data which can show how small businesses have responded to past legislation changes.

1. Introduction

The APPSBG has decided to undertake an inquiry into the impact of flexible working on SMEs and the barriers to flexible working. 'Flexible working' describes any working pattern adapted to suit the needs of the employee or employer. It includes part time, flexi time, mini jobs, temporary contracts, annualised, compressed or staggered hours, job sharing, and term-time and home-working. In their oral evidence to the inquiry, the Chartered Institute for Professional Development (CIPD) stated that their definition of flexible working included:

Sabbaticals, informal understandings, coming in early or going home early are all included. Regulation does not define it, and nor should it. Many organisations, especially smaller ones, prefer to keep the whole thing quite informal.

Flexible working is not all about parents with young children and those caring for sick relatives. Employees may seek flexible or part-time hours to accommodate their education, volunteering or other professional activities in their local communities, or to achieve a work-life balance that suits them. Those closer to retirement age may seek it in order to cut down their hours and duties. It is also often the best solution for those coming back into work from prolonged leave or for those with underlying medical conditions.

For employees the benefits are clear. But flexible working can also hold benefits for employers, particularly in terms of retaining the skills and experience of workers who want or need to reduce their working time and in providing the employer with greater flexibility in times of economic difficulty. Flexible working can also help SMEs in a growth phase expand without significantly adding to their fixed overheads.

For example, *Working Families* states in its submission that:

SMEs may find it easier than larger organisations to make the business case and to observe the positive impact of flexible working on performance. During an economic downturn all businesses should consider flexible working to maximise productivity, motivate their employees and maintain a competitive edge.¹

More and more legislation is being brought forward to enable employees to request flexible working, but is such legislation necessary in small firms or does it actually create an unnecessary administrative burden? As of April 2009 for example, parents of children aged up to 16 have the right to request flexible working. This means that more than 4m additional workers (and 6m in total) now have the right to request flexible hours from their employer. The Conservative Party wants to further expand the right to request flexible working to parents of children under 18. If and when that happens, it could put an additional financial burden on SMEs, during the financial recovery.

The British Chambers of Commerce (BCC) has a firm position on this issue, stating in its oral evidence that:

There was never any benchmarking done to show what kind of flexible working is already operating. It is unfair to those employers who are doing everything they can already to offer flexible working, to be penalised. We are not in favour of an extension of the right to request.

The Equal Opportunities Commission claims that only 48% of British companies offer their staff flexible working arrangements.² It states many other European countries do better, with over 90% of firms in Sweden, Finland and Germany giving staff the option of varying their work place or times.

Many small businesses claim that flexible working legislation is a burden. Indeed, the Government itself has identified flexible working requests as one of the chief administrative burdens resulting from employment regulation,³ although, according to government research, the incidence of formal flexible working requests is very low among small and micro businesses. The possible extension of the right to request to everyone could put even bigger strain on the SMEs, especially when the economy is beginning to emerge from recession. Any new employment law is more costly to adapt to for SMEs than it is for large companies. The SmallBusinessFirst and the BCC submissions agree that extension of the right to request to everyone would unavoidably create significant administrative costs and should be first introduced on a voluntary basis only. The BCC goes further, calling in its oral evidence and elsewhere for:

A three-year moratorium on employment law and a review of what is actually necessary to regulate the work-place. We need to let all the existing legislation bed down, and there is also so much new legislation in the pipeline because of the recession, to be implemented in 2011. Business needs to tackle that before being presented with more legislation.

1. Working Families submission.

2. http://news.bbc.co.uk/1/hi/programmes/working_lunch/6753903.stm

3. <http://www.berr.gov.uk/files/file49199.pdf>

This inquiry aims to examine both sides of the argument and to produce recommendations that will enable small businesses to comply fully with flexible working legislation without being put at a competitive disadvantage.

SmallBusinessFirst's submission highlights this point:

Small businesses already recognise the benefits of flexible working and many have informal arrangements in place. But when the process is made into a formal law it becomes a lot more difficult for small businesses to process the requests. Small businesses are disadvantaged by all employment law in comparison to bigger companies.⁴

In 2007 Imelda Walsh, the HR Manager of J Sainsbury plc, was asked by the then Department for Business, Enterprise and Regulatory Reform (BERR, now the Department for Business, Innovation & Skills, BIS) to conduct an independent review of flexible working for parents and carers. Her report resulted in the extension of the law covering flexible working, to parents of older children in 2009. According to the final report 'Flexible working: A review of how to extend the right to request flexible working to parents of older children'

