

BERR

Department for Business
Enterprise & Regulatory Reform

**RIGHT TO REQUEST FLEXIBLE
WORKING**

A review of how to extend
the right to request flexible
working to parents of older
children

MAY 2008

FLEXIBLE WORKING

A REVIEW OF HOW TO EXTEND THE RIGHT TO REQUEST FLEXIBLE WORKING TO PARENTS OF OLDER CHILDREN

IMELDA WALSH

MAY 2008

URN 08/808

Contents

Foreword	6
Chapter 1: The right to request flexible working	9
Chapter 2: Flexible working in practice	12
Chapter 3: The case for amending the current legislation	14
Chapter 4: How to extend the right to request flexible working to parents of older children	17
Annex A: Summary flow chart of right to request process	22
Annex B: Acknowledgements	23

Foreword

Letter to the Rt Hon John Hutton MP, Secretary of State for Business, Enterprise and Regulatory Reform

Dear Secretary of State

On 6 November 2007, you asked me to consider how the right to request flexible working should be extended to parents of older children. Parents of children under the age of 6 already have a legal right to ask their employer if they can work flexibly, alongside parents of disabled children (up to the age of 18) and carers of adults.

In our discussions you have mentioned how you feel that the success of the right to request flexible working with employers has been due to the targeted and light-touch way in which it has been introduced, first to parents of young and disabled children and more recently to carers of adults. You have been keen to ensure that any extension follows a similar approach.

The terms of reference for this review were tightly drawn focusing on how the current right to request flexible working should be extended to parents of older children, and how quickly this change to the legislation should be introduced. My discussions with stakeholders, however, have been rather more wide-ranging than this. Many who spoke to me would have liked the review to have had broader terms of reference and therefore wished to raise other issues with me. I was clear on my remit with all those who contributed to this review but want to reflect the many views I have heard and offer my opinion where appropriate.

In taking forward the review, I have worked hard to ensure that a wide range of interested parties have been given the opportunity to contribute. My team and I have met, and invited views from, representatives of business, trade unions, equality groups and parents. I was very conscious that my own experience of flexible working comes from big business, both in my current role as HR Director of J Sainsbury plc, and in previous positions at Barclays and Coca-Cola and Schweppes Beverages. I have therefore been particularly keen to speak to people who run small and medium-sized businesses, and their representatives, to understand how they respond to requests from employees to work flexibly.

My main recommendation is that the right to request flexible working is extended to those with parental responsibility for children up to the age of 16 and that this extension should be implemented without phasing.

I have made this recommendation because I am convinced that the challenges which parents with older children face are considerable, and that the arguments for raising the age to 16 are compelling. Some employer groups did ask me to consider phasing in any change. On balance, I believe that phasing causes more confusion for the majority of employers, and that the extension should therefore be implemented in full without being phased.

I appreciate that some will highlight how many more employees will come within the scope of the right to request flexible working legislation. The BERR-led consultation which will follow the publication of this report will cover in detail the costs and benefits of the proposed extension. However, on the evidence I have seen, I do not believe that this extension will add significantly to business costs. To put this into perspective, it is clear from the existing practices of many large, medium and small employers that they already operate “open to all” flexible working policies, so in practice many employees will already have access to flexible working. Equally many employees will not want to change their working arrangements. As more employees are covered by the right to request, I also expect that the number of requests which are refused may rise as employers consider the overall impact on their business.

Throughout my work for this review, I have been struck by the difference between what is required by the legislation on flexible working and what happens in practice in businesses, large and small, across the UK. The right to request flexible working is just that – a right to make a request – not, as it is sometimes portrayed, a right to have flexible working. The legislation provides a number of reasons why an employer can decline a request if there is a sound business reason for doing so. However, statistical and anecdotal evidence shows that, rather than give parents of young children a benefit that other employees do not enjoy, many employers choose to make the right to request available to all employees.

