

**dti**

**WORK AND FAMILIES**

Choice and Flexibility

REGULATORY IMPACT ASSESSMENT

FEBRUARY 2005



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## **Work and Families RIA**

### **Choice and Flexibility**

**February 2005**

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## **Executive Summary**

### **1. INTRODUCTION**

1.1 This Executive Summary provides an overview of the contents of the partial Regulatory Impact Assessment. The RIA consists of four elements covering each of the following proposals on which the Government is consulting:

- (a) extending the period for payment of statutory maternity pay (SMP), maternity allowance (MA) and statutory adoption pay (SAP) initially from 26 to 39 weeks by April 2007;
- (b) reforming the period of notice to be given by an employee prior to returning to work after maternity leave, (alongside other measures to encourage planning ahead and keeping in touch);
- (c) introducing a right for the mother to transfer a proportion of her maternity leave and pay entitlement to the father; and considering possible means of simplifying the administration of such payments, for example through giving responsibility for payments to the Inland Revenue;
- (d) extending the right for an employee to request flexible working to carers of sick and disabled relatives and parents of older children.

1.2 The consultation document to which this RIA relates, "Work and Families: Choice and Flexibility" is available at [www.dti.gsi.gov.uk/er/workandfamilies.htm](http://www.dti.gsi.gov.uk/er/workandfamilies.htm) or can be ordered from DTI Publications Orderline, telephone 0845 015 0010.

1.3 It must be emphasised that the estimates of costs and benefits in the RIA are provisional. The views of consultees are requested on these aspects as part of the consultation. Another RIA will be produced for a further round of consultation in the course of preparing any legislation required to carry forward the proposals.

## **2. PURPOSE AND INTENDED EFFECT**

2.1 The overall objective of this package of measures is to give children the best start in life and parents more choice about how to balance their work and family responsibilities.

2.2 **Devolution.** The proposals would extend to England, Wales and Scotland only. Separate legislation would be required for Northern Ireland.

2.3 The purpose and intended effect of the individual elements of the package are as follows:

### **(a) Extending the period for payment of SMP, MA and SAP initially from 26 to 39 weeks by April 2007**

2.4 These measures are intended to enable mothers and adopters to take longer off work following the birth or placement for adoption of their baby. The evidence confirms the value of consistent one-to-one care in the first year of a child's life.

2.5 Currently, expectant mothers who are working and meet qualifying conditions based on length of service and average earnings are entitled to receive up to 26 weeks' statutory maternity pay. This consists, for the first six weeks, of 90% of the mother's average weekly earnings (with no upper limit); and, for the remaining 20 weeks, of a flat rate payment (currently, £102.80 per week) or the 90% rate if that is lower than the flat rate.

2.6 Mothers who are not entitled to statutory maternity pay but who meet qualifying conditions based on recent employment and earnings records receive maternity allowance. This is paid for 26 weeks at £102.80 per week or at 90% of the mother's average weekly earnings if that rate is lower than the flat rate.

2.7 Qualifying adopting parents are entitled to 26 weeks paid at a flat rate of £102.80 per week.

2.8 The main effect of this measure would be to increase the entitlement to payment to cover an additional thirteen weeks for SMP, MA and SAP.

**(b) Reforming the period of notice to be given by an employee prior to returning to work after maternity leave (alongside other measures to encourage planning ahead and keeping in touch)**

2.9 This measure is intended to provide greater certainty for employers as to when a mother is planning to return to work following the birth. Currently, a mother going on maternity leave will agree with her employer the date when she expects to return to work. If subsequently she intends to return to work earlier than agreed, she must give her employer at least 28 days' notice of her date of return.

The consultation seeks views on, and the RIA examines the options for extending the current 28-day notice period to 2 or 3 months.

**(c) Introducing a right for the mother to transfer a proportion of her maternity leave and pay entitlement to the father**

2.10 This measure is intended to give parents greater choice in balancing their work and caring responsibilities in the first year of their child's life. The consultation document proposes, and the RIA considers, three options for the time of transfer of the mother's entitlement to leave and pay: after six weeks following the start of maternity leave ; after three

months following the start of maternity leave; or after six months following the start of maternity leave. This measure could be introduced as early as April 2007 but it may make sense to link its introduction with any decision to transfer payment of entitlements to HMRC (see below).

2.11 Each of these options varies in its effect on the balance of choice available to mothers and the childcare opportunity available to fathers. Whichever option is selected, there will also be administrative effects on the respective employers of the mother and the father, for example in managing their respective absences and ensuring that adequate notice of intended absence and return to work is given. The consultation document seeks views and suggestions for the appropriate practical arrangements.

2.12 Within the context of considering possible means of simplifying the administration of these payments, the RIA also looks at the implications if a decision were taken to transfer responsibility for payment to the Inland Revenue. This measure would be intended to lessen some of the burdens on business of administering the regime of statutory maternity pay, statutory adoption pay and statutory paternity pay. However, employers would continue to need to provide the Inland Revenue with recent, accurate wage data and service history of the employees concerned. If it were decided to go ahead, this measure would involve a significant restructuring.

**(d) Considering the case for extending the right for an employee to request flexible working to carers of sick and disabled relatives and parents of older children**

2.13 These measures would provide carers of sick or disabled adults and parents of older children with greater choices about how they balance caring responsibilities or childcare with work, a way that balances the needs of families with those of business. Currently, parents with children under six or disabled children under 18 have the right to ask

their employer to work flexibly. Employers have a statutory duty to consider such requests. There is no automatic right to work flexibly but the law encourages employers and employees to find a solution which suits each.

2.14 The consultation document proposes and the RIA considers various options for extending the existing right to request flexible working to carers of sick or disabled adults; and to parents of children under age 9; age 12; age 17; or some other age limit.

### **3. RISK ASSESSMENT**

3.1 These measures actively address a number of risks:

- **to adequate childcare by the mother and father.** Extending statutory maternity pay and similar entitlements initially to 39 weeks (from April 2007) will further encourage parental care for children during their first year; in addition, allowing some of the mother's entitlement to be transferred to the father will help encourage sharing of childcare responsibilities. It will not be obligatory for parents to take such entitlements. But their greater availability should encourage greater takeup;
- **to staff morale, retention and recruitment.** Although most women are entitled to 52 weeks' maternity leave, many feel they have to return to work earlier because the second 26 weeks is unpaid; or decide not to return at all. Extending maternity pay and, where necessary, leave, and allowing more employees to request flexible working arrangements, will address the risk of significant staff turnover, skills loss and disruption to businesses and enable employers and employees to come to mutually acceptable arrangements;
- **to business operations.** Extending the period of notice of return is one of a number of measures to encourage more contact between

employer and employee during maternity leave which will help protect businesses from undue disruption.

#### 4. OPTIONS

4.1 All the main options relating to each of the proposals are considered and set out below in the individual RIA sections for each proposal. They are also reflected in the "Estimated Costs and Benefits: Summary Tables" section set out below. The consultation will enable the Government to choose the options which achieve the best balance between the estimated costs and benefits.

#### 5. ESTIMATED COSTS AND BENEFITS: SUMMARY TABLES

5.1 The estimated detailed costs and benefits for each measure (and the main options within each measure) are set out in the individual RIA sections for each proposal. The tables below summarise these estimated costs and benefits. As indicated earlier, the figures both for costs and benefits are provisional; and in many cases it is difficult to put a figure on undoubted substantial benefits of supporting greater parental leave during the first year of a child's life; improved workforce morale; better employee/employer relations - all of which are intended effects of these measures. The consultation is intended to firm up these figures where it is possible to do so.

5.2 **Summary table 1:** Costs and benefits of extending the period of statutory maternity pay, maternity allowance and statutory adoption pay initially from 26 to 39 weeks:

Description	Additional Costs	Benefits
1. Extend SMP from 26 weeks to 39 weeks	Additional costs: to Exchequer: £259m/yr  (net) to employers: £35m- £46m/yr implementation costs: negligible	The child will benefit from greater support for parents to stay at home. Parents will benefit from being able to spend more time with their children and mothers will have more choice about when they

2. Extend MA from 26 weeks to 39 weeks	Additional costs: to Exchequer: £70m/yr	more choice about when they return to work, as well as having longer to secure other childcare arrangements.
3. Extend statutory adoption pay initially from 26 weeks to 39 weeks	Additional costs: to Exchequer and to employers: negligible	For employers, the estimated reduction in recruitment costs as a result of increasing the number of mothers staying on after return to work is: £12.5m/yr

5.3 **Summary table 2:** Costs and benefits of increasing the period of notice to be given by an employee prior to returning to work after maternity leave:

Description	Additional Costs	Benefits
Option 1: new requirement on mother to confirm return date in advance	Very minor costs of informing employee of new obligation	Assists business planning
Option 2: extend the notice of return period from 28 days to 2 months	Very minor costs of informing employees of new rules	To employers: £1.4m/yr
Option 3: extend the notice of return period from 28 days to 3 months	Very minor costs of informing employees of new rules	To employers: £1.9m/yr

5.4 **Summary table 3:** Costs and benefits of allowing a mother to transfer part of her leave and pay entitlement to the father:

Description	Additional Costs	Benefits
Option 1: leave and pay transferable after six weeks following start of maternity leave	Additional costs: to Exchequer: £7m-8m/yr to employers: £9m-£16m/yr including administration costs.	Greater choice for parents to share childcare responsibilities and to take advantage eg of situations where the mother earns more than the father
Option 2: leave and pay transferable after 3 months	Additional costs: to Exchequer: £.7m-8m/yr	Greater choice for parents to share childcare

following start of maternity leave	to employers: £.10m-17m/yr including administration costs	responsibilities and to take advantage eg of situations where the mother earns more than the father
Option 3: leave and pay transferable after 6 months following start of maternity leave	Additional costs: to Exchequer: £5m-£6m/yr to employers: £7m-£13m/yr including administration costs.	Greater choice for parents to share childcare responsibilities and to take advantage eg of situations where the mother earns more than the father

5.5 **Summary table 4:** Costs and benefits of giving Inland Revenue responsibility for payment of SMP, MA, SAP and SPP:

Description	Additional Costs	Benefits
Option 1: Govt calculates and pays the entitlements direct to the parent, based on information supplied by the employer	<u>Cost to Inland Revenue</u> <i>One-off costs: £55m</i> <i>Ongoing running costs £26m/yr</i>  <u>Cost to employers</u> All affected employers would need to familiarise themselves with a new set of rules and provide in-year information to Inland Revenue.	For employers currently not using an automated statutory payments system, this would replace quite a complicated calculation. Those using a payroll agent to handle SMP etc will save the fees involved. Main beneficiaries will be those employers for whom SMP etc is not routine.
Option 2: Govt calculates/pays the entitlements, but only where pay is transferred from mother to father. The number of instances may in practice be around 4,000/yr	<u>Cost to Inland Revenue</u> <i>One-off costs: £33m</i> <i>Ongoing running costs £9m/yr</i>  <u>Cost to employers</u> Familiarisation costs and provision of in-year information to Inland Revenue	The benefits here will be similar in nature to Option 1 but on a much smaller scale.

5.6 **Summary table 5:** Costs and benefits of extending the existing right for an employee to request flexible working arrangements to carers and parents of older children:

Description	Costs	Benefits
Option 1: extend the right to request flexible working to people caring for (one or more of the following):  • partner	Costs to employers: Depending on how far the right is extended and likely demand, recurring	In general, this and each of the other options will lead to substantial quality-of-life benefits through more flexible

<ul style="list-style-type: none"> <li>• partner or parent/parent-in-law</li> <li>• any adult relative</li> <li>• any disabled dependant</li> </ul>	<p>costs could range from £10m/yr to £223m/yr</p> <p>One-off costs: £19m</p>	<p>working and a better family life.</p> <p>In this case also, better employment prospects for carers</p> <p>Benefits for employers:</p> <ul style="list-style-type: none"> <li>• savings in recruitment costs: £140k to £3m/yr</li> <li>• increased productivity/profits: £0.5m to £94m/yr</li> <li>• savings in absence costs: £4m to £10m/yr</li> </ul>
<p>Option 2: extending the right to request flexible working to parents of children under:</p> <ul style="list-style-type: none"> <li>• age 9</li> <li>• age 12</li> <li>• age 17</li> </ul>	<p>Costs to employers: Depending on how far the right is extended and likely demand, recurring costs could range from £40m/yr to £87m/yr</p>	<p>Depending on how far the right is extended, benefits for employers in the form of:</p> <ul style="list-style-type: none"> <li>• savings in recruitment costs could range from £56m/yr to £148m/yr</li> <li>• increases in productivity/profits: from £33m/yr to £69m/yr</li> <li>• savings in absence costs: from £3m/yr to £7m/yr</li> </ul>

## 6. IMPACT ON SMALL BUSINESS

6.1 The impact of each measure on small business will vary, both in costs and in benefits. It is a purpose of the consultation to gain a clearer picture of those effects. Current initial estimates indicate that the impact on small business of each proposal may be as follows.

### 6.2 Extending the period of statutory maternity pay, maternity allowance and statutory adoption pay initially from 26 to 39 weeks.

Small businesses paying £45,000 or less in national insurance in the previous tax year can recover all of these entitlements and may be able to do so in advance, plus an additional 4.5% to compensate them for the employers' NICs paid. In addition, small businesses like large

businesses should benefit from increased employee motivation and retention, with reduced recruitment costs.

**6.3 Increasing the period of notice to be given by an employee prior to returning to work after maternity leave.** Small firms are particularly vulnerable to short-term disruption where a member of staff is absent and are less able to adjust to changes of plan than large firms with greater resource flexibility. This proposal should be beneficial particularly to small firms.

**6.4 Allowing a mother to transfer part of her pay and leave entitlement to the father.** There will be some administration costs for small firms as for large firms. Overall, however, while there will be costs to the father's firm of him taking the mother's leave and pay, there will also be benefits to the mother's firm to which she will be returning earlier than otherwise. As to the possibility of giving Inland Revenue responsibility for administering these payments, smaller firms – like larger ones - would be freed from having to calculate the amount of payments due and paying them to their employees. However, they would need to provide reliable and up-to-date employee information to Inland Revenue.

**6.5 Extending the existing right for an employee to request flexible working arrangements to carers and parents of older children.** As at present, there will be no automatic right to flexible working arrangements. The only obligation on small firms will be to consider any request for flexible working. Many small firms are already offering some type of flexible working, according to CBI survey evidence (CBI employment trends survey 2004).

## **7. EQUITY AND FAIRNESS**

7.1 There may be some sectors that include, proportionately, more working parents or employed carers and we shall consider this aspect in the light of the consultation.

## **8. COMPETITION ASSESSMENT**

8.1 Initial conclusions are that a detailed competition assessment is not necessary for any of these proposals. They primarily affect the labour market and do not favour one sector of employment or business activity over another.