The argument against granting flexible working request to all employees is that the current law allows employers to choose how to best to introduce flexible working practices to their business. This may involve going beyond what the law requires or sticking with the minimum, but employers are free to make this decision themselves.⁵

4. SmallBusinessFirst submission.

5. Imelda Walsh independent review, www.berr.gov.uk/files/file46092.pdf

2. Small business structures

SMEs account for 99.3% of all UK businesses, and 58% of private sector employment.⁶

Professor Colin Coulson-Thomas points out in his submission:

Small companies sometimes give a lead when it comes to adopting alternative ways of working.⁷

Since SMEs employ fewer people than larger companies, they are less likely to have access to legal advice and in-house HR departments than large corporations. The working environment in smaller companies encourages more personal relationships, especially between senior and junior staff. This is why flexible working in SMEs is so often arranged on an informal basis, and why SMEs are more likely to approve any flexible working requests.⁸

This is emphasised in CIPD's written evidence, which states that:

CIPD research supports the notion that the structure of SMEs means they are well placed to embrace flexible working practices. SMEs are more likely to use informal practices to manage flexible working rather than formal procedures, thus reducing bureaucracy for employees and employers alike.⁹

Women Like Us, in their oral evidence go further, saying that:

A lot of small businesses are just doing it [using flexible working practices] – and that's when it works best.

Informal arrangements seem to work well for the SMEs. However, difficulties can arise if there are disagreements between employer and employee. The employee protection issue is why many people support formalising flexible working within SMEs as well as for larger companies. Professor Coulson-Thomas bears this out, stating in his oral evidence that:

If one is protected, all should be protected across the board, whether they work for a large company or a small one.

On a similar note, Opportunity Now stated in oral evidence that:

We have a problem with giving some employees rights but not others.

For flexible working arrangements to become a norm there needs to be a shift in working culture and attitudes. The Liberal Democrats' submission to the inquiry emphasises that:

Real change will only come if there is a change in the UK's working culture; many businesses do not currently understand the financial benefits of working flexibly.... Extending the right to request flexible working to all employees would help tackling the stigma some people attach to flexible working and move away from the culture where productivity is measured by number of hours worked.¹⁰

In addition to this, the working culture may need time to adapt. Employees need to get used to sharing desks and working away from the office and this takes time. On the other hand, employees' performance needs to be measured not by the input of hours, or indeed by them being visible in the workplace, but by their actual achievements.

From SMEs' point of view the right to refuse flexible working requests at a reasonable cost is crucial – it is important to note that a disputed decision currently costs five times as much as an agreed one according to figures provided by BIS¹¹. Also, the exemption from the right to request for micro companies, similar to the Dutch arrangement, might be an ideal solution. The continued subsidised support and training for the managers in SMEs is also essential, and government itself needs to be an exemplar employer. In its oral evidence to the inquiry, Women Like Us stated that:

Training for businesses is a two-pronged approach. Businesses need to be supported to be flexible, but there also needs to be specific line-manager training.

Kevin Arnold Associates states in its submission that:

It just involves some creative thinking to overcome these issues, as well as sometimes, a change of mind set amongst employer and employees, management systems based on trust, and support for employees who are not working flexibly and who may have to fill any gaps or take on more work on occasion.¹²

RECOMMENDATION

Any extension of the right to request should be on a voluntary basis. SMEs need a transition period to check their suitability for the scheme and to try out new working models in practice. Flexible working needs to be designed based on the business model of each SME and the demands of the particular positions, rather than being imposed through legislation. Although SMEs are pioneers in such arrangements, formalising these arrangements can often place a significant administrative burden upon them which places them at a significant competitive disadvantage.

6. Federation of Small Businesses submission.

7. Professor Colin Coulson-Thomas submission.

8. <http://www.berr.gov.uk/files/file49199.pdf>

9. CIPD submission.

10. Liberal Democrats, policy paper.

11. <http://www.berr.gov.uk/files/file49199.pdf>

12. Kevin Arnold Associates.

3. Advantages to SMEs of flexible working

Many researchers and most of our respondents believe that flexible working policies can have a positive impact on customer service, reduce staff absenteeism and staff stress and therefore cut down staff turnover and recruitment costs. These are undoubtedly the main advantages of the flexible working for SMEs.

In their oral evidence to the inquiry, the Federation of Small Businesses (FSB) stated that:

Employers in small businesses usually have a strong relationship with employees and will take on board flexible working requests. They also acknowledge benefits, such as increased productivity, better morale and less time off work.