This has led some to argue that the legislation on the right to request flexible working should be extended to all employees, or conversely that the legislation should not be changed at all if it is already working well in practice. Legislation can play an important role in identifying priorities and in giving certain groups more choice about how they strike a better balance between their working and personal responsibilities. It is for this reason that I support extending the right to request to parents of older children. I believe that businesses, even those who through choice allow all employees to request to work flexibly, benefit from the clear prioritisation that legislation provides.

Those who argued that the right to request flexible working was a right which should be enjoyed by all employees claimed it was potentially divisive to employee relations to single out parents and carers over other employees. I agree that the management of flexible working requests will work better if the issue is discussed amongst the group of employees affected. I also accept that being able to accommodate requests from employees not covered by the legislation can also be desirable. I have listened to many stories of the positive benefits of “open to all” flexible working policies in both large and small employers. I would encourage all employers, when looking at flexible working arrangements, to consider including all employees, but I do not share the view that Government should legislate to make this approach compulsory. The choice of going beyond the legislation should be left to employers.

Access to flexible working arrangements has made an important difference to millions of employees. Many employers recognise that flexible working improves retention and some acknowledge additional productivity benefits too. This is borne out by recent research¹ which found that the majority of flexible workers, co-workers of flexible workers and managers of flexible workers reported that there was either a positive impact or no impact on individual performance. However, many employers have also told me that they would appreciate more help and guidance about how to introduce flexible working as they are concerned about the impact on their business and the customers they serve. They hear about the potential benefits, but are understandably cautious. In my view the Government should consider how it can better assist businesses who need more support if they are to embark on this journey. Employer representative bodies, with Government support, could assist in the sharing of good practice and ideas. The businesses that will be concerned by a further extension to the right to request need to be practically encouraged. I hope that the Government will give serious consideration to this suggestion.

Finally, my report contains a list of acknowledgments of stakeholders, whose views and time were invaluable in informing my work.

Imelda Walsh
Human Resources Director
J Sainsbury plc
15 May 2008

¹ “Flexible Working and Performance”, Cranfield University School of Management, April 2008

Chapter 1: The right to request flexible working

This review was asked to make recommendations on the best way to extend the right to request flexible working to parents of older children. This Chapter therefore gives some background on the current situation on which future changes will need to build.

The legislation

The legal base for the right to request flexible working comes from the Employment Rights Act 1996, and the specific regulations are the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002² and the Flexible Working (Procedural Requirements) Regulations 2002³. These regulations apply to Great Britain only, although similar legislation has been implemented in Northern Ireland. The regulations were introduced in response to the Work and Parents Taskforce 2001, led by Professor Sir George Bain, which recommended that a right to request flexible working should be introduced for parents of children under six.

Under the legislation, eligible employees are those with parental responsibility for a child under the age of six (or 18 in the case of a disabled child). The scope of the legislation was extended through the Work and Families Act 2006 to carers of adults with effect from 6 April 2007.

Flexible working embraces a wide variety of working practices, and a flexible working arrangement can be any working pattern other than the normal working pattern in a given organisation.

Examples of flexible working arrangements are part-time working, job-sharing, flexi-time, compressed working hours, staggered hours, annualised hours and working reduced hours for a limited period.

The flexible working regulations provide a formal process which both enables an employee to make a request to change his/her working pattern, and places a duty on the employer to consider it seriously. The legislation is designed to encourage a sensible dialogue between employee and employer with a view to reaching mutual agreement on a future working pattern for the employee which does not adversely affect the running of the business. If a request is agreed by the employer under the legislation, this will result in a permanent change to the employee's contract of employment.