## **9. GUIDANCE, ENFORCEMENT AND EVALUATION**

### **Guidance**

9.1 One of the objectives of the consultation will be to identify non-legislative means of encouraging and enabling employers to comply with the proposals. It is expected that guidance will be made available, as it is now, on new entitlements that arise from the consultation as a result of subsequent legislation.

### **Enforcement**

9.2 Under existing legislation on maternity and adoption leave, employees can seek redress through an employment tribunal, for example in cases of detriment or dismissal,.

9.3 Similarly, employees will be able to seek redress through an employment tribunal for infringements of any new rights. The introduction of transferable leave and pay rights, and extending the right to request flexible working, may have an impact on the number of employment tribunal cases, and calls to Acas and family advisory groups, but we anticipate that any increased cost will be small in aggregate.

## **Monitoring and Review**

9.4 The DTI, with the DWP, will monitor information on take-up rates of extended maternity pay and leave; the incidence of pay and leave transferred from mother to father and from one adopter to another. DTI will continue to monitor employee awareness and take-up of the right to request flexible working through periodic flexible working employee surveys and the Work-Life Balance surveys. In consultation with the Office for National Statistics, DTI will also consider the feasibility of monitoring extended maternity pay and leave through questions in the Labour Force Survey. DTI will continue informal discussions with parents', carers', employee and employer representatives to assess qualitatively the response to the introduction of any new measures.

## **10. CONSULTATION**

### **(i) Within Government**

10.1 The RIA has been developed in consultation with various Departments including the Department for Work and Pensions, the Department for Education and Skills, HM Treasury Inland Revenue and the Small Business Service

### **(ii) Public consultation**

10.2 There has already been some initial consultation leading to a number of these proposals. For example, from May to July 2004, ten roundtable events took place in England, Wales and Scotland at which Ministers heard parents and employers explain how they balance work and family commitments. The DTI also commissioned a citizens' jury to consider how Government can support parents and carers who need to juggle family responsibilities and work. They heard from a range of

witnesses representing parents, carers, business, unions and Government.

10.3 The Small Business Service brought together employers to talk to the DTI about the impact of the current legislation, including statutory maternity and paternity leave and pay and the right to request flexible working, on their business.

10.4 The estimates in the partial RIA will be considered in the light of responses to the current consultation.

## **11. SUMMARY**

11.1 The package of proposals which are the subject of the consultation will further strengthen the choice and flexibility available to parents and carers who need to balance their childcare responsibilities with their work commitments. They should lead to better care for children, particularly in their first year; and a more motivated, less conflicted and hence more productive workforce.

### **Contact Details**

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## **PART 1**

### **PARTIAL RIA ON CHANGES TO MATERNITY REGULATIONS**

This part of the RIA covers four of the proposals covered in the consultation document. They are linked as they each affect maternity regulations in one way or another. Part 2 of the RIA deals with the proposal to extend flexible working arrangements. Part 1 thus contains:

- (a) extending the period of statutory maternity pay, maternity allowance and statutory adoption pay;
- (b) reviewing the period of notice to be given by an employee prior to returning to work after maternity leave;
- (c) allowing the mother to transfer part of her maternity pay and leave to the father;
- (d) giving the Inland Revenue responsibility for direct payment of parental entitlements.

#### **Purpose and intended effect of measures**

(i) The combined objectives of these four proposals are:

- to ensure every child has the best possible start in life

- to support families in responding to changing patterns of employment and ensure that parents, particularly mothers, can work and progress their career
- to respond to the legitimate expectations of families that they should be in control of the choices they make in balancing work and family life
- to make for a better and more productive relationship between employees and employers with positive effects on business performance

The intended effects are to:

- enable parents to take longer leave during the first year after the birth of their child
- give parents more choice about how best to arrange parental care for a new baby
- enable fathers to take a part in caring for their child during the first year after the birth of their child
- ease some of the costs for business of the existing arrangements

## (ii) The background

Following a number of changes which the Government has made to the maternity, paternity and adoption pay and leave regimes, the current position on statutory maternity pay (SMP), maternity allowance (MA), statutory paternity pay (SPP) and statutory adoption pay (SAP) is as follows:

- Expectant mothers who meet qualifying conditions based on length of service with their current employer and average earnings are entitled to receive up to 26 weeks' SMP. This is paid at 90% of the mother's average weekly earnings with no upper limit for the first 6 weeks. Subsequent weeks are paid at a flat rate, or 90% of the flat rate if that is less.
- Mothers who are not entitled to SMP from their current employer but meet qualifying conditions based on their recent employment and earnings records receive MA. This is paid for 26 weeks at a flat rate or at 90% of the mother's average weekly earnings if that less than the flat rate.
- All expectant employed mothers regardless of length of service are entitled to 26 weeks' ordinary maternity leave. Expectant mothers who have worked for the same employer for 26 weeks up to and including the 15th week before the expected week of childbirth are entitled to 26 weeks' additional maternity leave (AML).
- Qualifying fathers are entitled to 2 weeks' paternity leave with statutory paternity pay paid at the same flat rate as SMP or 90 per cent of his average earnings if that is less than the flat rate.
- Qualifying adoptive parents are entitled to 52 weeks' adoption leave with 26 weeks' statutory adoption pay, paid at the same flat rate as SMP or at 90 per cent of the adopter's average earnings if that is less than the flat rate.

The current position on the other three proposals in this Part (notice periods; transferability of some of the mother's pay/leave to the father; direct payment of entitlements by Inland Revenue) is described in the respective sections.

### (iii) Risk assessment

The proposals respond to three main risks:

- that, although most women are entitled to 52 weeks' maternity leave, they feel they have to return to work earlier because the second 26 weeks is unpaid
- that women continue to be the main carers of children, with the consequential detrimental impact on their careers, pay and pensions
- that the Government does not respond to the growing desire of fathers to spend more time with their children

## **SECTION A**

### **Extending Maternity and Adoption Pay**

#### **Option**

Extending the period of statutory maternity pay (SMP) maternity allowance (MA) and statutory adoption pay (SAP):

The proposal is to extend the period for which SMP, MA and SAP are payable from 26 weeks to 39 weeks, paid at £102.80 per week (in 2004/05 prices).

#### **Benefits**

Extending paid maternity leave to 39 weeks means that more mothers will be able to afford to take longer off work following the birth of their baby. This will enable more mothers to return at a time that suits their chosen combination of working and parental responsibilities and will allow them longer to secure appropriate childcare arrangements.

At the margin, this may help a small number of mothers to remain in a more appropriate job than would have been the case if they had otherwise been forced for financial reasons to return to work after 26 weeks and then had to resign soon afterwards because of having gone back to work too early. In such cases this might therefore represent a small saving in recruitment and training costs for those employers. But in other cases, the mothers ability to stay off work for longer and still return to the same job could result in a slightly higher cost of disruption for the employer (see below).

To illustrate the potential benefits, we estimate that of all mothers who received maternity leave, 5.5 per cent returned to work after the birth of

their baby in January 2001 but were no longer working 13- 17 months after the birth<sup>1</sup>. We then make the assumption that the figure of 5.5 per cent can be taken to be the “quit rate” for mothers returning to work after having a baby.

The estimated average costs of labour turnover (including recruitment and training costs) were £4,800 per leaver<sup>2</sup> in 2004.

By extending paid maternity leave, we will be making it easier for cash-constrained mothers to stay on leave for longer, making it more likely that when they do return to work, they will be ready to return and will stay in work.

Around 52,000 extra mothers<sup>3</sup> per year are likely to take increased leave as a result of the extension to 39 weeks. Using the 5 per cent “quit rate” and the cost per vacancy of £4,800, we get a potential saving for businesses as a result of fewer returning mothers quitting of around £12.5 million per year.

More significant but less quantifiable benefits include the socio-economic benefits of mothers having more time off following the birth of their baby. There may be improvements to the quality of life of the mother and her partner in the first year. There are also potentially longer-term benefits to children and the rest of society if more time that children have with their primary carer in their first year leads to better outcomes for them through childhood and later life.

## Costs

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<sup>1</sup> Source: Maternity Rights Survey 2002: DWP

<sup>2</sup> Source: CIPD turnover survey, 2004.

<sup>3</sup> DTI estimates in this RIA that out of around 107,000 mothers who are estimated to currently take between 26 and 38 weeks leave, around 52,000 of these mothers are estimated to move to the 39 weeks point in the distribution following the implementation of the proposal. An extra 2,500 mothers would take off 39 weeks instead of 26 weeks; and around 49,700 mothers who currently take off between 27 and 38 weeks would also move to taking 39 weeks; this gives a total of 52,200.

The extension of paid maternity leave will have some cost impacts on the economy and employers. First, there is the direct policy cost of paying for the extra Statutory Maternity Pay and the extra Maternity Allowance. This cost is effectively a transfer payment that in the most part is paid by Exchequer but also to a lesser extent by employers.

So, the proposal will lead to a direct cost for larger employers in the form of extra Statutory Maternity Pay. There will also be indirect costs since if employees are more financially able to take longer periods of maternity leave, employers may have to cover longer periods of absence.

### **Number of workers affected**

For SMP, we have calculated how many mothers are already thought to be taking more than 26 weeks leave (even though that leave is currently unpaid) and how many mothers would take extra weeks' leave if some of the period of unpaid leave became paid.

No new research on maternity pay and maternity leave take-up has been done since the April 2003 reforms, so we have to use the latest pre-2003 evidence, the 2002 Maternity Rights Study, as our starting point.

The 2002 Maternity Rights Study is used to construct a post-2003 pattern of how much time mothers take off around the time of giving birth. This includes all time taken off by the mother, whether actual maternity leave or other forms of leave. It also includes leave taken by mothers who did not return to work or had no intention of returning to work.

One of our assumptions due to a lack of post-2003 evidence is that mothers who took off 18 weeks pre-2003 took 26 weeks post-2003; and that mothers who took off between 18 and 40 weeks pre-2003 took more than 26 weeks post-2003. Table A1 is our best estimate of pre-2003 take-up based on information from the Maternity Rights Survey 2002.

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**Table A1: Distribution of mothers' time off work pre-2003**

Number of weeks mothers off work around time of birth <sup>1</sup>	Number of women as a proportion of all those eligible to OML and AML
0-17 weeks	12.1%
18 weeks	10.8%
19-29 weeks	28.2%
30-40 weeks	17.0%
41 weeks or more	31.8%

Source: DTI analysis of Maternity Rights Survey 2002

<sup>1</sup> Based on all mothers eligible for OML and AML

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Next, we can use the current pattern of time taken off by mothers in order to calculate the “deadweight” policy cost. The deadweight cost represents the proposed transfer payment that would be made to all those mothers who already take extra weeks of leave (i.e. they would be receiving a payment to continue to do what they are already doing). However, the total policy cost also depends on behavioural change (i.e. mothers' response to the improved level of maternity benefit). The main influences are likely to be income and other socio-economic factors. Research by Burgess, Gregg, et al done in 2002<sup>4</sup> showed that 8 per cent of eligible mothers would move from the spike at 18 weeks to a new spike at 26 weeks specifically as a result of the April 2003 maternity leave reforms.

The proposal being considered in the current consultation is to extend paid maternity leave from 26 weeks to 39 weeks, which is a larger extension than the one in 2003. Nevertheless, we make the simplifying assumption that 8 per cent of mothers who currently take 26 weeks move to taking 39 weeks as a result of the proposal to extend paid maternity leave. We then project a pattern of take-up likelihood that rises at a rate of 9.2 per cent per week, so that for women who are already close to taking the 39 weeks paid leave now being proposed, take-up is 100 per cent or close to it. So, for instance, for those women who currently take 27 weeks leave, the proportion who are expected to take

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<sup>4</sup> Maternity rights and Mothers' Return to Work; Simon Burgess, Paul Gregg, Carol Propper and Elizabeth Washbrook; July 2002

up the whole of the proposed extension to paid maternity leave is assumed to be 17.2 per cent (8 plus 9.2 per cent) and so forth, reaching a take-up rate of 90.8 per cent for those mothers who already take 35 weeks leave. For mothers who already take 36 weeks of leave or more, take up of the new right to 39 weeks of paid leave is assumed to be 100 per cent.

*Impact of extended maternity pay on the amount of time off taken by mothers around the time of giving birth*

The following table A2 shows the expected distribution of mothers' time-off if paid maternity leave were to be extended to 39 weeks at the current rate of £102.80 a week.

**Table A2: Projected time off work by mothers around time of birth following extension of paid maternity leave to 39 weeks**

No of weeks mothers off work around time of birth	Estimated maternity leave distribution based on pay of £102.80 a week until 39 weeks and a take-up slope of 8-100%	
	Percentage take-up	Number of mothers
0-25 weeks	12.1	35,300
26 weeks	9.9	28,800
27-38 weeks	9.0	26,200
39 weeks	20.1	58,500
more than 39 weeks	48.8	142,100
<b>total</b>	<b>100</b>	<b>291,000</b>

Source: DTI

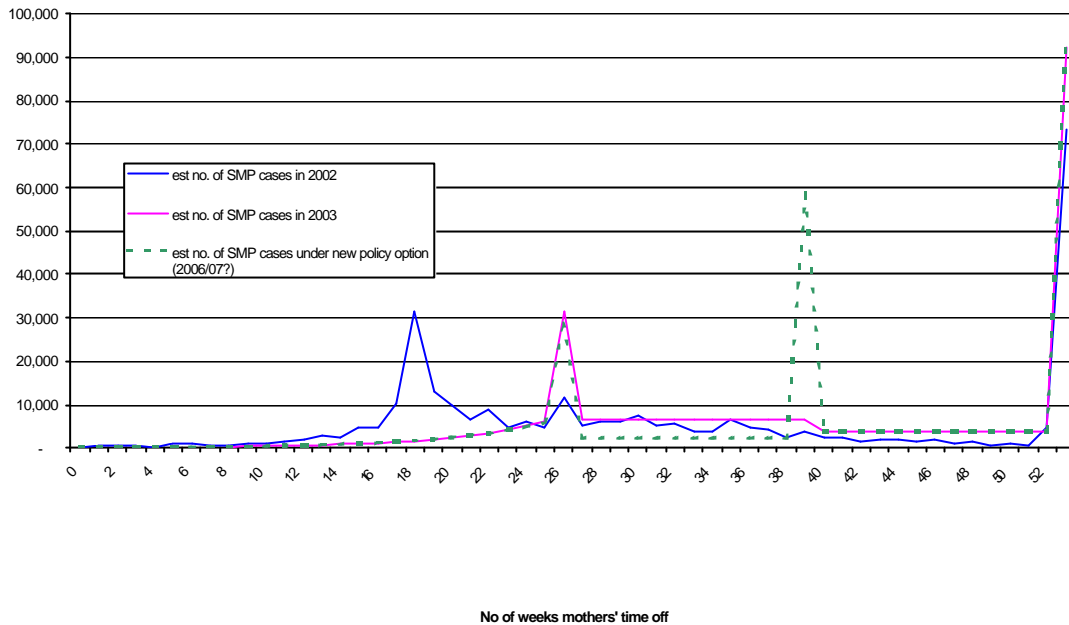
Chart A1 below shows how we expect the frequency distribution for mothers' time off around the time of the birth to have evolved from 2002 through to 2003 (when the last policy change was made) and then how we expect it to evolve following the proposed extension of the flat rate to 39 weeks.