During a financial crisis, flexible working can bring other advantages to the employer such as lower overhead costs and the possibility of decreasing staff hours rather than making redundancies.

Lowering the overhead costs through flexible working could be crucial for SMEs, especially during economic difficulties. Offering flexible hours also could give SMEs an edge to attract the most valuable skills and talents, and enable them to hire talent that would otherwise be unaffordable.

A recent survey by Working Mums¹³ showed that flexible working arrangements are a key factor for 79% of working mothers and that 85% of them would ideally have a full-time job with flexible hours. Flexible hours were even more popular than working from home. Women in such situations avoid long, unsociable hours but could still bring their experience into more flexible SMEs. As Dinti Batstone, speaking on behalf of the Liberal Democrats stated in her oral evidence that:

The key is to change the mindset from threat to opportunity.

Setting up flexible working is becoming easier every year with the availability of new technology. Furthermore, technological improvements can bring more benefits to an SME than just those associated with flexible working. Smallbusinesses.co.uk states in its submission:

You can start with a relatively small investment in the things that will make the most immediate impact and add more services as you choose. Bringing all your communications together over a converged network can reduce the overall cost of your communications and drive your business productivity.¹⁴

Furthermore, distance working can also have positive environmental consequences. SmallBusinessFirst's submission highlights that:

As well as improving productivity, flexible working can also cut road congestion and overcrowding on public transport, reducing travel time and making it a less stressful part of the day for everyone. The approach is also being hailed as a weapon in the fight against climate change as it reduces the need to commute to the workplace, meaning a reduction in carbon emissions and a fall in energy consumption. With growing pressure from society, government and customers for businesses to act in an environmentally responsible way, flexible working can be a useful first step.¹⁵

The key point seems to be though, that, as highlighted by the FSB in its oral evidence:

Small businesses need to be informed that flexible working is what works for the employees within the context of what works for the business.

RECOMMENDATION

The fact that the request for flexible time can be refused on the basis of business needs should be publicised and explained to reduce the concerns of business owners and to improve understanding on the part of employees. On the other side of the coin, millions of workers are currently not aware of the existence or extent of the rights to request offered by their employers and the law.

13. www.workingmums.co.uk/mums/work/618646/flexible-working-is-still-the-number-one-priority-for-mums.shtml

14. www.smallbusiness.co.uk/channels/business-insights/staying-competitive/1072297/eight-myths-about-flexible-working.html

15. Small Business First submission.

4. Disadvantages to SMEs of flexible working

There is still much confusion surrounding flexible working and some small businesses are uncertain what the term refers to. Many SMEs offer flexible working without realising it, while many others are reluctant to offer it, because of the lack of clear definition regarding what it entails, fearing in some cases that in accepting a request, they could be making an open-ended commitment to accommodate employee preferences.

Although there are advantages to SMEs of flexible working, there are also many disadvantages, including the following outlined by respondents to inquiry.

Employment legislation, including that relating to flexible working, is usually designed with large companies in mind and neglects the different needs of SMEs. Those priorities should be reversed, especially in times of economic uncertainty. SMEs often do not have the capability to accommodate frequent and complicated legal changes and the possibility of large numbers of employees requesting flexible working hours often makes SME owners nervous. Furthermore, the fact that the request for flexible time can be refused on the basis of business needs is largely unknown to business owners.

In smaller offices it is more difficult to substitute skills and knowledge if certain employees are absent.

Managers can find it more difficult to supervise their staff if they work remotely. Flexible working can also occasionally have a negative impact on staff productivity and camaraderie. This can be due to: resentment amongst some employees that parents and carers occupy a privileged position; feelings that with some colleagues out of the office, those that remain have to pick up extra work; or the lack of face-to-face interaction between colleagues.

Concerns that the rise in people working flexible hours could have a negative effect on those who are left in the office are not to be underestimated. For instance, those with external interests and hobbies could feel discriminated against. Moreover, women often believe that requesting flexible working hours could curb their career chances. Such situations can undermine the overall increase in staff morale. In his oral evidence to the inquiry, Professor Colin Coulson-Thomas stated on this point that:

It can become a hugely divisive issue. And there are some jobs where you simply have to be there, for example, barbers or dustmen, or if you have to be in the office.

BIS are aware of this and use the construction sector as an example of where flexible working can be very rare; it is not possible for a bricklayer to work from home they note¹⁶. This is also an issue with small subcontractors, who will have to clear all flexible working arrangements with the prime contractor. Because subcontracting chains can be very long this is quite an issue.