The legislation sets out a procedure which needs to be followed by both parties in order to ensure that a proper application is made and that it is considered seriously. The initial onus is on the employee to explain why he or she wishes to

² Statutory Instrument 2002 No. 3236

³ Statutory Instrument 2002 No. 3207

change their working pattern. The application then triggers a formal process which is designed to facilitate discussion, enabling both parties to gain a clear understanding of each other's thinking and needs. The reasons an employer can give for refusing a request⁴ are specified in the flexible working legislation, but the evidence⁵ suggests that the vast majority (91%) of requests, or a modified version of them, are agreed by the employer following dialogue with the employee. Where a request is rejected and the employee appeals that decision, the process can take up to 14 weeks to complete. However, in my discussions with stakeholders, I have found that many requests are managed without recourse to the statutory procedure. In fact, those I spoke to made little, if any, comment about the current procedure. The flow chart in Annex A usefully summarises the process.

Take up and awareness of flexible working

It is sometimes assumed that, whilst flexible working is currently available to parents of younger children, the vast majority of employees taking up this right are women. Therefore it is sometimes classed as a "women's issue" by commentators. Amongst parents of children under the age of 6, this is largely the case, with women being three and a half times more likely than men to make a request to work flexibly.⁶ However, 14 million employees currently work flexibly, and the Government's latest figures⁷ show that men make up 45% of this figure.

There is also a tendency for commentators to assume that flexible working, whilst not always meaning a reduction of an individual's working hours, is likely to be more attractive to women. This is, the argument goes, because they tend to earn less than men, so any reduction in their hours will result in less of an effect on the household income than the male earner reducing his hours. However, whilst this might have been a description of the typical household 20 or 30 years ago, the

⁴ Section 80(G)(1)(b) of the Employment Rights Act 1996 list the following eight grounds for refusal of a request for flexible working:

- Burden of additional costs.
- Detrimental effect on ability to meet customer demand.
- Inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- Detrimental impact on quality.
- Detrimental impact on performance.
- Insufficiency of work during the periods the employee proposes to work.
- Planned structural changes.

⁵The Third Work Life Balance Survey of employers, December 2007

⁶ Maternity and Paternity Rights and Benefits Survey of Parents 2005

⁷ The Third Work Life Balance Survey of Employees, 2006

evidence is that this picture is changing. The European Social Survey of 2004 showed that in 29% of households in the UK, women earn as much or more than their partners or husbands. All of which would suggest that flexible working now, and in the future, is an issue that is far from being one that affects only women.

But the evidence also shows that there are some groups who are less likely than others to be aware that they currently have the right to request flexible working, either as a carer, or as the parent of a child under the age of six. Fathers, for example, are less likely than other employees to know that they have the legal right⁸. A more serious issue, however, is that men are nearly twice as likely to have their requests refused than women (23 per cent vs. 13 per cent). The likelihood of making a request is also related to whether an employee is already working full- or part-time. Nearly twice as many part-time employees have made a request to change their working pattern as those working full-time⁹.

There is also anecdotal evidence to suggest that awareness among carers of adults could also be improved, and I welcome the fact that the Government will be carrying out some research into the reasons for this later this year.

In my view, Government can play a more active role in raising awareness of the right, both among employees and employers. Many of those who have contributed to this review are concerned that flexible working is seen as a female issue and potentially another “problem” associated with employing women. With women’s earning power rising and the need to ensure that key skills are not lost, flexible working is an issue that affects men and women equally, and the perceived barriers men face in starting a discussion with their employer about working more flexibly will need to be challenged.

⁸ According to the Third Work Life Balance Survey of Employees, 2006, 53 per cent of male employees are aware of the right, compared to 60 per cent of female employees.

⁹ According to the Third Work Life Balance Survey of Employees, 2006, 28% of those working part time versus 15% of those working full-time had made a request to change their working pattern.

Chapter 2: Flexible working in practice

It is of course true that – regardless of the statutory right to request flexible working – all employees are free to ask their employer for a change to their working pattern to help them to strike a better balance between work and other responsibilities. Indeed, evidence shows that every year, a large number of requests for flexible working are made as part of the day-to-day dialogue between employer and employee. Many of these arrangements will also be temporary to meet a particular short-term need.