We illustrate the progression of the distribution of mothers' time off, starting from 2002 (based on the maternity rights survey data) then

using our estimate of the post-2003 distribution and then onto the estimate of the distribution after the new policy change.

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**Chart A1: Change in the distribution of mothers time off around the time of the baby's birth.**



Source: National Statistics

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One of the points that the chart illustrates is the continuation of a peak in the distribution at 26 weeks, even when the proposal to extend paid maternity leave to 39 weeks is implemented. Even in 2002, (when the key dates governing mothers' return to work were week 18 (end of OML and SMP/MA) and week 40 (end of AML for all mothers) there was a small peak at 26 weeks.

One key point is that these are estimates of the initial impact of the extension to paid maternity leave. Although our estimate of the frequency in week 26 following the proposed extension to maternity pay does drop below our estimate of frequency in 2003, the projections shown do not aim to pick up on the further dynamics that are likely over time. Following the first couple of years immediately after the extension, we would expect the distribution to evolve further with a lengthening in

mothers time off leading to a gradual flattening of the 26-week peak over time.

The chart also shows that following the extension there is a new peak in week 39. This new peak is as a result of much lower frequencies in the weeks leading up to week 39. From week 40 onwards the distribution following the extension is identical to the distribution in 2003 because the policy change does not extend into this period.

### **Direct policy cost of extending SMP and MA**

Table A3, below, shows the direct policy cost of extending Statutory Maternity Pay. The table shows that the vast majority of the policy cost is borne by the Exchequer. However, employers also make some contribution to the direct policy cost. Whilst smaller employers are reimbursed at the rate of 104.5 per cent, larger employers are reimbursed at a rate of 92 per cent (instead of 100 per cent). The result is a net contribution by larger employers.

**Table A3: Direct policy cost of extending Statutory Maternity Pay from 26 to 39 weeks leave (at current prices: paid at £102.80 per week in 2004/05)**

	Estimated increase in cost of maternity pay (£)
Total policy cost of extending SMP to 39 weeks	278 million
of which Exchequer cost is	259 million
paid by large employers	23 million
paid to small employers	4 million
net employer cost is	19 million

Source: DTI/ DWP

Table A4, below, shows the total direct policy cost of extending maternity allowance (MA) as well as statutory maternity pay (SMP). Estimating the cost of extending Maternity Allowance is more straight forward than estimating the cost of extending SMP. We assume that take-up for the extension to MA would be around 100 per cent in line

with previous take-up rates<sup>5</sup>. Mothers who qualify for MA rather than SMP have on the whole a weaker attachment to their employer or the labour market. This is likely to affect their return to work rate and helps explain why take up rates for MA are so high. The costs of extending maternity allowance fall entirely to the Exchequer.

**Table A4: Total policy cost of extending SMP and MA from 26 to 39 weeks at current prices (at current prices: paid at £102.80 per week in 2004/05)**

	Estimated increase in maternity pay (£)
Cost of extending MA to 39 weeks	70 million
Cost of extending SMP to 39 weeks	278 million
Total policy cost of extending SMP and MA	348 million
of which increased Exchequer cost is	329 million
Source: DTI/ DWP; figures may not sum exactly due to rounding	

The costings presented here are based on the initial year of the introduction of the new policy. We might expect a further increase in mothers' time off over the longer term and this would increase the cost a little more.

### **Costs to employers of covering for absence**

The proposed extensions of SMP and MA will mean that on average women are likely to take longer maternity leave. This will involve extra costs for employers in covering for absences.

Around 291,000 women each year currently qualify for SMP and around 45,000 female employees a year qualify for MA<sup>6</sup>.

In calculating the direct SMP policy cost above, we assumed that as a result of extending maternity pay, an extra 2,500 mothers would take 39 weeks off instead of 26 weeks; and around 49,700 mothers who currently

<sup>5</sup> Information from DWP suggests that 97 per cent of MA recipients claim MA for the maximum period allowed.

<sup>6</sup> Source: DWP estimates for 2004/05. The number of women receiving MA who are on maternity leave might be a slight over-estimate, since some women entitled to MA will have left their employer by the time of birth.

take between 27 and 38 weeks off at the time of giving birth would move to taking 39 weeks. The return to work of mothers who already take more than 39 weeks off is assumed to be unaffected by the proposal.

As previously, we are interested here in the **additional** cost. This depends partly on the starting point, that is the number of weeks off work that MA mothers take at the moment. As described earlier, many SMP employees already take unpaid leave (post 26 weeks) in addition to their paid maternity leave.

As far as maternity allowance is concerned, we do not have survey data on the return to work of mothers receiving MA. However, from DWP's (Department of Work and Pensions) administrative data we can divide the estimated 45,000 MA employees into two broad groups.

- Around half of all employees who receive MA rather than SMP, do so because they have failed the employment qualification test.
- The other half of the group of MA employees fails to qualify for SMP for some other reason: low income (earning less than the lower earnings limit for National Insurance) seems to be one of the principal reasons<sup>7</sup>.

In the case of MA employees who fail the employment test, they currently receive Ordinary Maternity Leave (OML) lasting 26 weeks. In the case of the other group of MA employees, they may be already entitled to Additional Maternity Leave between weeks 27 and 52.

In both cases, we assume that these employees do not currently take unpaid leave after their 26-week period of OML comes to an end. The relationship of employees in the first group with their employer is less strong, so it is unlikely that they will be able to negotiate extra unpaid

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<sup>7</sup> According to DWP administrative data from 2001, an estimated 11,000 MA employees are ineligible for SMP due to their earnings being below the Lower Earnings Limit for National Insurance purposes.

leave beyond the 26 weeks. Meanwhile, employees in the second group are unlikely to be able to afford to take extra leave<sup>8</sup>. If we combine these assumptions about current behaviour with the DWP's administrative data pointing to virtually all MA mothers taking as many weeks of MA as are offered, we can conclude for RIA costing purposes that the period of absence for employers with staff receiving MA is likely to increase from 26 to the full 39 weeks as a result of the proposal.

It is important to note that this conjecture on extra weeks of pay for MA employees depends on their being eligible to take an extra 13 weeks leave of leave, since only then will they be able to take up their new right to extended maternity pay. This link between pay and leave entitlements in the case of these 22,000 MA employees is discussed in detail in the consultation document. We have assumed in the costings presented here that the legislation finds a way of extending leave rights for MA employees who currently receive only OML.

Returning to the main calculation for costing the impact of employee absence, we assume there to be a 60%:40% split between larger and smaller businesses for purposes of this RIA, in line with the distribution of the female workforce as a whole<sup>9</sup>.

Employers may decide to cover an employee's absence on maternity leave either through recruitment of a temporary replacement or through rearranging existing workloads and staffing. It is assumed that 70% of

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<sup>8</sup> Whilst technically, this group of 11,000 MA employees are already eligible for extra leave, we assume that in practice they do not take it if it is unpaid. The Maternity Rights Survey shows that mothers on low or very low incomes are likely to take less time off work.

<sup>9</sup> Labour Force Survey - based on a distinction between workplaces with 25 or more employees and those with fewer than 25 employees. Cut-off is 25 since we estimate that this is consistent with £45,000 employers NICs bill which is DWP's threshold in 2004/05 for small employers' relief.

larger businesses and 40% of smaller businesses accommodate maternity leave through the use of a temporary replacement<sup>10</sup>.

The costs of extending the employment of a temporary replacement are assumed to be 3 to 5% of weekly labour costs. The costs of internal reallocation are assumed to be 9 to 15% of weekly labour costs<sup>11</sup>.

We estimate that the mean weekly earnings of female employee jobs where the mother is entitled to MA are likely to be £201.57. For women in receipt of SMP, the calculation is based on mean gross weekly pay for female employee jobs in April 2004 of £310.7 per week<sup>12</sup>. Adding 30% for non-wage labour costs for both produces a cost of £262.04 and £403.91 per week, respectively.

Combining these assumptions produces the following calculations of the costs to employers of covering for absences as a result of the proposed extension to maternity pay.

The general formula is:

Number of women <sup>x</sup> number of weeks <sup>x</sup> weekly labour cost <sup>x</sup> cost of hiring a temp or the cost of internal allocation.

These calculations are carried out for MA employee jobs in smaller employers, MA employee jobs in large firms, SMP jobs in smaller employers and SMP jobs in large firms. The cost in each case is also estimated using a range for the cost of absence.

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<sup>10</sup> Evidence suggests larger firms are more likely to deal with long-term absences through a temporary replacement. For an explanation of the reasoning behind this assumption, see Parliamentary Question number 156754 and available at [www.dti.gov.uk/er/review.htm](http://www.dti.gov.uk/er/review.htm)

<sup>11</sup> For an explanation of the reasoning behind these assumptions, see Parliamentary Question number 156754 and available at [www.dti.gov.uk/er/review.htm](http://www.dti.gov.uk/er/review.htm)

<sup>12</sup> Based on 2004 Annual Survey of Hours and Earnings, averaged across full-time and part-time female employees.

The total annual costs of covering for absences are estimated at £16 million to £27 million, broken down as shown in the following table:

**Table A5: Calculating the impact on the extension to paid maternity leave on the cost of absence**

	Estimated cost of absence (£m)
MA recipients, smaller employers	4.0-6.7
Calculated as: $0.4 \times 585,000 \times £262 \{ [0.4 \times (0.03 \text{ to } 0.05)] + [0.6 \times (0.09 \text{ to } 0.15)] \}$	
MA recipients, larger employers	4.4-7.4
Calculated as: $0.6 \times 585,000 \times £262 \{ [0.7 \times (0.03 \text{ to } 0.05)] + [0.3 \times (0.09 \text{ to } 0.15)] \}$	
SMP recipients, smaller employers	3.8-6.3
Calculated: $0.4 \times 355,670 \times £404 \times \{ [0.4 \times (0.03 \text{ to } 0.05)] + [0.6 \times (0.09 \text{ to } 0.15)] \}$	
SMP recipients, larger employers	4.1-6.9
Calculated: $0.6 \times 355,670 \times £404 \times \{ [0.7 \times (0.03 \text{ to } 0.05)] + [0.3 \times (0.09 \text{ to } 0.15)] \}$	
Total annual cost of covering for absences	16.4-27.3

Source: DTI

**Table A6: Summary of cost of absence**

	Low (£m)	High (£m)
Small employers	7.8	13.1
Large employers	8.6	14.3
Total	16.4	27.3

Source: DTI

This increase in time off will be concentrated among those mothers who already take longer periods of maternity leave. Hence their employers are more likely than others to manage the absence already through a temporary replacement. We assume that 95% of larger businesses and 60% of smaller businesses manage these absences through a temporary replacement.

### The Small Employers' Exemption

The Government is also proposing in the Consultation Document to remove the Small Employers' Exemption. This is required to keep the UK within the proposed Equal Treatment At work Directive (ETAD).

The ETAD requires that a woman or adopter returning to work after maternity or adoption leave must be able to return to her job or to an equivalent post.

Women on maternity leave currently have the right to return to the same or an equivalent job under the Maternity and Parental Leave Regulations 1999. However, where an employer has five or fewer employees, it does not currently constitute automatic unfair dismissal if the woman or adopter is not allowed to return at the end of Additional Maternity Leave (AML) or Additional Adoption Leave (AAL) because the employer regards this as not reasonably practicable. We believe this exemption is in conflict with the provisions of the ETAD which does not differentiate between small and large employers. A woman in this position could still make an unfair dismissal claim, and more significantly, a sex discrimination claim. Case law has established that an employer who denies a woman a post on her return from maternity leave is likely to be in breach of the provisions of the Sex Discrimination Act.

A similar exemption for employers of five or fewer employees applies to adoption leave under the Paternity and Adoption Leave Regulations 2002.

#### *Business sectors affected*

Small employers with five or fewer employees would be the primary group affected, although anecdotal evidence from small employer organisations suggests that awareness of this exemption is very low, and practical application negligible. There are an estimated 875,000 employers with 1-5 employees (22% of all employers) and an estimated 504,000 women of childbearing age employed in these small firms (9% of all women of childbearing age).

We do not have figures on the number of women working for small employers who are prevented from returning to work each year. However, for women employees in general, the Employment Tribunal Service has only processed around 100 unfair dismissal cases per year, on average, over the last five years from women claiming they were prevented from returning to work after maternity leave. There may obviously be women who do not make a tribunal application, or have their case classified as sex discrimination rather than unfair dismissal, but the Employment Tribunal Service figures still suggest numbers would be small.

The number of adopters who could be affected is likely to be very small as there are less than 4,000 adopters eligible for adoption leave each year.

### *Benefits*

It would be clear that women and adopters working for employers of five or fewer employees would have the right to return to the same or equivalent job after Additional Maternity Leave (AML) and Additional Adoption Leave (AAL). It would be automatic unfair dismissal if such an employer were to refuse to allow a woman or adopter to return to their job in these circumstances. In the case of maternity leave, the position for small employers would be clearer, since at present a refusal to allow a woman to return after AML, while not prohibited by the Employment Rights Act, could still be subject to a claim under the SDA which has no small employers' exemption. However, anecdotal evidence from bodies that advise small employers suggests that awareness of the existence of these exemptions is very low. The few employers who do make enquiries are discouraged from making use of the exemption because under the current legislation it would be very difficult to prove that a dismissal was not unfair at a Tribunal.

### *Costs*

Given the small number of complaints that reach tribunal on the right to return to work, it appears unlikely that the Employment Tribunal Service would experience an increase in claims of any significance.

### *Risks*

It could appear that a great burden, in terms of both time and cost, is being added to small firms when this is in fact not the case. To counter this risk, guidance would set out the rights and responsibilities when a woman returns to work after maternity leave.

The Government recommends removing the small employers' exemption. This would offer greater clarity to both employers and employees. The use of the exemption appears to be extremely rare, and removing them is therefore likely to have a negligible impact on the practices of small employers.

We believe it will be more straightforward for both employers and employees to remove the small employers' exemption alongside the other changes to the maternity leave arrangements.

### **Extending OML to 12 months**

The consultation document discusses options to ensure MA employees are eligible to receive up to 39 weeks leave from their employer, so that they can benefit from the new proposed statutory maternity pay entitlement. One option for dealing with this problem is to extend OML from 6 to 12 months. If this option were adopted there would be some additional employer costs since contractual benefits that have to be paid to mothers in their first six months of leave would also have to be paid to mothers who take the full 12 months of statutory leave.

### **Implementation (administration) costs**

Only the marginal costs to employers arising from changes to the legislation are relevant.

### *Larger firms*

We assume that even for larger employers (defined here as those with annual NICs in excess of £45,000 in 2004/05), the administrative costs will not require any significant changes to existing systems and written policies.