The popular informal flexible working arrangements in SMEs are often undermined by the growing red tape. The FSB's submission highlighted that:

These close and supportive relationships are essential to how a small business works and their success. However these relationships and informal processes are increasingly being regulated for and forced through inappropriate difficult legislation.¹⁷

The BCC agreed in its oral evidence, stating that:

On the very informal side, small businesses do flexible working a lot better – it's the owner/manager that says yes or no. On the more formal side, it's more difficult. We see legislative rather than mindset barriers to flexible working.

The legal demands pose difficulties for SMEs, because of the administrative costs, such as health and safety cover and checks, and the paperwork backlog they can cause. Professor Coulson-Thomas stated in his oral evidence that:

A big company can spread the cost, but for a small company it can become quite a burden.

However, the majority of our respondents believe that such additional costs can be counterbalanced by the benefits. Nevertheless, there is still a significant lack of awareness of the broad meaning of flexible working.

In their oral evidence, the BCC states for example that:

SMEs don't recognise flexible working to be how the Government has pushed it, so it is difficult to find an accurate measurement of how many are doing it.

The Kevin Arnold Associates submission concurs, stating that:

'Flexible working' is jargon that many small businesses don't recognise. Flexible working arrangements, practised informally, are far more common in small organisations than is often thought. In many cases, organisations which claim not to have flexible working arrangements reveal on closer examination that they do allow some individuals to work flexibly.¹⁸

16. <http://www.berr.gov.uk/files/file49199.pdf>

17. Federation for Small Businesses submission.

18. Kevin Arnold Associates submission.

The FSB also said in their oral evidence to the inquiry:

There is still uncertainty about what flexible working means – information and education are required.

Finally, Professor Coulson-Thomas agreed in his oral evidence to the group, stating that:

There is a lot of hidden flexibility that doesn't show. It isn't always formal and understood as flexible working.

RECOMMENDATION

The APPSBG, does not support a full moratorium on employment legislation, but recommends that SMEs and particularly micro firms need to be given a chance to catch up with the current legislation and to implement new rules. Any new legislation needs to be designed from the bottom up using the 'think small first' approach. The next three years should be about helping the SMEs find their way out of the financial crisis.

5. Support for small businesses

The FSB stated clearly in their oral evidence that:

Some of the main issues that impact small businesses are uncertainty, legislation and regulation.

Bearing this in mind, Government support for SMEs offering flexible working must go beyond the advice provided by websites such as Directgov or Business Link, and further even than the insured employment law helpline proposed by the Anderson Review.

One part of this will be to raise awareness about the right to request flexible working and the entitlements and responsibilities related to it. A recent Public Accounts Committee (PAC) session reported that those caring for sick family members experience difficulties with finding work that will be compatible with their duties.¹⁹ If we bear in mind that Carers UK estimate the value of work that carers provide at £87 billion,²⁰ it becomes clear that raising awareness is a key point. On the other side of this argument, employers must be aware that they are allowed to refuse the request for flexible working, if it is potentially damaging for their business.

If plans are brought in, as seems likely at some point in the future, to extend the right to request to all employees, SMEs must be supported by a wide range of governmental initiatives. Women Like Us suggest the following:

- Part time job brokerage schemes for business funded through BIS
- Part time Local Employment Partnerships supported by Jobcentre Plus
- Focusing on a scheme to train management in managing part time roles
- National Insurance reductions for each new part-time job
- Subsidies/Golden handshakes for creating part time roles (modelled on the current 'golden handshakes' from the Department for Work and Pensions to businesses for taking on long term unemployed)
- To have a national dedicated resource/agency for part time work.²¹

The Government has introduced a number of laws on flexible working especially for parents, but it has in many ways failed to understand the special needs of the SMEs and their business models. Since they began in 2000, the FSB's bi-annual members' surveys have found that accountants are a small business' first choice adviser, providing a trusted source of support and advice. BIS has also found that accountants are the primary source of advice on employment law for micro enterprises and start-ups²². SMEs could benefit from special training courses explaining the existing legislation and outlining the most suitable ways of implementing it, but many of them do not have time to send their staff on them. That is why support could be directed to well-trained and legally aware private sector business advisers such as accountants, who already provide advice to small businesses on a regular basis. This should enable SMEs to choose the best legal solution for their distinctive needs. According to the CIPD:

Flexible working will look very different between organisations and allowing businesses to find a framework that suits their context will create a flexible working culture far more successfully than by imposing legislative minimums.²³

The BCC's submission states that, while the right to request flexible working might be a possibility in the future, the next three years should be more about helping the SMEs find their way out of the financial crisis. SMEs and micro firms need to be given a chance to catch up with the current legislation and implement new rules.