Around six million employees currently have the right to request flexible working (3.6 million parents and 2.65 million carers), but over 14 million employees, including part-time workers, actually work flexibly.¹⁰ Most businesses, and in particular small businesses, report that whilst the law remains an important “back-stop” for informing employers and employees of their rights and responsibilities, their preferred approach is more informal.

With a small workforce, the relationship between employer and employee tends to be more personal than in larger companies, and a manager is likely to be more aware of any changing circumstances in an employee’s life that might lead him or her to ask to work different hours. This leads more naturally to the manager and employee having a discussion on how an individual’s hours might be changed to suit any responsibilities they have outside of the workplace which requires them to be absent during normal working hours. Often these discussions will take place without recourse to a formal procedure.

Larger companies, although much more likely than small businesses to have a formal policy on flexible working in place, will not always follow the procedure as laid out in the legislation, and may not require the employee to agree to a permanent change in their contract of employment. The current legislation however, does prioritise certain groups of employees (carers, parents of young and disabled children), over other employees. This can provide companies who want to go beyond what the law requires with an important fall-back position. So companies such as my own employer, Sainsbury’s, can offer a flexible working policy to all employees. However, where we are faced with too many requests, and we need to turn some of them down for business reasons, the legislation provides the framework for doing this.

There are no rights and wrongs to whichever approach is taken: the key is for an employer to decide what will work best for his or her business. The current legislation sets clear priorities as to those employees to whom the legislation is seeking to give the most support and protection. But, in delivering this objective, I believe the right to request will always work best where the manager of an individual seeks to address the request through wider discussions with others in

¹⁰ The Third Work Life Balance survey of employees, 2006

the work team who may be impacted by the granting of a request or who may also want to work flexibly.

Finally, and continuing the theme of handling requests to work flexibly informally, rather than under the legislation, I would like to highlight the value of trial and temporary periods of flexible working. As the Government's own guidance on the right to request suggests, trial periods, in particular, can help where employers have doubts about how a given request will impact on the business, and provide an opportunity – without commitment - to test a particular working pattern to see if it can meet the needs of both employee and employer. Similarly, a temporary period of flexible working may be the best solution for some employees. For example where caring for an adult is involved, a permanent change to an employee's contract of employment (which a formal request under the legislation would entail) may not be the best solution for him/her, and an informal approach might be for the employer and employee to agree to a time-limited change before reverting to the original pattern.

Chapter 3: The case for amending the current legislation

In “Success at Work: protecting vulnerable workers, supporting good employers”¹¹, the Government committed to keep the decision of whether or not to extend the right to request flexible working to parents of older children under review. The rationale for this targeted approach has been to widen the scope of the regulations at a manageable speed for business rather than needing to adapt to wholesale change overnight. As part of the Queen’s speech, on 6 November 2007, it was announced that new data from the third Work Life Balance survey of employers demonstrated both that the availability of flexible working was on the increase and that 91% of requests were granted by employers. In addition, early evidence from the CBI’s Employment Trends Survey 2007 shows that the extension of the right to carers of adults has been positive. Ministers therefore felt that the time was right to extend the current regime and asked me to consider how this should be achieved.

Yet in the course of speaking to interested parties, I have become aware that there are wider debates around where Government should go next on flexible working. I believed that it was important that I acknowledge these positions in my review. They can largely be summarised as those who believe that the right to request should be extended to all employees, and those who believe that no further legislation is required. But there has also been a growing body of opinion arguing that the current eligibility criterion that an employee must have served a period of 26 weeks’ service with his or her employer should be removed, i.e. that the right to request should become a right from the first day of employment.

Extending the right to request to all employees

Some interested parties feel strongly that the simplest approach to legislation on flexible working is that it should be extended to all employees. The main argument put forward to support this position is that many employers already take this approach, going beyond what the law requires of them. This is because they feel it is divisive to offer the right only to parents and carers, and it could lead to resentment amongst colleagues who do not have a legal right to request to change their working patterns. They also feel that the business benefits of flexibility are best delivered through an “open to all” approach.