This work of changing the terms and conditions will mainly fall to human resource functions. Some changes may be required to systems for detailing terms and conditions (staff handbooks, corporate electronic guidance etc.) and may need to be communicated to employees. However, since the proposal leaves the system of maternity pay and leave essentially the same, we assume that these changes will not incur any significant one-off administrative costs.

### *Smaller firms*

In small firms, the probability of an employee taking maternity leave in any given year is low. Survey evidence suggests that only about a tenth of workplaces with 10 or fewer employees have anyone going on maternity leave in any given year. Thus as maternity leave is a fairly infrequent event for most small employers, they are unlikely to incur additional administration costs from the proposal. Most small employers will continue as before, acquainting themselves with the rules each time they face a maternity case in their organisation. On each occasion, this takes time but this is no different from the current position.

## **Summary of costs and benefits**

In summary the total estimated costs and benefits which are quantifiable are shown in Table A7 below.

**Table A7: Summary of quantifiable costs and benefits for extending paid maternity leave**

	Estimated additional costs and benefits
<b><u>COSTS</u></b>	
Exchequer cost (SMP and MA)	329 million
Employer cost	35-46 million
of which direct policy cost	19 million
of which cost of absence	16-27 million
of which administration cost	negligible
<b>Total cost</b>	<b>364-375</b>
<b><u>BENEFITS</u></b>	
Extra maternity pay	348
Reduced labour turnover for employers	12.5
<b>Total benefit</b>	<b>360.5</b>
Source: DTI/ DWP	

## Equity and Fairness

This measure is aimed at mothers who have a baby since they are at a disadvantage in the workplace and they also have more acute work-life balance issues in the first year after the birth.

## Consultation with small business: The Small Firms' Impact Test

The impact on small business of extending paid maternity leave has been considered in focus groups and by the citizens' jury. In the public consultation process being launched, responses are sought from small employers and their representatives.

More generally, it is recognised that small firms can sometimes find it more difficult than large firms to cover for absence. However, it needs to be recognised that the events triggering maternity leave may not happen very often in the 'typical' small firm. For example, a business with 50 employees with a workforce representative of employees as a whole would expect to have less than one case of maternity leave each year.

## **Competition assessment**

The results of the competition filter showed that there was no need to do a detailed assessment of the impact of these measures on competition.

## SECTION B

### Reviewing Notice Periods

#### Introduction

It is important for employers to have some certainty about when a mother is due to leave on and return from maternity leave. This enables employers to plan for cover when leave is due to start and end.

Dialogue between the employer and employee at the outset can also begin a process of communication during leave that benefits both parties.

#### Purpose and Intended effect

(i) *The objective*

- to ensure that employers are provided with adequate notice if mothers decide to change their return date.

(ii) *The background*

At present an employee must tell her employer that she is pregnant by no later than the end of the 15th week before the week her baby is due or as soon as reasonably practicable; and must say when she intends her maternity leave to start. Except in certain circumstances, she must then give 28 days' notice if she wants to change her leave dates.

If a mother intends to return to work earlier than previously agreed with her employer, she must give her employer at least 28 days' notice of her date of return.

The Government does not intend to change the period of notice that a woman has to give in advance of her maternity leave starting. However, we believe there is a strong case for reviewing the 28-day notice a woman must give her employer if she wants to return to work from maternity leave earlier than originally planned. This element of the partial RIA looks at the costs and benefits associated with requiring a longer notice period prior to returning to work early.

*(iii) Risk assessment*

Changing the notice period addresses the following risks:

- there will be greater certainty about the date on which the mother returns to work
- employers will have more time to react to mothers changing their return date and their business will be subject to less disruption

## **Options**

We have identified three potential options:

Option 1 –leave the notice period at 28days, however mothers will be required to confirm their return date in advance.

Option 2 – extend the notice period to 8 weeks

Option 3 - extend the notice period to 12 weeks

## *Assumptions*

It is extremely difficult to estimate how many mothers receiving statutory maternity pay (SMP) or maternity allowance (MA) decide to return to work earlier than originally planned. We have assumed for illustrative purposes that 5% of mothers receiving SMP or MA decide to change their return date, with the notice period of 28 days. For simplicity it is assumed that half of these mothers decide to return to work early and the remaining half return later than the originally agreed date.

We have also made the following assumptions about how small firms (under 25 employees) and larger firms (more than 25 employees) react when a mother takes maternity leave.

- 60% of mothers work in larger firms.  
40% of mothers work in small firms.
- 70% of larger firms replace a mother on maternity leave with a temporary worker.  
40% of small firms replace a mother on maternity leave with a temporary worker.
- 30% of larger firms use internal reallocation to replace a mother on maternity leave.  
60% of small firms use internal reallocation to replace a mother on maternity leave.
- Temporary workers' wages are between 3% and 5% higher than the mother's wage.  
Internal reallocation costs between 9% and 15% more than the mother's wage.

The above assumptions have been applied to the number of mothers receiving SMP cases and employed mothers receiving MA in 2004. The table below outlines the calculations and results. Note that the tables

only refer to mothers returning earlier. However the numbers will be exactly the same for mothers returning late to work, given the symmetry of assumptions. Note that all figures have been rounded in the tables within this section and that a sum of two figures may not add up due to rounding. A disaggregation between mothers on SMP and employed mothers on MA can be found in appendix 1 for all the tables that appear in section B.

**Table B.1: Number of mothers who return to their employer earlier than expected**

Total number of cases	Number of mothers who work in a larger firm that return to their employer earlier than expected (=column 1x0.025x0.6)*	Number of mothers who work in a small firm that return to their employer earlier than expected (=column one x 0.025 x 0.4)*	Number of temporary workers employed to cover the mother (Larger firms) (=0.7 x column two)*	Number of temporary workers employed to cover the mother (Small firms) (=0.4 x column three)*	Number of internal workers reallocated to cover the mother (Larger firms) (=0.3 x column two)*	Number of internal workers reallocated to cover the mother (Smaller firms) (=0.6 x column three)*
336,000	5,000	3,400	3,500	1,300	1,500	2,000

Source: DWP and DTI estimates. \*rounded to the nearest 100.

## Benefits and costs of each option

*Option 1 –leave the notice period at 28days, however mothers will be required to confirm their return date in advance.*

### *Benefits*

This option will assist with business planning.

### *Costs*

Employers will incur a minor cost of informing employees of the new obligation.

*Option 2 and 3 (extend the notice period to 8 weeks or 12 weeks from an existing 4 weeks)*

### *Benefits*

#### *Mother returns to work earlier than originally agreed*

If the mother returns earlier than the originally agreed date and the notice period is extended, this will result in a cost saving for the employer, provided a temporary worker is used to cover for the absent mother.

It is assumed that a longer notice period will leave mothers with fewer opportunities to change their return date. For example, if a mother decides to take 15 weeks' maternity leave and the notice period were 12 weeks, she will have to give her decision to return to work earlier within the first 3 weeks of her maternity leave. This appears unlikely. It is assumed that the effect will be to reduce the number of mothers returning early by a factor of 0.5 if the notice period is 8 weeks and by a factor of 0.25 if the notice period is 12 weeks.

It is also assumed that if the employer is given more notice, he or she will have longer to cancel any temporary worker's contract and thus avoid paying the temporary worker once the mother returns to work early. This 'double payment' could be avoided depending on the type of contract issued to the temporary worker. For example, a firm could offer 6 single month contracts to a temporary worker instead of a single 6-month contract. We have assumed that with 4 weeks' notice 10% of contracts can be cancelled, at 8 weeks' notice 40% of contracts are cancelled and at 12 weeks' notice 70% of temporary workers contact are cancelled.

#### *Further assumptions*

To estimate the additional cost of using a temporary worker, it is assumed that a mother receiving SMP has a weekly wage of £403.91 and an employed mother receiving MA has a weekly wage of £262.04. It is assumed that temporary workers cost between 3% and 5% more than these weekly wages.

The above assumptions have been applied to mothers receiving SMP and employed mothers receiving MA and are represented in the table below

**Table B.2: Mother is returning early (firm is using a temporary worker)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms	All firms
Notice Period	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected*	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected*	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected (= column two + column three)*	Total cost of double payment (£)**	Additional cost of using a temporary worker per week (Low estimate) (£)**	Additional cost of using a temporary worker per week. (High estimate) (£)**
4 weeks	3,300	1,300	4,600	1,739,000	52,000	87,000
8 weeks	1,100	400	1,500	580,000	17,000	29,000
12 weeks	300	100	400	145,000	4,000	7,000

Source DTI estimates,. \*rounded to nearest 100.\*\* rounded to nearest 1000.

### *Benefits*

The above table shows that as the notice period is extended, the total costs of double payment are reduced, as also the additional cost of using a temporary worker. The above benefits can be quantified by benchmarking the extension to 8 and 12 weeks against the current

situation (4 weeks). The table below present the expected benefits that employers will receive as a result of extending the notice period.

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## Benefits

**Table B.3. Mother is returning early (firm is using a temporary worker)**

Type of firm	All firms	All firms	All firms	All firms
Notice Period	Fewer instances where the employer pays the mother and temporary worker after the mother returns to work earlier than expected*	Savings made due to less double payment ** (£)	Savings made through avoiding the extra payment of a temporary worker (Low estimate)**	Savings made through avoiding the extra payment of a temporary worker (High estimate)**
4 weeks	-	-	-	-
8 weeks	3,100	1,159,000	35,000	58,000
12 weeks	4,200	1,594,000	48,000	80,000

Figures have been rounded. \*Rounded to nearest 100. \*\* Rounded to nearest 1000

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We have assumed that the length of the period of notice provided by a mother when returning earlier to work will have minimal impact if the firm is using internal reallocation to replace her when she is on maternity leave.

*Mother returns to work later than originally agreed and the employer uses a temporary worker*

As assumed above, we expect the number of mothers deciding to return late to work to decline as the notice period is extended. This will result in cost savings for employers, as it will reduce the amount of additional payment to temporary workers. The following two tables estimate the number of instances when mothers return late and the associated additional costs of using a temporary worker.

**Table B.4. Mother is returning late (firm is using a temporary worker)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms
Notice Period	Number of instances where mother returns late*	Number of instances where mother returns late*	Number of instances where mother returns late (= column 2 + 3)*	Additional cost of using a temporary worker per week (Low estimate)**	Additional cost of using a temporary worker per week. (High estimate)**
4 weeks	3,500	1,300	4,800	56,000	93,000
8 weeks	1,700	600	2,300	27,000	45,000
12 weeks	800	300	1,100	13,000	22,000

Source DTI estimates, \* = rounded to nearest 100. \*\* rounded to nearest 1000

The cost savings as a result of fewer mothers returning to work late are presented in the table below.

### Benefits

**Table B.5. Mother is returning late (firm is using a temporary worker)**

Type of firm	All firms	All firms	All firms
Notice Period	Fewer instances where mother returns late	Savings made through avoiding the extra payment of a temporary worker (Low estimate)	Savings made through avoiding the extra payment of a temporary worker (High estimate)
4 weeks	-	-	-
8 weeks	3,000	29,000	48,000
12 weeks	4,000	43,000	71,000

Figures have been rounded to the nearest 1000.

*Mother returns to work later than originally agreed and the employer uses a temporary worker*

We have assumed that internal reallocation will cost an additional 9% to 15% of the mother's weekly wage.

The same methodology as applied to a mother returning late to work and the firm hiring a temporary worker can also apply when a firm uses internal reallocation.

**Table B.6. Mother is returning late (firm is using internal reallocation)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms
Notice Period	Number of instances where mother returns late*	Number of instances where mother returns late*	Number of instances where mother returns late (= column 2 + 3)*	Additional cost of using internal reallocation per week (Low estimate)**	Additional cost of using internal reallocation per week. (High estimate)**
4 weeks	1,500	2,000	3,500	122,000	204,000
8 weeks	800	1,000	1,800	61,000	102,000
12 weeks	400	500	900	31,000	51,000

Source DTI estimates, \*rounded to nearest 100. \*\* rounded to nearest 1000.

The cost savings made as a result of fewer mothers changing their return date are presented in the table below.

## Benefits

**Table B.7. Mother is returning late (firm is using internal reallocation)**

Type of firm	All firms	All firms	All firms
Notice Period	Fewer instances where mother returns late*	Savings made through avoiding the extra cost of internal reallocation (Low estimate)**	Savings made through avoiding the extra cost of internal reallocation (High estimate)**
4 weeks	-	-	-
8 weeks	1,800	61,000	102,000
12 weeks	2,600	92,000	153,000

Figures have been rounded. \* rounded to nearest 100. \*\* Rounded to nearest 1000

## Summary of benefits

The quantifiable benefits that can be found in tables 3, 5 and 7 can be summed together to provide a summary aggregate benefits figure for each option 2 and 3.

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**Table B.8. Summary of benefits**

Notice Period	Total benefits as a result of extending the notice period (Lower estimate)	Total benefits as a result of extending the notice period (Lower estimate)
4 weeks	-	-
8 weeks	1,300,000	1,400,000
12 weeks	1,800,000	1,900,000

Source DTI estimates. Figures have been rounded to the nearest 100,000

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## Costs

Employers will incur a small cost as a result of extending the notice period. They may need to ensure that mothers who take maternity leave are made aware of the change in notice period and may need, for example, to amend staff handbooks. But this cost will be very small.

Mothers will have less flexibility to change their return date if the notice period is extended.

## Small firms' Impact test

The size of a firm will not affect the implementation of the proposed options.

## Competition assessment

After conducting a competition filter test we consider that the proposed options will not pose a significant effect on competition and that a detailed competition assessment is not necessary.

## **Section C1**

### **Transferable Maternity Leave And Pay**

#### **Purpose and intended effect of measure**

This will be a new entitlement that enables a mother to transfer a proportion of her pay and leave to the father of the child. It will help promote greater equal opportunities, allowing the mother to go back to work earlier where she wants to and be the main income provider and for the man to stay at home and effectively take on the role as primary carer for the child.

#### **Options**

The Government sees three main options about how much leave could be transferred.

Option 1: Transfer any leave and pay after six weeks following the start of OML.

Option 2: Transfer any leave and pay after 3 months following the start of OML.

Option 3: Transfer any leave and pay after the 6-month period of ordinary maternity leave (OML) expires.

#### **Costs and benefits**

##### *Number of beneficiaries*

Estimates of the number of transfer cases are highly tentative since we are not aware of any explicit survey data that directly asks this question. So, in preparing the estimates contained in table C1 below, we

considered for the sake of simplicity and in line with the three options being consulted on that the demand for transferring a whole block of leave from 7 to 52 weeks, from 14 to 52 weeks or from 27 to 52 weeks inclusive. We assume in this section of the RIA (again for simplicity) that those mothers who transfer leave to fathers continue with the arrangement until 52 weeks.