Before introducing the right to request in legislation, the Government should have introduced the 'right to request' concept as a voluntary scheme, allowing the businesses to choose whether it is appropriate for them.²⁴

Any extension of the right to request should be introduced on a voluntary basis, which would give SMEs a chance to test the waters and decide whether flexible working suits their business model.

The FSB's view, outlined in their oral evidence, is that:

We are in a heavily regulated environment already. There is regulation there that has teeth. The question is: do we need more? Our view is no, but we should be doing more to educate.

19. www.workingmums.co.uk/mums/news/624511/carers-ignorant-about-right-to-request-flexible-working.html

20. <http://www.carersuk.org/Aboutus/Howwehelp/Gatheringhardevidence>

21. Women Like Us submission.

22. <http://www.berr.gov.uk/files/file49199.pdf>

23. CIPD submission.

24. The British Chamber of Commerce submission.

The CIPD stated in their oral evidence that:

Legislation has had a powerful impact in encouraging flexible working – it has broken the back of the issue. But now is not the time to increase the legislation when employers are already doing it.

The Liberal Democrat submission states that the right to request flexible working was a success in the Netherlands and should be introduced in the UK. The right to request in the Netherlands was extended to everyone through the *Adjustment of Hours Law*. Additionally, Dutch employers are not allowed to ask for the reason behind the request²⁵. However, it is significant that the Dutch maintained the right for employers to refuse the request and that the law exempted companies with fewer than 10 employees providing that they have their own policy on the issue.

Dinti Batstone, for the Liberal Democrats, stressed the importance of Government and the public sector showcasing flexible working. Ms Batstone stated in oral evidence that:

Education is very important, but so is championing best practice. Government would be far more persuasive if it were leading by example before preaching to small business.

The difficulties that the extension of the right to request could pose are also highlighted by Imelda Walsh, who states in her report that:

Many employers told me that if the law was extended to all employees, they would receive a greater number of requests to work flexibly ... This would undoubtedly lead to more requests having to be turned down for business reasons. It would also burden employers with the difficulty of prioritising which requests to accept – which case was the most deserving.²⁶

Working Families supports extending flexible working more widely:

Flexible working allows parents to be both good parents and good employees. But to achieve real culture change to benefit business and families, we want to see flexible working extended as widely as possible. Flexible working works best when it is made available to everyone.²⁷

An important factor in this, outlined by Working Families, would be training sessions for managers who supervise staff who work flexibly. The key to the success of such arrangements is communication and teamwork, especially when many employees are working out of office. The role of line managers is especially important as they are most likely to be informally approached with requests for flexible work.

Working Families noted in their submission:

Best practice flexible working occurs when the whole team works together to balance the needs of the business with the needs of employees to work particular patterns. Successful flexible working needs to be built into team management and employee appraisal.²⁸

RECOMMENDATIONS

Support and training needs to be directed specifically to owners and to managers who supervise staff who work flexibly.

The continued subsidised support and training for managers in SMEs is essential.

25. Improving Work-Life Balance - What Are Other Countries Doing? Human Resources and Skills Development Canada, www.hrsdc.gc.ca/eng/lp/spila/wlb/pdf/improving-work-life-balance.pdf

26. Imelda Walsh independent review, www.berr.gov.uk/files/file46092.pdf

27. www.workingfamilies.org.uk/images/press_releases/Queens+speech+preview+on+R2R+14th+May.doc

28. Working Families submission.

6. Financial issues

The economic downturn has had an undeniable impact on the job market, but submissions to this report suggest that the crisis has made flexible working arrangements more popular. Kevin Arnold Associates states that:

Flexible working has come into its own in the recession, with poll after poll suggesting that most companies have considered it as a way of reducing costs and saving jobs.²⁹

In their oral evidence, FSB highlighted a similar point, stating that:

The recession has identified to small businesses, some of the benefits of flexible working that they were unaware of and once they have understood this, they are unlikely to go back. Having flexibility enables small businesses to react quickly to fit requirements.

Opportunity Now made a similar point in oral evidence:

There has been some use of flexible working as a mechanism for reducing overheads. It will be interesting to see how that pans out once the recession is over.

And Professor Coulson-Thomas, in his oral evidence, goes further, stating that:

In an attempt to stay alive, a lot of businesses, especially small businesses, have looked to flexible working – encouraging people to take sabbaticals, work part-time or to take a four day week, to help them make it through the recession.