The argument against granting the right to request flexible working to all employees is that the current regime allows employers to choose how best to introduce flexible working practices into their business. This may involve going beyond what the law requires or sticking with the minimum, but employers are free to make that decision themselves. By making it a legal requirement only to

¹¹ Success at Work: protecting vulnerable workers, supporting good employers, March 2006 (URN 06/1024)

have to accept requests from parents of younger children (or up to 18 if the child is disabled), and carers, the law prioritises those groups over other employees.

Many employers have told me that if the law were extended to all employees, they would receive a greater number of requests to work flexibly (far more than my own proposed extension). 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. Other, usually larger, companies have told me that to give the right to request flexible working just to parents and carers is divisive and causes resentment. They have therefore chosen to offer the right to request to all employees, but they will often have greater flexibility, being a large employer, to consider requests and other options to cover the work so that business requirements overall are met.

I have sympathy with all these concerns, and with the argument that Government policy should only regulate where there is a social policy reason for doing so, and I cannot see such a reason exists here for compelling employers to provide the right to request to all employees. Ultimately, all non-standard working arrangements require a high level of trust between employer and employee if they are to succeed. An employer needs to be satisfied that the requirements of the job or task can still be carried out where there is a proposed change to an employee's working pattern. It therefore remains my view that the current voluntary arrangement whereby an employer is free to offer flexible working arrangements that go beyond that which the law requires remains the best starting point. There are sound social policy reasons for prioritising parents and carers over other employees at this time and many employers, particularly in small and medium sized businesses, value this prioritisation. A further extension of the right to request to all employees, which was strongly and passionately argued for by some, often large, employers, the TUC, the CIPD and other interest groups, would be seen by many other employers as a step too far, potentially undermining support for the right to request flexible working.

Maintaining the status quo

Other interested parties have argued that the current regime works well. The CBI's *Fit for Business: Employment Trends Survey 2007*, for example, shows that companies continue to step up to the challenge of providing flexibility while meeting the needs of the business and its customers, with almost all (95%) employers offering at least one flexible working practice. One of the aims of the original legislation in 2003 was to bring about a culture change in UK workplaces. I believe that the law is helping to do this. However, the Government believes that more should be done to give the right to even more employees, as long as the support and buy-in of employers is not jeopardised. After much reflection, I do not support maintaining the status quo: I believe that the arguments put

forward by many others that parents of older children should be covered by the legislation, are more compelling.

The 26 weeks' qualifying period

The right to request is currently available to eligible employees only if they have been working for their employer for a period of at least 26 weeks. A number of those I have spoken to have argued that removing this condition would be helpful in getting people back into the labour market, and would particularly benefit parents seeking to return to work following a period of child birth and care. I have already noted that trust between employer and employee is the key to the success of non-standard working patterns, and I believe that this has to be the primary consideration in any discussion of this issue. Employers believe that trust is crucial for flexible working to be a success – and trust is something which can only develop over time. For a sensible conversation about flexible working possibilities to be held, both employer and employee need to have a shared understanding of the role and what is feasible. I do not think that such a conversation can be held from the outset of an employee's period of employment.

Chapter 4: How to extend the right to request flexible working to parents of older children

In 2001, the Work and Parents Taskforce, led by Professor Sir George Bain, was asked by the Government to examine how parents' desire for more flexible working could be met in a way which was compatible with business efficiency. Its aim was to recommend a light-touch legislative duty on employers to consider requests for flexible working patterns from mothers and fathers of young children rather than to introduce a right to work part time or flexibly. As with my review, the Taskforce heard a wide range of views from employers and parents groups alike who made persuasive arguments as to the stages in a child's development when they could benefit most from the immediate presence of a parent.

The research which accompanied the Taskforce's report¹² showed that the younger the child, the greater parents' demand was for flexible working. It was this evidence that led to it recommending that the right to request flexible working be initially introduced for parents of children up to the age of six.