We have interpreted the available evidence from the DWP Maternity and Paternity Rights Survey and have come to a judgement that most families will only consider transferring leave between parents after the mother has already been off work for a significant period of time. The evidence appears to suggest that after around six months of leave<sup>13</sup>, more mothers appear ready to consider going back to work. Until the point is reached when the mother is ready to consider going back, financial factors such as whether the family will still receive maternity payments are likely to be less important.

Nevertheless, making maternity leave transferable earlier, as in options 1 and 2, is expected to have a modest extra take up.

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**Table C1: Estimated number of maternity transfers**

	Number of people
All families who can take part in transfer <sup>1</sup>	311,000
Number of transfers starting week 7 (up to week 52)	1,000-1,200
Number of transfers starting week 14 (up to week 52)	1,900-2,400
Number of transfers starting week 27 (up to week 52)	3,800-4,600

Source: DTI

<sup>1</sup> Adds SMP and MA employess less a small adjustment for mothers not in a position to transfer

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<sup>13</sup> The number of weeks that the mother takes as leave post-birth is nearly always less than the number of weeks of leave taken as a whole, since mothers normally start their maternity leave before the birth.

The Maternity Rights Survey in 2002 indicated that the tipping point (when various factors start coming into play that cause mothers to start returning to work) was likely to be well after mothers had already taken 18 weeks of leave.

A close look at the data could indicate that the tipping point for most mothers is closer to 26 weeks than immediately after 18 weeks. In 2002, the flat rate of statutory maternity leave was paid at £62 a week until the end of week 18. Only eleven per cent of mothers eligible for maternity leave took 18 weeks exactly and no more, whilst 77 per cent of eligible mothers chose to continue staying off work even though this was then unpaid.

So, we assume in this RIA that the costs and benefits of the policy will mostly fall after the six-month mark, irrespective of which proposal is being considered.

## **Benefits**

The proposals outlined on making leave and pay transferable will allow more mothers to return to work earlier than would otherwise be possible. This will help them to keep attached to the workforce and retain their skills. This will be of benefit both to the economy and employers of mothers.

The proposals could also play a more significant role in helping mothers and families to optimise their choice as to when exactly to go back to work. The advantage of all three proposals is that parents will have greater flexibility and choice as to when the mother returns to work, since the mother will be able to return to work without the family losing its entitlement to leave and maternity payments (unless both parents are in work). Also, the proposals have the advantage of providing greater flexibility for babies to be cared for by their father if the mother returns to work during the baby's first year.

Clearly, option 1 proposes that families should be given the maximum flexibility in how they arrange their work life balance in the baby's first year. This proposal would represent both a significant extra benefit to those individuals who take up the right.

## **Costs**

The main cost of the proposal is expected to borne by employers who have a transfer cases. The cost is expected to be small in aggregate for the whole economy. We look at option 1 first.

### **Option (1) Transfer any leave and pay after six week's following the start of OML**

We think the additional take up of this proposal would be modest compared to the take-up of the option starting from 27 weeks only. Costs would also not be significantly greater since only a small number of parents would take up the extra transfer leave available. Nevertheless, the proposal would represent a significant extra cost to the small number of employers who would see a case. The cost for an individual employer would be particularly significant if parents were to take up the option of starting transfer from the earliest time allowed under the proposal of 6 weeks following the start of OML.

The direct policy cost of paying maternity leave to fathers is shown below in Table C2. The methodology is the same as in Part A when the cost of extending paid maternity leave was being estimated. The cost is based on paying the flat rate to 1,000-1,200 fathers between weeks 7 and 26, to which is added the cost of paying the flat rate to 3,800 to 4,600 fathers between weeks 27 and 39. This is in line with the maternity regime being consulted on elsewhere in the consultation. Employers' share of the direct cost is also separated out in line with the practice elsewhere in the RIA.

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**Table C2: Estimated policy cost of proposal to transfer maternity leave from 6 weeks**

	Cost (£m)
Total cost	7.3-8.3
Of which Exchequer cost	6.9-7.8
Of which employer cost	0.5-0.6

Source: DTI

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Employers also face an extra direct cost due to having to cover the absence of those fathers who take up the new right. In line with Part (A) of the RIA, the cost of absence is split between those employers who pay their existing workers overtime and those who hire temporary agency workers. This additional cost depends on the range of transfer cases shown here and the range of absence costs used in part (A), giving an estimated cost range from £7m to £14m. The main difference between this methodology and that in Part A of this RIA is that the cost of absence per male worker is higher since men tend to segregate in occupations where pay is higher.

Table C3 shows the cost of absence borne by employers due to fathers taking the mother's transferred leave and pay.

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**Table C3: Estimated cost of absence due to proposal to transfer maternity leave from 6 weeks**

	Cost (£m)
Total cost of absence	7.3-14.2

Source DTI

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The range for the estimated cost of absence is spread wide since the range incorporates both uncertainty about the number of transfer cases as well as uncertainty about the degree of costs that employers are likely to face, (which was also the case in Part A).

Table C4 shows the cost of administration borne by employers. The main costs here are from processing individual cases and due to any changes to IT/payroll systems and HR practices that need to be amended. We estimate that there are only likely to be around 730 transfer cases amongst larger employers<sup>14</sup> between weeks 7 and 26, rising to around 2,850 in the second six months. Therefore we do not think it would be worthwhile for all employers to adjust their systems immediately once the legislation goes through. Rather, we assume that individual employers would amend their HR practices gradually as cases appear. As a result, the aggregate cost is both small and ongoing as large employers taken together as a group make the necessary changes over a period of a few years. There are no one-off costs for smaller employees, since it is assumed that smaller employees operate more informal payroll practices.

Recurring costs, both for individual employers and in aggregate, are mainly assumed to be the cost of calculating leave payments for fathers and administering the transfer, borne by both the sending and receiving employers.

**Table C4: Estimated cost of administration due to proposal to transfer maternity leave from 6 weeks**

	Cost
Recurring cost due to one-off changes to systems and HR practices (larger employers only)	940,000
Recurring cost due to administering the father's pay and leave arrangements (both small and large employers)	200,000-360,000

Source: DTI

There is also the issue of how employers with an occupational maternity pay policy would react to the transfer of new cases. Some employers pay their mothers extra contractual entitlements and they might incur an extra cost if they decided to give any extra contractual maternity pay

<sup>14</sup> Larger employers are defined as all those whose NICs bill is more than £45,000 a year, since this is DWP's threshold for small employers' relief. A NICs bill of £45,000 a year equates roughly to an organisation size of 25 employees.

entitlements normally reserved for new mothers to new fathers instead. We assume that this would only be a matter for a small number of employers, and since it would not be a requirement of the legislation we give this consideration a zero additional costing.

### **Option (2) Transfer any leave and pay after 3 months following the start of OML**

We think the additional take up of this proposal would be more than for starting after 6 weeks but still well below the option of starting from 27 weeks.

The direct policy cost of paying maternity leave to fathers is shown below in Table C5. The methodology is the same as in Part (A) when the cost of extending paid maternity leave was being estimated. The cost is based on paying the flat rate to 1,900-2,400 fathers between weeks 14 and 26, to which is added the cost of paying the flat rate to 3,800 to 4,600 fathers between weeks 27 and 39. This is in line with the maternity regime being consulted on elsewhere in the consultation. Employers' share of the direct cost is also separated out in line with the practice elsewhere in the RIA.

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**Table C5: Estimated policy cost of proposal to transfer maternity leave from 6 weeks**

	Cost (£m)
Total cost	8.1-9.0
Of which Exchequer cost	7.5-8.4
Of which employer cost	0.55-0.62

Source: DTI

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Employers also face an extra direct cost due to having to cover the absence of those fathers who take up the new right. In line with Part (A) of the RIA, the cost of absence is split between those employers who pay their existing workers overtime and those who hire temporary agency

workers. This additional cost depends on the range of transfer cases shown here and the range of absence costs used in Part (A), giving an estimated cost range from £8m to £15m. The main difference between this methodology and that in Part (A) of this RIA is that the cost of absence per male worker is higher since men tend to segregate in occupations where pay is higher.

Table C6 shows the cost of absence borne by employers due to fathers taking the mother's transferred leave and pay.

**Table C6: Estimated cost of absence due to proposal to transfer maternity leave from 6 weeks**

	Cost (£m)
Total cost of absence	7.7-14.8
Source: DTI	

The range for the estimated cost of absence is spread wide since the range incorporates both uncertainty about the number of transfer cases as well as uncertainty about the degree of costs that employers are likely to face, (which was also the case on part A).

Table C7 shows the cost of administration borne by employers. The main costs here are from processing individual cases and due to any changes to IT/payroll systems and HR practices that need to be amended. We estimate that there are only likely to be around 1,460 transfer cases amongst larger employers between weeks 14 and 26, rising to around 2,850 in the second six months. Therefore, as we did for option (1), we assume that it is not worthwhile for all employers to adjust their systems immediately once the legislation goes through. Rather, we assume that individual employers would amend their HR practices gradually as cases appear. As a result, the aggregate cost is both small and ongoing as large employers taken together as a group make the necessary changes over a period of a few years. There are no one-off costs for smaller employees,

since it is assumed that smaller employees operate more informal payroll practices.

Recurring costs, both for individual employers and in aggregate, are mainly assumed to be the cost of administering the transfer, borne by the sending and receiving employers and calculating leave payments for fathers.

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**Table C7: Estimated cost of administration due to proposal to transfer maternity leave from 6 weeks**

	Cost
Recurring cost due to one-of changes to systems and HR practices (larger employers only)	1,130,000
Recurring cost due to administering the father's pay and leave arrangements (both small and large employers)	240,000-440,000

Source: DTI

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There may also be a small issue for employers as to how they handle the crossover with their occupational maternity pay policy, but this is likely to be far less of an issue than for proposal one.

### **Option (3) Making a single block of 6 months of maternity leave transferable to fathers**

We assume here for simplicity that in cases where maternity leave is transferred to fathers, parents take advantage of the regulations by transferring the whole six months. We also assume that on average half of the leave being transferred is paid at £102.80 a week and the other half of the leave being transferred is unpaid. This assumption is in line with the new proposal to extend paid maternity leave to 39 weeks which is being discussed elsewhere in the consultation.

We estimate that under this proposal, there would be between 3,800 and 4,600 transfer cases per year in the second six months.

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**Table C8: Estimated policy cost of proposal to transfer maternity leave from 27 weeks**

	Cost (£m)
Total cost	5.1-6.1
Of which Exchequer cost	4.8-5.7
Of which employer cost	0.35-0.42

Source: DTI

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Employers also face an extra direct cost due to having to cover the absence of those fathers who take up the new right. In line with Part (A) of the RIA, the cost of absence is split between those employers who pay their existing workers overtime and those who hire temporary agency workers. This additional cost depends on the range of transfer cases shown here and the range of absence costs used in Part (A), giving an estimated cost range from £6m to £12m. The main difference between this methodology and that in Part (A) of this RIA is that the cost of absence per male worker is higher since men tend to segregate in occupations where pay is higher.

Table C9 shows the cost of absence borne by employers due to fathers taking the mother's transferred leave and pay.

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**Table C9: Estimated cost of absence due to proposal to transfer maternity leave from 27 weeks**

	Cost (£m)
Total cost of absence	6-12

Source: DTI

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The range for the estimated cost of absence is spread wide since the range incorporates both uncertainty about the number of transfer cases as well as uncertainty about the degree of costs that employers are likely to face, (which was also the case in Part (A)).

Table C10 shows the cost of administration borne by employers. The main costs here have already been outlined earlier in options (1) and (2). There are likely to be around 2,850 cases for larger employers in the second six months. Therefore we do not think it would be worthwhile for all employers to adjust their systems immediately once the legislation goes through. Rather, we assume that individual employers would amend their HR practices gradually as cases appear. As a result, the aggregate cost is both small and ongoing as large employers taken together as a group make the necessary changes over a period of a few years. There are no one-off costs for smaller employees, since it is assumed that smaller employees operate more informal payroll practices.

Recurring costs, both for individual employers and in aggregate, are mainly assumed to be the cost of administering the transfer, borne by the sending and receiving employers, and calculating leave payments for fathers.

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**Table C10: Estimated cost of administration due to proposal to transfer maternity leave from 27 weeks**

	Cost
Recurring cost due to one-off changes to systems and HR practices (larger employers only)	750,000
Recurring cost due to administering the father's pay and leave arrangements (both small and large employers)	160,000-290,000

Source: DTI

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In calculating these additional costs, we have assumed that in the absence of the transfer policy, mothers who transfer would previously have gone back to work without the fathers being able to take up the rights to leave and pay.

Although administrative costs in aggregate are very small as would be expected due to the small number of cases per year, for an individual employer the administrative costs might represent a significant burden.

Nevertheless we think that even in these cases the burden would be manageable.

### **Unintended consequences**

We have taken advice from Counsel and do not believe that employers with occupational maternity provisions will have to provide them to fathers. We cannot foresee any other issues that might pose unintended consequences

### **Equity and fairness**

These proposals enhance equity and fairness since they provide families with greater flexibility and choice.

### **Small firms' impact test**

For occupations that are traditionally male-orientated these proposals could require a very steep learning curve, especially if an employer has never dealt with a maternity case before. As well as having to cope with the cost of absence and administration, the employer might face difficulties if it operates in a skilled area where there is a shortage of temporary workers.

### **Competition assessment**

The proposed changes would apply to all firms. It is unlikely to affect the competitiveness of any particular sector.

## Section C2

### **Giving the Inland Revenue responsibility for direct payment of statutory maternity pay, maternity allowance, statutory adoption pay and statutory paternity pay**

#### **Introduction**

The Government recognises that some employers may see benefits in the State administering a transferable pay and leave scheme, or even in administering maternity, paternity and adoption pay more widely.

#### **Purpose and intended effect**

*(i) The objective*

To explore whether there is a case for transferring payment of some or all statutory maternity pay (SMP), statutory paternity pay (SPP), statutory adoption pay (SAP) and maternity allowance (MA) to the Inland Revenue (or HM Customs and Revenue).

The effect would be to remove the need for the employer to calculate the particular payment due. Depending on the approach taken, a further effect would be to remove the need for the employer to make any payments.

*(ii) Background*

Under current provisions, MA is paid direct to mothers by the Department for Work and Pensions (DWP). SMP, SPP and SAP are paid by employers.

Small employers paying £45,000 or less in National Insurance in the previous tax year can recover all of the SMP, SPP and SAP they pay out,

plus an additional 4.5% to compensate them for the employers' National Insurance contributions. Employers paying more than £45,000 in National Insurance can recover 92% of the SMP, SPP and SAP they pay out.

*(iii) Risk assessment*

At present, employers have - in varying degrees - to devote time and energy to the understanding, calculation and payment of a number of statutory payments. As part of the consultation, the Government would like to investigate whether the proposals will relieve employers of burdens and, if so, what cost savings might be made.

## **Options**

Three options are considered below:

*Option 1:* Do nothing. That is, DWP continues to pay MA to mothers; employers continue to pay SMP, SPP and SAP and recover some or all the money from the Government.