However, SMEs are often wary of the financial restraints that flexible working could cause them. One of the main concerns for SMEs is the financial and administrative strain as well as the amount of time that the processing requests for flexible arrangements could take. On the other hand, the additional administrative cost of flexible working arrangements could be seen as much less significant than the potential benefits. Furthermore, good administration and management should minimise any backlog.

The FSB's view on this, outlined in their oral evidence, is that:

The need to write formal letters is inconsistent with the open lines of communication in small businesses. The regulation is an administrative burden and it overlooks what really happens in small businesses.

From many of the submissions received to this inquiry, it appears that many employers would welcome the removal of the obligation to send an official letter every time the flexible working scheme is approved. This is linked to the very informal nature of flexible working arrangements employed by many SMEs. However, many also underline the importance of keeping track of all the agreements and arrangements and point out that the savings would be minimal. Imelda Walsh's review also supports the idea of the letter being sent on the request from the employee or when the flexi time application is refused.

Looking at the benefits system, it becomes clear that the current set-up does not support people who wish to work part-time. As pointed out by the Ingeus submission, people can be better off staying on benefits than accepting mini or part-time jobs. It is also more beneficial for couples to secure one full-time job than two part-time jobs, which could seriously disadvantage one partner's career progression. In addition, Working Tax Credit eligibility does not include people working mini-jobs below 16 hours a week. These are issues that need to be addressed. Ingeus stated in its written evidence that:

Being financially better off in work is a primary concern for most benefit claimants. Clearly demonstrating to an individual how work will increase their income is an essential element of welfare-to-work provision. While workless individuals may recognise the broader social and developmental benefits of working, they are unlikely to be in a position to accept work that would make them financially worse off.³⁰

CIPD highlighted this in their oral evidence, stating that:

The benefits system is pretty inflexible in terms of things such as letting people sample jobs. We should look at flexibility around the edges of the benefits system – it would be quite a small price to pay for the chance of getting people off benefits.

Women Like Us also refer to this issue in their submission:

The benefit system values jobs that are 16hrs and more. There is value in jobs of less and this needs to be reflected in the benefit system.³¹

In his oral evidence, Professor Coulson-Thomas stated on this issue that:

The benefits system is amazingly complex. We need to look at what are the barriers, whether it's taxation or legislation, to incentivising people to work part-time.

29. Kevin Arnold Associates submission.

30. Ingeus submission.

31. Women Like Us submission.

And in their oral evidence, BCC added that:

Lower taxes or reductions in National Insurance contributions are much better than subsidies such as the 'Golden Hello', which is a big financial loss for the Government and did not encourage job creation as it was hoped.

Specifically in terms of accessing part-time workers, this can often therefore, prove difficult. According to Women Like Us' oral evidence, there are around 500,000 people who are looking for part-time work, but:

Recruiters are disincentivised from focussing on part-time positions.

Since SMEs are much more likely to offer part-time positions than larger companies, with between a quarter and a third of staff in SMEs working part time, SMEs are put at a disadvantage by these issues with the benefits system, and are potentially missing out on talent and skills.

The FSB state in their submission:

There is already a greater prevalence of part time working in small businesses; according to the FSB employment survey 60 percent of small businesses owners always considered whether a job could be part time when they are recruiting.³²

Furthermore, Opportunity Now's submission states that among SMEs:

The most frequently reported flexibility was part time/reduced hours and home working, implemented by 95% of respondents.

SMEs may find it difficult to fill their vacancies if they have positions entailing fewer than 16 hours or less per week to offer. To tackle that situation, potential employees need to have a clear financial incentive to come back to work.

Women Like Us state in their submission:

While workless individuals may recognise the broader social and developmental benefits of working, they are unlikely to be in a position to accept work that would make them financially worse off.³³

The recruitment process remains largely unaffected by flexible working legislation. The right to request is only available to those who have been with the company for 26 weeks or longer. Furthermore, recruitment agencies are often reluctant to seek part-time workers because they gain only half of their usual commission for the same amount of work. Nevertheless, many agencies specialising in part-timer workers have been established over recent years. Jobcentre Plus is still lagging behind in offering part-time positions. In their oral evidence, the BCC stated on this issue that:

The account managers at Jobcentre Plus aren't interested in the average micro business.

CIPD also raised the issue of Jobcentre Plus, stating that:

Small businesses don't bother using the Jobcentre – maybe they should, but they typically use networks rather than formal outlets. They are often very worried about recruitment full stop.

And the FSB concurred with this view, stating in oral evidence that:

Small businesses don't use the Jobcentre. They prefer word of mouth of the local newspaper. They need more confidence in the Jobcentre – it is not suited to small business needs.