But the research also showed that there was a considerable level of demand for flexible working from parents with children of all ages. This view was supported by employers who already offered flexible working to their employees. They reported that the greatest levels of request from parents to work flexibly were associated with the child's birth, when the child started school around five, and when they changed school at 11. They also reported, however, that there were still a significant number of requests received from parents of children at other ages.

A view also espoused by contributors to the 2001 report was that the point at which the duty for an employer to seriously consider a request to work flexibly should end should be linked to a stage in the child's education. This is also my own view, and is the approach I have taken in this review. I am clear that it makes no sense to set arbitrary cut off points for the right to request simply for presentational or economic reasons. I therefore share the view of the majority of employer and parents groups who argue that the age cut-off for the legislation should be linked to a significant point in a child's schooling, where they may need more help and support from one or both parents. Using this as a starting point, I therefore identified the following three options for my review:

A legal right to request flexible working patterns for parents of:

- **Children aged 12 or under.** This would cover the transition from primary to secondary school; or

¹² Published as *About Time: Flexible Working* in November 2001.

- **Children aged 16 or under.** This would allow parents to support their children until the end of their secondary education and GCSEs; or
- **Children aged 18 or under.** This would allow for support until the end of sixth form or vocational training and is consistent with the existing right for parents of disabled children.

These are the three options on which I invited views from interested parties. I have also canvassed views on whether any extension to the age cut-off should be introduced in one change, or should be staged over a number of years.

A number of stakeholders argued that age 12 is the best option on the grounds that this is the age at which a child makes the transition to secondary school and when the child can safely be regarded as being responsible enough to be left to go home after school and look after him or herself. This is a personal judgment for parents, but having inquired into the legal position (which is rather ambiguous and, where it exists, would suggest age 16) and also looked at the advice of the NSPCC (which is that most children under about 13 are not mature enough to cope with an emergency and should not be left alone for more than a very short time), it seemed to me that the basis on which a number of employers argued that 12 is the right next step - or should even be the upper limit - was not convincing.

This was not the only reason for rejecting age 12. Perhaps the most challenging period a parent faces in bringing up a child is the difficult transition from childhood to young adulthood via the teenage years. A parent's relationship with their teenage son or daughter is key, and time with them will often be on their terms. Many parents will be able to maintain an open relationship with their teenager without a need to change their current work pattern, while others will be faced with issues where they feel that they need to be more visible at home or at the end of the school day. Finally, educational support is an increasing concern for parents. Exams are important stages of a child's educational development, and some parents will want to work more flexibly, either on a permanent or temporary basis, to help their child prepare.

So I am clear that aged 16 or under and 18 or under are the most realistic and practical options as cut-off points for my review. Listening to the experience of different businesses on how they currently handle requests to work flexibly, there is little evidence that employers who offer a flexible working policy to all parents distinguish between the needs of parents of children on the basis of their child's age. The only exception tends to be where companies prioritise requests from employees who currently have a legal entitlement to make a request (i.e. those with children under 6).

I have therefore decided to recommend that the legal right to request flexible working should be extended from parents of children under six to parents of children aged 16 or under.

Many I spoke to argued strongly that the age cut-off should be 18, including for reasons of simplicity, as this would be consistent with the existing right for parents with disabled children and with the proposed extension to the school leaving age. Though these arguments were persuasive, on balance I have concluded that overall there would be more support and understanding if the cut-off was age 16. Young adults should be expected to show greater personal responsibility whether as part of further education (A levels), a first full-time job or vocational training.

The second question I was asked to consider as part of my review was whether the change I recommend to the age cut-off should be introduced all at once, or staged over a period of time.