*Option 2:* The Inland Revenue pays all SMP, SPP, SAP and MA payments direct to the parent, based on information supplied by the employer.

*Option 3:* The Inland Revenue pays SMP, SAP and MA direct, but only where the pay and leave has been transferred from the mother to the father under the proposed new arrangements.

The last two options remove the need for employers to calculate the payments due. Instead, employers would have to provide the Inland Revenue with recent, accurate wage data and service history data.

## Costs and Benefits

### Option 1

***Option 1 does not relieve employers of the burden associated with statutory payments. Since the status quo is preserved, the costs and benefits to the Government, employers and employees remain unchanged.***

### Option 2

Under option 2, the Inland Revenue would need to put in place a substantial number of staff to deal with well in excess of half a million claims each year. This represents the existing number of recipients of SPP, MA, SPP and SAP.

The associated one-off labour costs would be considerable: the Inland Revenue's cost estimates for the direct provision of SMP, SPP, SAP and MA suggest that staff training and development in the run-up to the introduction of, and the first year of, the scheme would cost around £18 million.

One-off capital costs linked with the direct provision of SMP, SPP, SAP and MA - associated, principally, with the construction of a new IT system - are also significant. The one-off cost associated with the development of a new IT system is around £37 million. The total one-off cost is, therefore, £55m.

As for running costs, the Inland Revenue estimates that the direct provision of SMP, SPP, SAP and MA would cost an additional £19 million per annum in on-going labour costs from year one onwards.

Further, the Inland Revenue estimates that, in the direct provision of SMP, SMP, SAP and MA, an additional £6.6 million per annum would

need to be spent on IT in the first five years of the scheme, giving a total running cost of £25.6 million per year.

The costs and benefits to employers as a whole associated with the Inland Revenue's direct provision of SMP, SPP, SAP and MA are difficult to quantify. Large, well-established employers - who have made major investments in their payroll - might see few advantages from a comprehensive direct payment scheme. On the other hand, small employers would have more to gain from the proposed changes. Some possible benefits are described below - the Government would welcome comments on these, particularly from employers.

For employers currently using an automated payroll system (but not using an automated statutory payments system), direct payment by the Inland Revenue would replace quite a complicated calculation. However, new information would need to be provided to the Inland Revenue and new procedures would need to be put in place for cash reconciliation and accounting in relation to employer National Insurance contributions.

Those employers whose current payroll system also computes statutory payments - which includes all systems meeting the Inland Revenue's Payroll Standard - would need to make fewer adjustments. However, they would need to familiarise themselves with a different statutory payments module. There is also the question of how much suppliers would charge to provide the new module.

It is considered that, on balance, these two groups of employers (who will soon represent the majority of employers and the bulk of employees) are unlikely to derive significant benefits from direct payment by the Inland Revenue.

The main beneficiaries under option 2 would be those employers for whom SMP etc. is currently not routine - including 'new' employers with no previous experience of statutory payments. The Inland Revenue

estimates that there are around 200,000 newly registered employers each year. These employers would have no pre-existing payroll systems to upgrade and would, therefore, benefit more from a comprehensive direct payment scheme.

Those employers who currently pay their employees more than the statutory minimum and who choose to do so after the introduction of a comprehensive direct payment scheme would face new complications associated with operating tax and NIC (employee and employer).

### *Option 3*

Under option 3, the Inland Revenue would need to put in place fewer staff and a slightly smaller IT system to deal with the anticipated level of claims. Although there are far fewer anticipated claims under option 3, IT system design and labour costs would, nevertheless, be more than trivial. The Inland Revenue would also struggle to realise any of the economies of scale possible under option 2.

The Inland Revenue has estimated the costs associated with the administration (the calculation) - but *not* the direct payment - of pay transferred from mothers to fathers. According to the Inland Revenue's estimates, staff training and development would cost around £3 million per annum in the run-up to the introduction of, and the first year of, the administration of a transfer payments scheme, giving a total of £6m spread over approximately two years. The Inland Revenue's cost estimates indicate that the one-off costs associated with the development of a smaller IT system for administration are of the order of £2 million, giving a total one-off cost for administration of £8m.

According to the Inland Revenue, the one-off costs associated with the administration (the calculation) *and* the direct payment of pay transferred from mother to fathers might reach £33 million.

As for running costs, the Inland Revenue's estimates point to an additional £3.8 million per annum to meet the on-going labour costs of administration. An additional £0.4 million per annum would need to be spent on IT in the first five years of the administration of a transfer payments scheme, giving a total on-going cost of £4.2m per year.

The total on-going cost to the Inland Revenue associated with the administration (the calculation) *and* the direct payment of pay transferred from mother to fathers could be as much as £9 million per annum in the first five years of the scheme.

Option 3 removes the costs associated with the mother's employer and the father's employer communicating with each other, because the Inland Revenue would check eligibility.

Option 3 also removes the cost associated with the father's employer computing and making the necessary statutory payment. Under option 3, employers would, however, still have to consider leave entitlements.

## **Unintended consequences**

Regular employer-employee contact is generally considered valuable in managing periods of extended employee leave. Direct payment by the Inland Revenue could, however, reduce employer-employee contact during extended periods of leave and make it more difficult to manage periods of leave.

Government is keen to encourage generous contractual pay packages, where employers typically pay their employees more than the statutory minimum. The introduction of direct payment by the Inland Revenue could make the provision of generous 'top-ups' of this type more difficult to administer.

## **Equity and fairness**

It may be necessary to protect the rights of mothers, so that their leave cannot be 'stolen' by absent fathers *etc.*

There is also the risk of fraud: some low-earning fathers, for instance, may take their transferred pay and leave and then work in the shadow economy. Although the sums involved are relatively small, the Inland Revenue does not think that this completely negates the risk of fraud.

While the arrangements to ensure that large employers continue to contribute to SMP as at present might be relatively straightforward, they would need to be robust given the sums involved and the need to ensure fair behaviour by all employers.

## **Small firms' impact test**

As noted above, large businesses - who have made major investment in their payrolls - have perhaps the least to gain from the proposed changes. Small businesses, on the other hand, have more to gain from the Inland Revenue's direct delivery of statutory payments. We would welcome additional feedback on the likely impact on small businesses.

## **Competition assessment**

The proposed changes would apply to all firms. The changes are unlikely to affect the competitiveness of any particular sector nor are they likely to act as barriers to entry.

## **Enforcement and Sanctions**

In putting enforcement mechanisms in place, the Government is aware of the need to strike a balance between avoiding placing undue burdens on business and ensuring that employees receive their rights. We expect

the compliance risks for the new schemes surely old text to be low and the steps taken to ensure compliance will be proportionate.

Under existing legislation on maternity leave, employees can seek redress through an employment tribunal, for example in cases of detriment or dismissal, for infringements of their rights. We do not anticipate a significant change in the number of enquiries to the Arbitration, Conciliation and Advisory Service (Acas) or employment tribunal cases as a result of the proposals concerning paid maternity leave, notice periods and transferability.

Similarly, employees will be able to seek redress through an employment tribunal for infringements of their rights. The introduction of transferable leave and pay rights may have an impact on the number of calls to Acas, family advisory groups and employment tribunal cases but we anticipate that any increased cost will be small in aggregate.

## **Monitoring and Review**

Working with the Department for Work and Pensions, the DTI will monitor information on take-up rates of extended maternity pay and leave; the incidence of pay and leave transferred from mother to father. The DTI will continue informal discussions with family group, employee and employer representatives to assess qualitatively the response to the introduction of the new measures.

The DTI, in consultation with the Office for National Statistics, will consider the feasibility of monitoring extended maternity pay and leave through questions in the Labour Force Survey. The DTI, in collaboration with the Department for Work and Pensions, is commissioning a survey of new mothers and fathers with fieldwork to take place Summer 2005. This survey will provide baseline data for estimating the potential impact of the policy changes being proposed. A study of employers may also be commissioned. The results from the latest Workplace Employment

Relations Survey (WERS) to be released [this year] may also help inform estimates of the potential impact of maternity policy changes.

The Inland Revenue will have responsibility for the operation of the direct payment scheme and will conduct reviews to assess operational performance.

## **Consultation**

### *Within Government*

These proposals have been developed with the Department for Work and Pensions, HM Treasury and the Inland Revenue.

### *Public consultation*

During May, June and July 2004, 8 roundtables took place in England, Wales and Scotland. Ministers from DTI and DfES listened to parents and employers about how they balance work and family commitments.

The DTI commissioned a citizens' jury in Nottingham in June 2004, which brought together 16 people to consider how the Government can support parents and carers to juggle family responsibilities and work. They heard from a range of witnesses representing parents, carers, business, unions and Government.

The Small Business Service brought together employers to talk to the DTI about the impact of the current legislation, including Statutory Maternity and Paternity Pay and Leave and the right to request flexible working, on their business.

Meetings between Ministers and officials and business and parent representatives are ongoing.

## **Summary and Recommendation**

This partial RIA is being published alongside a consultation document. In the light of responses, the Government will consider what is the preferred way forward, and this will be reflected in the full RIA that will follow.

## **PART 2**

# **PARTIAL RIA ON EXTENDING THE RIGHT TO REQUEST FLEXIBLE WORKING TO CARERS OF SICK AND DISABLED RELATIVES AND PARENTS OF OLDER CHILDREN**

## **Introduction**

Many employers already offer flexible working across the workforce as they consider it makes business sense. The Government has recognised this and encouraged uptake through promoting best practice alongside targeted, light touch legislation.

The existing legislation came into force in April 2003. It was designed to specifically help parents of young and disabled children manage their work and childcare responsibilities more effectively, in recognition of the particular difficulties they face.

This partial RIA analyses various options to extend the existing legislation to carers of sick and disabled relatives and parents of children under age 9; age 12; age 17.

## **Purpose and Intended effect**

### *(i) The objective*

- to provide carers of relatives with greater choices about how they meet work and caring responsibilities through flexible working in ways that meet the needs of business
- to provide parents of older children with the same choices in balancing work and childcare responsibilities through flexible working as are available to parents of young and disabled children, and to ensure the needs of business are met

*(ii) The background*

Since April 2003, the law provides parents with children under six or disabled children under 18 the right to apply to work flexibly, with a statutory duty on employers to consider such requests according to a set procedure.

The law is designed to meet the needs of parents and employers, particularly small employers. It aims to facilitate discussion and encourage both the employee and the employer to consider flexible working patterns, and to find a solution that suits them both.

The law does not provide an automatic right for parents to work flexibly, This reflects the reality of the workplace where there will sometimes be circumstances when an employer is unable to accommodate an employee's desired work pattern. There are eight business grounds specified in legislation under which a request can be refused.

Almost a quarter (24%) of parents with children under six requested to work flexibly in the year following the law taking effect. 77% of those requests were fully accepted and another 9% were partly accepted or a compromise was reached. This equated to around 800,000 new working patterns. Female employees with children under 6 were almost four times as likely to request to work flexibly than their male counterparts (37% and 10% respectively)<sup>15</sup>

Employers are showing an increasing willingness to accommodate requests wherever possible. The proportion of flexible working requests that are refused has declined by around a half since implementation, and this trend appears to be continuing. Recent data indicate that just 8% of requests are being turned down<sup>16</sup>.

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<sup>15</sup> *Results of the first flexible working employee survey, April 2004, DTI*

<sup>16</sup> *Employment trends survey, CBI, September 2004*

87% of businesses surveyed by the CBI<sup>17</sup> have reported that the existing law has had either a positive or no impact on their business. The Chartered Institute of Personnel and Development (CIPD) has found that employers do not consider the cost of one-off implementation to be a significant problem.<sup>18</sup> Additionally, evidence from the Challenge Fund reveals that workplaces with flexible working policies have reported financial savings (81%), reduction in staff turnover (68%), a reduction in absenteeism (50%), and improved productivity (50%)<sup>19</sup>.

*(iii) Risk assessment*

The proposed legislation addresses three principal risks:

- that carers or parents will drop out of the labour market because they are not able to change their working patterns to fit around caring responsibilities;
- that employers fail to see the benefits of flexible working because of cultural resistance or lack of awareness;
- that parents and carers leave their jobs for others with more flexible working patterns but which may be lower paid or lower skilled; where they stay in their jobs, family life may suffer if parents and carers cannot work flexibly.

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<sup>17</sup> *Employment trends survey*, CBI, September 2004

<sup>18</sup> *A parent's right to ask: a review of flexible working arrangements*, CIPD, October 2003

<sup>19</sup> *DTI Challenge Fund Round 4 Final Reports Evaluation*, PWC, July 2004.

## Options

### **Option 1: do nothing**

Keep flexible working legislation unchanged. Continue to allow parents of children under 6 or disabled children under 18 the right to request flexible working, but not extend it any wider.

### **Option 2: extending the flexible working law to people with sick or disabled relatives**

Many people combine work with caring responsibilities for parents or older relatives who may be disabled or sick. Research by the Joseph Rowntree Foundation shows that changing demographics underlie the growing importance of informal care<sup>20</sup>:

- Despite increasing demand for care of the elderly and childcare, changes in the population and in work patterns (for example if early retirement becomes harder) mean that fewer people will be available to provide informal care.
- Few employees want to give up work in order to take on caring responsibilities.

The research concludes that without more resources to support carers, their contribution may not be sustainable. It suggests that flexible working and the opportunity to reduce hours or take a career break without financial penalties would help employees more easily combine care and work.

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<sup>20</sup> Mooney, A., Statham, J., Simon, A., "The pivot generation: Informal care and work after 50", Joseph Rowntree Foundation, 2002

A proposed set of alternative definitions of what constitutes eligibility as a carer is set out below. Each alternative describes the relationship between the carer and the individual receiving care.

- caring for partner only
- caring for either a partner or parent/parent in-law
- caring for any adult relative
- caring for any disabled dependant

### **Option 3 – raise the age limit to cover more parents**

The Work and Parents Taskforce recommended the current age limit<sup>21</sup>. They said that the age cut-off was “ a particularly difficult question because there are many stages in children’s development when they could benefit from the immediate presence of a parent.” They noted that while parents of younger children are more interested in flexible working, there is a considerable level of demand from parents of children of all ages. Employers who already offer flexible working across their workforce support this observation. According to the Taskforce, employers report that most requests are associated with a child’s birth, start of school around five, and change of school at 11.

This option would also encourage more employers to consider flexible working arrangements and consider more varied, creative, motivating and effective ways of increasing performance and productivity.

It would also address any perceived bias towards parents of young children.

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<sup>21</sup> Work & Parents Taskforce, About Time: Flexible Working’, November 2001.

Within this option, this part of the RIA looks at various alternatives for extending the upper age limit to:

- parents of children under age 9
- parents of children under age 12
- parents of children under age 17

This RIA explores the costs and benefits associated with these alternatives.

## **Benefits and costs of each option**

### **Option 1 - do nothing**

#### ***Benefits***

If nothing is done, firms will not incur any additional costs. But many will forego the associated benefits of an extension in the scope of the law.