RECOMMENDATIONS

Government support for SMEs offering flexible working must go beyond the advice provided by websites such as Directgov and Business Link, which often is not reaching those it needs to reach. Support should be directed through private sector business advisers such as accountants, who already provide advice to small businesses on a regular basis.

Jobcentre Plus needs to take a more active part in offering (and helping employers design) flexible and part-time jobs. It needs to be more sympathetic and supportive to the employment needs of SMEs. Other agencies must be rewarded for finding part-time workers in the same way they are rewarded for full timers. In particular, part-time work should not simply be seen as something available to only low-skill workers.

The benefits system is too inflexible and does not support people who wish to work part-time. The situation, where couples are often forced to take one full-time job instead of two part-time ones because of the way benefit system works, must change. Incentives should be provided, either through lower taxation or National Insurance contributions, to incentivise people to work part-time, getting them off benefits, and providing SMEs with talented, skilled staff as needed.

32. Federation of Small Businesses submission.

33. Ingeus submission.

7. Equality and diversity

The role of the Government in promoting flexible working is invaluable. However, their assistance should not be limited to legislation. There can also be disadvantages of flexible working for employees. A key issue is the promotion of equality and diversity in the workplace and changing the workplace culture.

Opportunity Now stated in their oral evidence to the inquiry that:

Flexibility in jobs has moved forward a lot. One of the things I hear a lot is that women don't want to work less, they want to work differently.

According to Women Like Us, the hourly earning gap between full-time and part-time workers persists and is likely to affect women more than men, indeed, the latest figures on this have recently been released by ONS³⁴. Women Like Us state that:

The evidence is clear that a part time worker earns less per hour than a full time. Often this is due to the lower paid sectors that part time work is found in and we need to work with employers to find opportunities for a range of part time work across sectors.³⁵

However, the FSB in oral evidence stated that:

There is effective regulation in place to protect part-time workers from being paid less than full-time workers. Part-time and full-time workers should be paid the same.

Opportunity Now's view in oral evidence on this point was that:

One of the key things that mitigates against a pay gap is transparency.

On another point, Opportunity Now highlights the fact that flexible working is still often perceived as being something 'for mums', saying in their oral evidence that:

We need to move away from this and recognise that we are all working flexibly now to some extent.

They later added that:

Most employers now offer flexible working to any employee that can make a business case for this. Why the person wants flexible working is neither here nor there, really.

Women often believe that requesting flexible working hours could curb their career chances. There is an existing perception, that high flyer jobs cannot be performed by part-timers or flexi workers. This needs to be challenged. In his oral evidence, Professor Colin Coulson-Thomas told the group that:

Often, full-timers know each other, socialise and get the promotions and flexible, part-time and home workers are more peripheral. It needn't be like that, but often the part-timers miss out on the promotions and networking.

In their oral evidence, the BCC highlighted the difficulties faced by those in more senior positions, in terms of flexible working, stating that:

Smaller businesses can find part-time working at a high level very difficult, but there are other options such as flexible shift-patterns.

The comparative review on flexible working for the Equality and Human Rights Commission³⁶ (EHRC) confirms that those in senior positions are much less likely to request the flexible arrangements and if they do they are more likely to be refused.

Opportunity Now noted in their submission:

There is no relationship between skill set and flexible working. Employees with broad skill sets will work any number of different working patterns and jobs requiring broad skill sets do not have to be done on a traditional full time basis.³⁷

The Women Like Us submission also highlighted that some senior positions, which require complex skills, could be split into two jobs for two employees with different skill-sets. Obviously this can be difficult in certain industries; especially in client facing roles. Therefore, flexible working arrangements should be designed based on company needs and role specifications. One universal model will not fit all.

On the other hand, fathers are also often discriminated against in terms of flexible hours. The Imelda Walsh report claims that men are twice as likely to have their application refused as women. The UK's 'soft' approach limits the transformative power of new working culture and stops men from taking greater responsibilities in domestic life. On the other hand, the 2009 extension of paternity rights, which allows the second six months of maternity leave to be shared between parents, should improve fathers' situation.

34. <http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=15313>

35. Women Like Us submission.

36. <http://edit.equalityhumanrights.com/en/publicationsandresources/Pages/Flexibleworkingpoliciesacomparativereview.aspx>

37. Opportunity Now submission.

It also marks a step forward in terms of changing the attitudes of employers to new parents. Gender inequality in the workplace is estimated to cost the UK a staggering £23bn. We cannot afford to carry on throwing away money and talent like this.³⁸

Dinti Batstone, on behalf of the Liberal Democrats, stated in her oral evidence that men need equal access to flexible working to play a greater role in child-rearing. She argued that current maternity/paternity leave arrangements discriminate against men and push women into becoming the primary child-carers:

Women will never be equal and free in the workplace until men are equal and free in the family.