I received a range of opinions on this question. Some businesses argued that, as long as Government gave them enough warning, and produced guidance to cover any change to the law, it would be simpler for both employers and employees if the change was made all at once. Others took a different approach, and argued that this would not meet the needs of small business. They felt that a staged approach would give them more time to adapt their working practices and would place fewer burdens on business. Other interested parties argued conversely that what small business needed above all was certainty, and that this was an argument for one change to the law rather than several. A number viewed this issue in terms of the numbers of employees who would now be covered by the right to request flexible working: the more dramatic the extension proposed the more important the issue of staging any change.

Having considered all the arguments, I have decided to recommend that the extension to the right to request flexible working to parents of children aged 16 and under should be not be staged.

The British Chamber of Commerce's own research¹³ shows that small businesses have a better record than large ones on granting flexible working requests, with small employers doing far and above what is required to be legally compliant in terms of flexible working. For example, 89 percent of small businesses surveyed provided at least one form of flexible working. This suggests to me that small businesses have been successful to date in managing their approach to flexible working, and are well placed to cope with a one-staged amendment to the current regime particularly and in line with the terms of this review, if the extension is limited to those with parental responsibilities.

¹³ "Work and life: How business is striking the right balance, April 2007

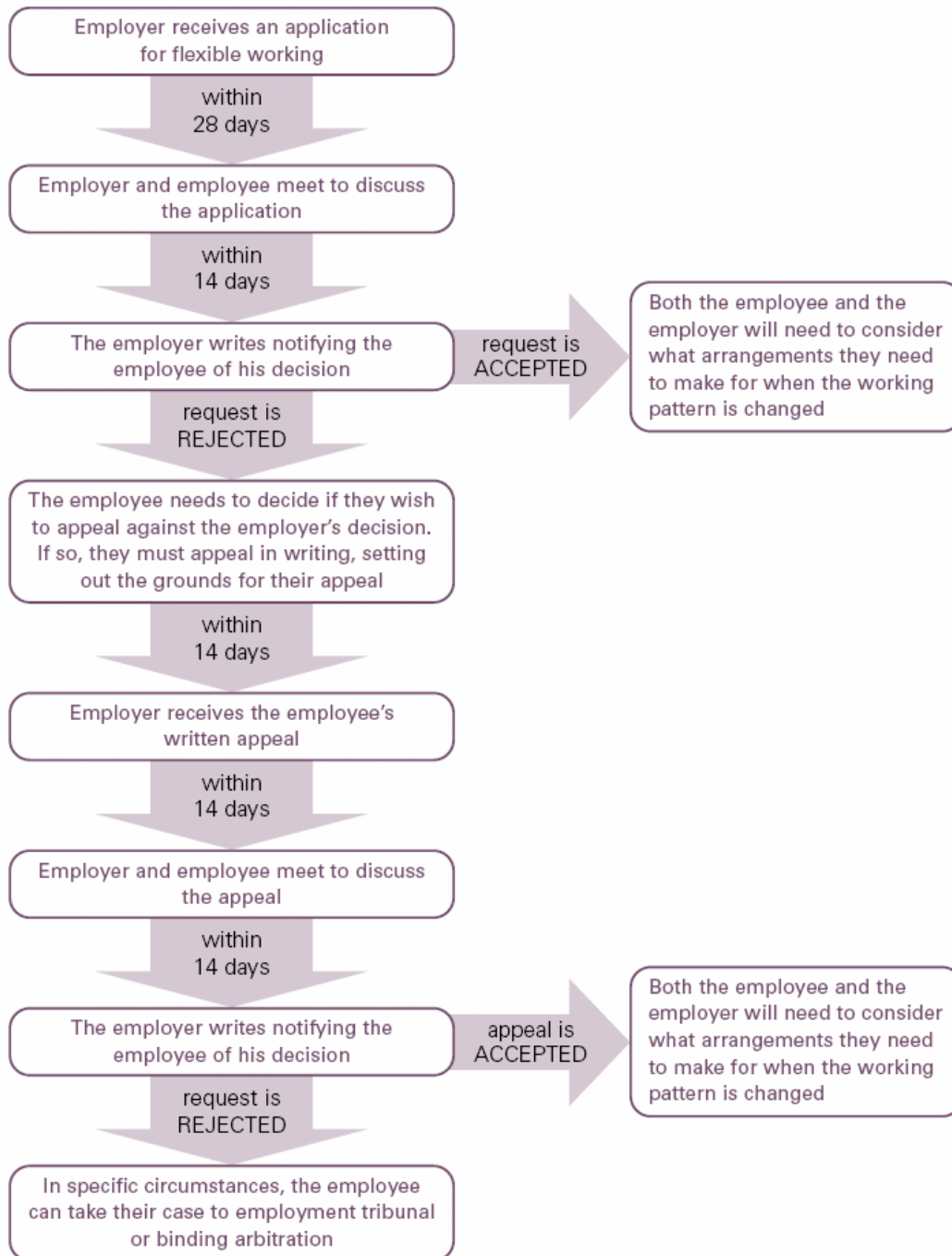
The Enterprise Strategy¹⁴ recently published by BERR proposed a review of existing legislation with a view to introducing new, or amended, exemptions for small firms. Therefore some may argue that small firms should be covered by an exemption if the right to request flexible working is extended to parents of older children. I do not support this argument, principally because the current legislation is a right to request i.e. the nature of the legislation means that there is no compulsion and, as mentioned above, the evidence shows that small firms are in any case performing very well in terms of providing flexible working arrangements for their employees. There is the additional point that the Work and Parents Taskforce designed the original legislation specifically with small firms in mind, and noted that to exempt small businesses from considering all requests - when established sex discrimination law meant that this would not always be the case - would inevitably lead to confusion.