#### ***Costs***

Many employers will not gain the benefits associated with extending the right to request flexible working. Carers of adults and parents of older children may continue to find it difficult to balance work and family responsibilities, potentially presenting recruitment and retention issues for employers.

#### ***Business sectors affected***

All sectors of the economy will forego the associated benefits of extending the law.

## **Option 2: extending flexible working requests to carers of sick and disabled relatives**

Assumptions behind the benefits and costings

There are no reliable figures on caring responsibilities. The General Household Survey (GHS) 2000 dataset provides the most recent comprehensive figures, where respondents have themselves defined the level of care provided.

The DTI considers that to use the GHS figures as they stand would significantly overestimate the total number of individuals with caring responsibilities impacting on the labour market. The GHS cites 72% caring for fewer than 20 hours per week, and has a very wide definition of what constitutes caring<sup>22</sup>.

The DTI has assumed that within the overall figures for carers there is a sub group of carers with significant caring responsibilities who would be likely to make a request. It has also been assumed that one person in need of care is equal to one person providing care. In order to find a suitable measure of those individuals who are in significant need of care, for the purposes of this RIA we have assumed this can be represented by those in receipt of Disability Living Allowance or Attendance Allowance (DLA/AA)<sup>23</sup>.

To scale down the GHS data so as to be representative of those providing a significant amount of care, the proportion of individuals in receipt of DLA/AA has been taken as a percentage of the total number of people caring for a partner, relative or friend (living in the same house or elsewhere).

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<sup>22</sup> GHS Q19 categories are very loose, including "keeping an eye on", "keeping company", "taking out for a walk/drive".

<sup>23</sup> As at 31 May 2004, source: IAD Information Centre.

In the absence of a central register of the disabled, for the purposes of the RIA we have assumed a disabled person to be an individual in receipt of DLA/AA, as the benefits are intended to assist individuals with a long-term disability. The DTI would welcome views on other sources of data that may be more appropriate as a measure of disability.

DLA and AA consist of both a care and mobility element. It is unlikely that those who only receive the mobility element are in significant need of care. Experience suggests that not all disabled individuals claim DLA/AA, for social or other reasons, although this is difficult to quantify. To allow for individuals who do not claim but are in need of care, those who only claim the mobility element have been included in the overall figures.

The scaling down factor is 3,702,320 (all individuals in receipt of disability living allowance/attendance allowance) divided by 6,344,810 (total number of people caring for a partner, relative or friend), which equals 58%.

The table below represents the raw GHS figures for carers and the scaled down numbers that DTI considers representative of those providing a significant amount of care.

<b>Scope of law</b>	<b>Unadjusted estimate</b>	<b>Adjusted estimate**</b>
Caring for partner only	1,200	700
Caring for either a partner or parent/parent in-law	3,530	2,060
Caring for any adult relative	4,950	2,890
Caring for any disabled dependant#	-	3,700

Source: General Household Survey (GHS) 2000 (ONS), # IAD Information centre and DTI estimates. \*Rounded to nearest 10,000. \*\*58% of raw estimate.

Even these scaled-down figures for numbers of carers (which have a direct impact on the level of costs) can only be viewed as speculative and provisional (and likewise the associated costs).

## Employment level of carers

The GHS reports a 53% rate of employment for all carers. The DTI has assumed that carers of partners have a lower employment rate compared to other carers. In the absence of precise data it is assumed that between 5% and 20% of carers for partners are employed, for the purpose of producing benefit and cost estimates it was assumed that 12.5% of carers for partners are employed (the midpoint of 5% and 20%). The employment rates for the remaining number of carers have been scaled up so that the employment rate for all carers averages to 53%.

A further assumption has been made that the level of employed carers<sup>24</sup> has grown at the same rate of growth for all employees in the economy. The DTI's estimate of employed carers is based on GHS data from 2000, in order to obtain an estimate based on more recent data the employment level for carers was grossed up such that the ratio of employed carers to all employees in the economy in 2000 and 2004 are the same. The table below presents the estimated number of employed carers.

**Table 2.2. Estimated employed carers ('000)\***

Scope of law (carer is caring for)	Adjusted No. of carers (2000)	Employed carers (2000)	Employed carers as a % of entire number of employees in the economy (2000)	Employed carers (2004)	Employed carers as a % of entire number of employees in the economy (2004)
Caring for partner only	700	90	0.4%	90***	0.4%
Caring for either a partner or parent/parent in-law	2,060	940	3.9%	960	3.9%
Caring for any adult relative	2,890	1,450	6.1%	1,490	6.1%
Caring for any disabled dependant**	-	-	-	1,960	8.0%

\* Rounded to nearest 10,000. \*\*Data is from May 2004. \*\*\*We believe that this figure lies between 36 and 144 thousand if the employment rate for carers of partners only lies between 5% and 20%. The figure that appears in the table assumes an employment rate that is equivalent to the midpoint between 5% and 20% (i.e. 12.5%).

<sup>24</sup> The proposed options will not apply to self-employed individuals.

The estimate of the numbers of carers in employment were then scaled down to 91% of the original estimate,<sup>25</sup> to reflect the fact that some carers will not have accumulated 6 months continuous employment with their existing employer and will therefore not be entitled to make a request. Again, in the absence of reliable data, this scaling down factor assumes the same employment profile for employed carers as for parents with children under 6.

**Table 2.3. Estimated number of employed carers entitled to make a request\***

Scope of law	Employees ('000) <sup>***</sup>
Caring for partner only	80 <sup>**</sup>
Caring for either a partner or parent/parent in-law	870
Caring for any adult relative	1,350
Caring for any disabled dependant	1,780

Source: DTI estimate. \* Figures have been rounded to the nearest 10,000. \*\*midpoint of the range 33,000 – 130,000. \*\*\*This figure is 91% of employed carers (2004) estimate that can be found in table 2.2.

## Benefits

### Benefits to business

There is evidence to show that many employers who adopt flexible working patterns report benefits to their business<sup>26</sup>. They find that:

- staff morale improves and absenteeism decreases;
- skilled staff are retained and better returns are gained from training;
- staff turnover decreases;

<sup>25</sup> 91% = 3,746,000 (Number of employed parents with a child aged under 6) divided by 3,393,000 ((Number of employed parents with a child aged under 6 and 6 months continuous employment with their current employer). Source: Labour Force Survey, Spring 2004

<sup>26</sup> Supporting evidence can be found in the DTI's second Work Life Balance Survey. Source: Woodland et al, 2003, The Second Work-Life Balance Study: Results from the Employers' Survey – Main Report, DTI, Employment Relations research series No. 22.

- staff are easier to attract and recruitment costs are less; and
- changing market conditions are met more effectively.

### *More flexible working and a better family life*

The table below shows the number of new working arrangements (per year) expected from carers, according to a range of alternatives. Details on the assumptions that underpin the number of new working arrangements can be found in the appendix 2. Further details on the number of requests made can be found in Table 2.11.

**Table 2.4. Estimated number of additional new working arrangements as a result of this option\***

Scope of law	Number of new working arrangements p.a. ('000)
Caring for partner only	20
Caring for either a partner or parent/parent in-law	180
Caring for any adult relative	290
Caring for any disabled dependant	380

Source: DTI estimate. \*Figures have been rounded to the nearest 10,000. Number of new working arrangements represents 90% of new requests made, which can be found in table 2.11.

The impact on the overall number of carers with flexible working arrangements (at any one point in time) will depend on job turnover and the average number of requests made per parent. Nevertheless, there is clear potential for a substantial impact. We estimate that for the first two years the number of requests will be equal to the figures represented in table 2.4 above. In the third and following years we expect the number of requests to fall. This is because the stock of carers is assumed not to change significantly over time and the inflow of carers per year into the stock is assumed to be small.

## Better employment prospects for carers

Greater opportunities for flexible working will enable some carers who would otherwise leave the labour market to remain in employment. It is at present difficult to quantify the number of carers who leave the labour market because they have no flexible working opportunities. However, it is reasonable to assume that some carers do leave the labour market because they are unable to work flexibly.

The rate of employment for all carers aged 16 and over is 53%, while the rate of employment for all individuals aged 16 and over is 60%<sup>27</sup>. If it is assumed that as a group, carers would have an employment rate of 60% in the absence of caring responsibilities, we can assume that an additional 7%<sup>28</sup> of carers would be in employment if they had no caring responsibilities. This group of individuals can be used to represent the target group of carers that would return to employment, so that the employment rate of carers and all individuals aged 16 and over is equated. To estimate figures for carers returning to employment the DTI has assumed that 10% of the target group will return to employment as a result of the policy. The table below sets out the estimates for each proposed definition of a carer.

**Table 2.5. Estimated increase in labour supply by carers ('000)\***

Scope of law	Number of carers	Target group to get back into work (7% of carers)	Increase in labour supply (10% of target group)
Caring for partner	700	50	5
Caring for partner and parent/parent in-law	2,060	140	15
Self certified caring for any adult relative	2,890	200	20
Caring for any disabled person*	3,700	260	25

Source: DTI estimates \* Estimates are rounded hence differences between sums of components are due to rounding. Number of carers is taken from table 2.1.

<sup>27</sup> Source: ONS, this rate of employment is for the 3 months ending October 2004.

<sup>28</sup> 7%=60%-53%.

## Reduced vacancy costs and increased skill retention

A recent CIPD survey<sup>29</sup> found that 2% of individuals reported the main reason for leaving their job was to look after family members. The labour turnover rate of carers is assumed to be 16.1%<sup>30</sup>. To estimate the effect of the policy it is assumed that the introduction of a right to request flexible working for carers will prevent 10% of employees leaving their employer to look after family members. The predicted impact (10%) is assumed to be higher than for parents with older children because employers will have to seriously consider requests from carers for the first time. The savings made by employers through lower recruitment costs are presented in the table below. The estimate below assumes a 12.5% employment rate for carers who care for their partner.

**Table 2.6. Quantified savings in recruitment costs – carers ('000)\***

Scope of law	Number of employed carers	Employees who leave their job to look after family members	Employees who remain with employer as a result of new law	Savings made by employers from lower recruitment costs £
Caring for partner	90	0.3	#	\$140K
Caring for partner and parent/parent in-law	959	3.0	0.3	£1,480K
Self certified caring for any adult relative	1,489	4.8	0.5	£2,300K
Caring for any disabled person	1,962	6.3	0.6	£3,030K

Source: DTI estimates \* Estimates are rounded # = less than 100

## Increased productivity and profits

The DTI's second Work-Life Balance Study<sup>31</sup> shows that 58.6% of employers believe that flexible working and leave has had a positive impact on productivity, 14.6% reported a negative impact on

<sup>29</sup> CIPD, Recruitment, retention and turnover survey, 2004.

<sup>30</sup> The labour turnover rate in the UK is 16.1% (source: CIPD, Recruitment, retention and turnover survey, 2004).

<sup>31</sup> The DTI examined its own data source for the survey.

productivity, 26.8% reported no impact. Overall 44%<sup>32</sup> of firms reported a net positive impact on productivity. We have assumed that 44% of new working arrangements will result in an increased level of productivity for employees who adopt a new working arrangement. A further assumption was made that a notional level of 5% output gain would be achieved for the 44% of new working arrangements that result in increased productivity. A 5% level was chosen because employers must have realised a significant rise in productivity to report that flexible working has had a positive impact on their firm. Based on the above assumptions the additional output due to flexible working can be estimated. A further assumption was made that improved productivity leads to higher output. It was then assumed that 14% of the increased output will represent gross profit. The 14% figure represents the ratio of gross operating surplus to domestic output of products for the entire economy<sup>33</sup>. The table below presents the increased gross profit as a result of improved productivity.

**Table 2.7. Increased profits as a result of increased productivity - parents of older children\***

Scope of law	Extra gross profits (£)
Caring for partner only	£4m
Caring for either a partner or parent/parent in-law	£46m
Caring for any adult relative	£71m
Caring for any disabled dependant	£94m

Source: DTI estimates. Figures have been rounded. \* i.e. a 0.3% increase in gross profit per new working arrangement.

### Reduced absenteeism rates

The DTI's second Work-Life Balance Study<sup>34</sup> also shows that a net of 44.5% of firms report a positive effect on absenteeism as a result of flexible working and leave arrangements. The CIPD surveyed employers

<sup>32</sup> 44%=58.6% - 14.6%

<sup>33</sup> Gross operating surplus is taken from The United Kingdom Economic Accounts series ABNF, table 12 (Gross operating surplus). Domestic output of products is taken from the Blue book table 2.1.

<sup>34</sup> The DTI examined its own data source for the survey.

and found that on average the cost of an employee being absent per year is £588<sup>35</sup>. An assumption was made that 44.5% of new working arrangements will result in lower employee absenteeism. A further assumption was made that the cost of absenteeism prior to making a request is £588 per year and that after a request is accepted the cost of absenteeism falls to £529.20 (a fall of 10%), it is assumed that the absenteeism cost falls because flexible working allows employees to reduced the incidences of absence per year. The above assumptions have been applied to the number of new working arrangements. The table below presents the savings made by employers as a result of lower absenteeism.

**Table 2.8. Savings in absence costs - carers**

Scope of law	Savings in absence costs for employers p.a. (£ millions)
Caring for partner only	£0.5m
Caring for either a partner or parent/parent in-law	£5m
Caring for any adult relative	£7m
Caring for any disabled dependant	£10m

Source: DTI estimates. Figures have been rounded

### Summary of quantifiable benefits for option 3

The table below provides a summary of quantifiable benefits by adding together the savings in recruitment costs (Table 2.6), the quantifiable benefit of increased productivity (Table 2.7) and the quantified savings in absence costs (Table 2.8).

<sup>35</sup> CIPD Employee absence 2004 survey.

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**Table 2.9. Total additional quantifiable benefits - parents of older children**

Scope of law (including disabled children)	Total additional quantifiable benefits
Caring for partner only	£5m
Caring for either a partner or parent/parent in-law	£52m
Caring for any adult relative	£81m
Caring for any disabled dependant	£107m

Source: DTI estimate \* Figures have been rounded. Based on the sum of tables 2.6, 2.7 and 2.8.

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## Costs

The principal costs to business of the proposals fall under three headings:

- implementation costs of the proposals;
- procedural costs arising from exercise of the right to request flexible working; and
- the costs of accommodating such requests (when they are accepted).

These are considered in turn.

### Implementation costs

This proposal would affect businesses of all sizes, therefore most businesses over time.

This option is assumed to have greater implementation costs than extending the law to parents of older children. Firms will have to spend more time familiarising themselves with the changes to the eligibility criteria, and possibly communicating the change to employees through changes to staff handbooks or statements of terms and conditions or through other routes such as company web sites.

The cost will primarily be in management time. The relevant assumptions are set out in the table below. The average cost is assumed to be greater for a large firm than for a small firm. In large firms, more than one manager may be involved in implementing the new procedures. There are likely to be more detailed written procedures and guidance that need to be changed. There may also be costs in communicating changes to the workforce, for example through briefing meetings.