Ms Batstone added that:

One of the proposals in our policy paper is to give the option of parental leave to either the mother or the father – we leave it to the couple to decide.

The newest research by The EHRC highlighted that fathers are often unable to cut down their hours due to the financial needs of their family. However, flexible working is often the next best thing.

The *Working Better: Fathers, Family and Work – Contemporary Perspectives* report concluded that:

The overwhelming majority (96 per cent) of fathers who were working flexibly valued their working arrangements, while two thirds (66 per cent) of all fathers considered the availability of flexible working to be important when looking for a new job.

On the other hand the same report highlighted that:

While nearly one in three fathers (32 per cent) said that nothing would stop them asking for flexible working, equal numbers said that being marked out as not committed to their jobs, or the thought that it would negatively affect their chances of promotion, would stop them from making a request.³⁹

For the Liberal Democrats, Dinti Batstone highlighted the role of flexible working in enabling skilled workers to 'keep a hand in' during child-rearing years, thereby making a 'full' return to work later on.

It is worth noting that flexible working can be particularly helpful for countries dealing with ageing populations. With flexible working arrangements allowing people to work for longer, older people can continue to contribute their skills to society while helping to ease the pensions burden.

In his oral evidence to the inquiry, Professor Coulson-Thomas had the final word on this issue, stating that:

We have masses of wasted talent in our society, people who have a whole range of skills, and business is really missing out because they are not able or encouraged to go back to work.

RECOMMENDATION

The perception that flexible working is an arrangement for parents and carers only needs to be challenged, as it can cause resentment in the workplace among other employees.

38. Working Families comment on PM's announcement on new leave for fathers, www.workingfamilies.org.uk/images/APL%20response%20sept%2015th%2009.doc

39. *Working Better: Fathers, Family and Work – Contemporary Perspectives*, www.equalityhumanrights.com/uploaded_files/research/fathers_work_and_care_paper.doc

8. Conclusion

Flexible working can benefit business – and the workforce is becoming increasingly keen on having a work-life balance to suit its needs.

Many organisations have already recognised the business benefits of flexible working practices, which include staff productivity and motivation and lower overheads. On a larger scale, flexible working arrangements can also cut down on emissions caused by commuting and office space and can reduce congestion as fewer people need to head to the office at the same time.

Indeed, many SMEs already employ flexible working practices, although often, they do not recognise the term ‘flexible working’ and can see it as a threat.

Legislation is also driving change, with the right to request being increased in April 2009, for example, to parents of all children aged 16 and under. However, although employers must consider these requests on their merits, it is vital that businesses, especially SMEs, remain able to turn them down if they are likely to damage the business.

For flexible working patterns to continue developing, much support needs to be given to smaller companies. All employment law should be designed first with small business in mind, and then adapted to the needs of larger companies, rather than the other way round, and this is true of legislation and guidance relating to flexible working.

Ultimately, SMEs are the engine that will get the country’s economy back on track, but they need to be supported in doing so.

Perhaps two of the key points to take from this inquiry are:

- a) SMEs are already using flexible working, but they often do not use this term.
- b) Employers do not always understand what their rights and responsibilities are if they utilise flexible working practices. They may be more open to the prospect of flexible working if they did.

As CIPD stated in their oral evidence:

Small firms don't have to be frightened of flexible working. It can be a good thing, and many of them are already doing it, but there is no need for more legislation in this area at this time.

RECOMMENDATION

More research in this area is needed. For example, the Government sponsored Employment Relations Survey should be continued with wider coverage a more regular timetable. The survey is one of the few that provides large-scale, statistically reliable insights into a broad range of industrial relations and employment practices. The survey was last completed back in 2004, and micro businesses only surveyed for the first time in that year too. This means that there is currently a real dearth of thorough longitudinal data which can show how small businesses have responded to past legislation changes.

Annex: list of respondents

British Chamber of Commerce

Chartered Institute of Personnel and Development (CIPD)

Federation of Small Businesses

Professor Colin Coulson-Thomas

Ingeus

Kevin Arnold Associates

Liberal Democrats, Policy Paper

Opportunity Now

Small Business First

Women Like Us

Working Families

PAMR-DP-FWC