If the Government accepts my recommendation, 4.5 million additional parents will be eligible for the right to request flexible working. Some employers, but by no means all, may be concerned by this extension. However, I would ask them to bear in mind that this legislation gives the employee the right to request to work flexibly – the right in other words to have a sensible conversation with their employer and have their request properly considered. It is a right to this process, not a right to work flexibly. This review was not asked to consider whether the current right to request should be strengthened to a right, for example more akin to the rights which parents have to maternity and paternity leave and pay, but a number of those I talked to did advocate strengthening the legislation. This is not a point of view I share, as in my opinion the current legislation strikes a fair balance. It gives the employee the right to make a request, but also recognises that the employer has the right to consider the impact of the request on their business and if appropriate turn the request down. The current legislation gives employers eight reasons for turning a request down. Again, this review has not proposed any change, to reduce or weaken the reasons for turning down a request to work flexibly.

Support for more flexible and creative ways of working has made significant progress over the past 10 years. This has been achieved though both legislation and voluntary change. Continuing progress depends on both employers and employees believing that there is a fair balance. My proposals will give an additional 4.5million employees the right to request to work flexibly. However, the safeguards I have noted above will still remain, therefore ensuring an appropriate balance between the legitimate needs of businesses – large and small - and the concerns of employees with parental responsibilities for children up to age 16.

¹⁴ “Enterprise: Unlocking the UK’s Talent”, published on 12 March 2008

Summary flowchart of process



INDEPENDENT REVIEW OF RIGHT TO REQUEST, 2007-08

Acknowledgements

British Chambers of Commerce (BCC)

Cabinet Office

Chartered Institute of Personnel and Development (CIPD)

CBI*

Cranfield University School of Management

EEF

Equality and Human Rights Commission

Fatherhood Institute

Federation of Small Businesses

Institute of Directors

Lancashire Chamber of Commerce (Preston)

Mid-Yorkshire Chamber of Commerce and Industry (Huddersfield)

Opportunity Now

TUC

Women Like Us

Working Families

* I am also grateful to the CBI for arranging for the BERR secretariat to consult its members at regional meetings in the Thames Valley, South-West and North-East regions.

Department for Business, Enterprise and Regulatory Reform
www.berr.gov.uk
First published May 2008. © Crown Copyright. URN 08/808