**Table 2.10. Implementation costs\***

Firm size (number of employees)	Number of firms	Average management cost (hours)	Average cost per business	Estimated total cost to business
1-4	802,860	0.5	£14.02	£11.3m
5-9	215,260	0.5	£14.02	£3.0m
10-19	112,780	0.5	£14.02	£1.6m
20-49	59,015	1.0	£28.04	£1.7m
50-99	17,740	1.0	£28.04	£0.5m
100-199	9,155	1.0	£28.04	£0.3m
200-249	1,855	2.0	£56.08	£0.1m
250-499	3,770	2.0	£56.08	£0.2m
500+	4,485	3.0	£84.12	£0.4m
<b>Total</b>	<b>1,226,920</b>			<b>£19.0m</b>

Source: DTI estimates based on 2003 SME Statistics (Small Business Service) and Annual Survey of Hours and Earnings 2004 (ONS)

Note: Management time is valued at £28.04 per hour [average hourly wage of personnel, training and industrial relations manager is £21.5736. Adding 30% for nonwage labour costs gives £28.04. (ASHE 2004).

Initial implementation costs are thus estimated to be £19 million. These are one-off costs. Most will be incurred in the period around when the legislation comes into force although in some cases, for example where smaller firms have no eligible employee at the time of implementation, the costs may not occur straight away.

<sup>36</sup> Personnel, training and industrial relations managers (SOC code 1135) on average earn £783.0 per week, they work an average of 36.3 hours per week, hence the hourly rate = £783.0/36.3 = £21.57 per hour (adding 30% for non wage labour costs gives, £28.04 per hour). Source: 2004 Annual Survey of Hours and Earnings.

### *Estimated number of requests*

The table below provides an estimate of the number of new requests per annum that might be made by employed carers. It is assumed that this option will have a take up rate of new requests equal to 24% of employed carers (who are also entitled to make a request). This take up rate implies that approximately half the number of carers who currently work non-flexibly and a small proportion of workers who work flexibly will make a request in a single year.

**Table 2.11. Estimated number of new requests by carers\***

Scope of law	New requests p.a. ('000)
Caring for partner only	20
Caring for either a partner or parent/parent in-law	210
Caring for any adult relative	320
Caring for any disabled dependant	420

Source: DTI estimate \* Figures have been rounded to the nearest 10,000

### *Procedural costs of handling requests for flexible working*

The costs of handling requests for flexible working will depend upon the number of requests. For more details on the assumptions underpinning the take-up rate of requests please see the appendix 2.

### *Average cost of handling a formal request under the law*

Essentially, the first stage encompasses a written request from the employee, deliberation by the employer both before and after a meeting with the employee, and then preparation of a decision. The principal cost will be the time of both management and employees (it is assumed that employees prepare requests during work rather than in their own time).

Clearly, there will be considerable variation in the time this process takes depending upon the nature of the request, the way the request is then handled by the employer (the level of management permitted to decide on requests, the degree of written protocol), whether an employee is accompanied at the meeting with management, and whether or not a decision is straightforward to make (e.g. whether other employees have to be consulted).

In the original RIA which accompanied the existing legislation, it was assumed that it should be possible to run through these stages in half a day of management time and half a day of employee time. It is not unreasonable to expect that as flexible working becomes more widespread, both employees and managers will be more efficient at handling requests – thus reducing time spent and associated costs.

Experience has also shown that as a result of the formal right to request acting to accelerate culture change in the workplace, many applications are considered on a more informal basis, which again significantly reduces the procedural costs. CBI figures show 53% of requests are accepted at first stage, 16% are discussed and a compromise reached, and 24% are agreed informally with the line manager.

In light of this, the DTI has revised assumptions. We now estimate 2 hours of employee time, and 3 hours of management time to process a request that is dealt with formally. It is assumed that with requests that are dealt with informally it takes half an hour of employee and management time to process the request. It was assumed that 50% of requests are dealt with formally or discussed at length and the remainder are dealt with informally. This works out at approximately £63 per request<sup>37</sup>.

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<sup>37</sup> With management time costing £28.04 per hour and employee time costing £12.57 per hour [average hourly wage is £9.67. Adding 30% for non-wage labour costs gives £12.57](source: Annual Survey of Hours and Earnings Survey, 2004), 2 hours of employee time plus 3 hours of management time costs £106 in total (after rounded to

It is likely in practice that for 'deadweight' requests, i.e. those where employees are already allowed to work flexibly, the average procedural cost is likely to be much less. Even where flexible working is guaranteed, the cost of any existing procedure for changing working patterns - however informal - must be subtracted. A notional cost of £21 is assumed for each deadweight request<sup>38</sup>. Illustrative deadweight assumptions can be found in appendix 2.

#### *Average cost of appeal or internal grievance stage*

The appeal stage will involve a written statement of appeal by the employee, a meeting (where the employee may be represented) and a written response by the employer.

Where requests reach this stage, it is likely that both employees and managers take more care and attention over their written communications. The meeting may also be longer and more wide-ranging. It is therefore assumed that the average cost is double that of the first stage, namely £126 per request.

#### *Average cost of external dispute resolution stage*

The average cost to an employer of an application to an Employment Tribunal - £3,300 - is used as a benchmark figure. The cost to the employer excludes any financial or non-financial costs borne by the employee at this stage.

Other sources of dispute resolution, e.g. the ACAS arbitration scheme, may be cheaper for both parties.

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the nearest pound). ½ of hour of management and employee time costs £20 (after rounded to the nearest pound). 50% of £106 and 50% of £20 equals approximately £63 in total.

<sup>38</sup> Cost of deadweight = 1/3 x procedural cost of a new request (£63) = £21

The total procedural cost per annum is presented in the table below.

**Table 2.12. Summary of total procedural cost for the first year\***

Scope of law	Total procedural cost
Caring for partner only	£2m
Caring for either a partner or parent/parent in-law	£18m
Caring for any adult relative	£28m
Caring for any disabled dependant	£37m

Source: DTI estimates \*Figures have been rounded

### **Cost of accommodating requests for flexible working**

Employers may also face costs in accommodating a request for flexible working. Examples might include re-organising work schedules or adjustments to IT systems (e.g. to permit flexible rostering). In some cases, the potential costs could be more substantial (e.g. if another employee had to be recruited to cover for an employee reducing their working hours). The above examples should not be considered as exhaustive.

Employers can reject requests on cost but this does not imply that the additional costs of accommodating requests are zero. Employers will accept cases where some additional cost is involved.

The Work and Parents Taskforce considered that recruitment of a new employee to accommodate a request (which can be 10% of annual labour cost) was unlikely to be an acceptable burden unless there were significant offsetting benefits (e.g. if this was the only way to retain a valued employee)<sup>39</sup>. In most cases, costs were likely to be far less.

On average, therefore, the costs of accommodating requests for flexible working might be a week's wages (some 2% of annual labour costs) for requests that ask to work part time. For other types of requests we have

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<sup>39</sup> See the discussion in chapter 6 of *About Time: Flexible Working*.

assumed the equivalent of 1 days wages to accommodate the request. Another assumption has been made that half of all request are to work part time, hence the average cost of accommodation is 3 days wages. Allowing 30% for non-labour unit costs produces a cost of £245.93<sup>40</sup>.

It is likely that requests accommodated at the appeal stage, or at the external dispute resolution stage, will be more finely balanced and therefore, on average, more costly to implement. The estimates above are, therefore, multiplied by factors of 1.5 and 2 respectively for the (small) number of requests that are successful at the appeal or external dispute resolution stage.

The total cost of making adjustments to working patterns for the first year is presented in the table below.

**Table 2.13. Summary of total cost of adjusting working arrangements – year 1\***

Scope of law	Total costs of making adjustments to working patterns
Caring for partner only	£4m
Caring for either a partner or parent/parent in-law	£46m
Caring for any adult relative	£71m
Caring for any disabled dependant	£93m

Source: DTI estimates \*Figures have been rounded

We believe that the cost of adjusting working arrangements will be higher in the second year because employers will still be accommodating the requests they accepted in the first year. In addition to this employers will also incur a cost of accommodation for new working arrangements that are accepted in the second year. For simplicity it has been assumed that all carers who adopt a new working pattern in the first year will continue with this working pattern in the second year. The total cost of adjusting working arrangements in the second year is therefore double the cost of the first year. The table below

<sup>40</sup> Source ASHE 2004 (SOC code 4122).

presents the total cost of adjusting working arrangements for the second year of the option. In the third year we expect the total cost of adjusting working patterns to grow at a slower rate and eventually the cost will become stable, as the majority of the stock of carers who want to make a request will have made their request.

**Table 2.14. Summary of total cost of adjusting working arrangements – year 2\***

Scope of law	Total costs of making adjustments to working patterns
Caring for partner only	£9m
Caring for either a partner or parent/parent in-law	£91m
Caring for any adult relative	£142m
Caring for any disabled dependant	£187m

Source: DTI estimates \*Figures have been rounded

The DTI will be considering all the available evidence on the assumptions outlined here before the full RIA is written and would welcome any comments.

The following two tables present the procedural cost, cost of adaptation and total cost to employers as a result of introducing the right to work flexibly to carers for the first and second year.

**Table 2.15. Summary of annual estimated costs to employers for the first year\***

Scope of law	Total procedural cost	Total costs of making adjustments to working patterns**	Estimated total cost to employers*
Caring for partner only	£2m	£4m	£6m
Caring for either a partner or parent/parent in-law	£18m	£46m	£64m
Caring for any adult relative	£28m	£71m	£99m
Caring for any disabled dependant	£37m	£93m	£130m

Source: DTI estimates \* Excluding one-off implementation costs of £19 million (see table 2.4).\*\* For the second year the cost of adjustment is expected to double.

**Table 2.16. Summary of annual estimated costs to employers for the second year\***

Scope of law	Total procedural cost	Total costs of making adjustments to working patterns**	Estimated total cost to employers*
Caring for partner only	£2m	£9m	£10m
Caring for either a partner or parent/parent in-law	£18m	£91m	£109m
Caring for any adult relative	£28m	£142m	£170m
Caring for any disabled dependant	£37m	£187m	£223m

Source: DTI estimates \* Excluding one-off implementation costs of £19 million (see table 2.4).\*\* For the second year the cost of adjustment is expected to be double the first years total..

### *Business sectors affected*

Due to a lack of reliable data the DTI has been unable to estimate the impact by sector of extending the flexible working law to carers of sick and disabled relatives. The DTI would welcome comments on this point.

### ***Option 3: raise the age limit to cover more parents***

## **Benefits**

### **Better work/life balance for employees**

The table below shows the number of new accepted requests expected from parents of older children, alongside potential changes to the law:

**Table 2.17. Estimated number of new working arrangements\***

Scope of law (including disabled children)	Number of new requests p.a. ('000)
Parents of children under 6 (current law)	-
Parents of children under 9	130
Parents of children under 12	210
Parents of children under 17	280

Source: DTI estimate \* Figures have been rounded to the nearest 10,000. Estimate applies to either 2003 policy or other policy changes.

The numbers above represent the estimated number of new working arrangements per year. Further details on the assumptions underpinning

the estimated number of new working arrangements can be found in appendix 2.

The impact on the overall number of parents of older children with flexible working arrangements (at any one point in time) will depend on job turnover and the average number of requests made per parent. Nevertheless, there is clear potential for a substantial impact.

### **Better employment prospects for parents**

Greater opportunities for flexible working will enable some parents to remain in employment who would otherwise leave the labour market, with mothers being the main beneficiaries<sup>41</sup>.

About a third of mothers fail to return to employment after maternity leave<sup>42</sup> (around 117,000 mothers each year<sup>43</sup>) and others drop out of employment when their child is older, or following the birth of a second child. Survey evidence suggests that this is often down to personal and family choice - mothers want to look after their children themselves when they are young<sup>44</sup>. However, most mothers who did not return to work after maternity leave also said they intended to return to employment at some stage. A survey of parents carried out in 2000 found that 10% of non-employed mothers with dependent children under 16 said that a lack of flexible working opportunities was a significant barrier to finding employment<sup>45</sup>. In 1996, 10% of mothers who

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<sup>41</sup> In principle, the duty to consider also affects the employment prospects of fathers. However, there is little evidence that the presence of a young child has an effect on the likelihood of a father in a couple family being in employment (although it might affect the type of job they do) and there are very few lone fathers with children aged under 6.

<sup>42</sup> Women and Equality Unit 'Parents' perceptions of and attitudes towards Government work-life balance initiatives – a survey of parents' 2001 found that 37% of women do not return to work at the end of maternity leave.

<sup>43</sup> DWP estimate that of the 650,000 or so maternities each year, 350,000 of those mothers are in employment at the time of birth (and had been in continuous employment for 26 weeks or more).  $350,000/3 = 117,000$

<sup>44</sup> See Callendar *et al.*, 1997, Women and Equality Unit 'Parents' perceptions of and attitudes towards Government work-life balance initiatives – a survey of parents' 2001.

<sup>45</sup> Women and Equality Unit 'Parents' perceptions of and attitudes towards Government work-life balance initiatives – a survey of parents' 2001.

failed to return to work after maternity leave cited a failure to find a job with the right hours as the main reason for not returning to work<sup>46</sup>.

At spring 2004, there were around 1.2 million mothers with dependent children under 6 who were economically inactive and gave as their reason 'looking after home or family'<sup>47</sup>. The current duty to consider requests for flexible working may be a sufficient incentive for some of these women to re-enter the labour market. If the current legislation persuaded just 5% of this group (i.e. half of those who regard lack of flexible working as a barrier) to rejoin the labour market, that would increase the aggregate labour supply by 60,100<sup>48</sup>. This would have benefits both for employers (see below) and the economy more generally. Families and children would also benefit from higher incomes.

The same assumptions can be applied when assessing the potential impact of the alternatives for extending the scope of the law. The assumed change in aggregate labour supply can be found in Table 2.18.

### **Reduced vacancy costs and increased skill retention**

Where flexible working enables parents to remain in the labour market, there will be benefits in terms of reduced staff turnover costs and increased skills retention. It is estimated that it costs an employer £4,800 on average to fill a post that becomes vacant.<sup>49</sup> The general labour supply benefits set out above may then also realise a saving for employers in recruitment costs. These benefits have been quantified below:

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<sup>46</sup> Callendar *et al.*, 1997.

<sup>47</sup> Labour Force Survey spring 2004

<sup>48</sup> This could be achieved, for example, if an additional 60,100 mothers each year chose to remain in employment after maternity leave, rather than giving up paid work. This group, by definition, have the required continuity of service to make a request before they return from maternity leave.

<sup>49</sup> CIPD, Recruitment, retention and turnover survey, 2004

**Table 2.18. Quantified savings in recruitment costs\***

Scope of law (including disabled children)	Assumed change in aggregate labour supply ('000)	Additional recruitment cost savings as a result of widening scope of law
Parents of children under 6 (current law)	+60.1	-
Parents of children under 9	+71.0	£52m
Parents of children under 12	+79.1	£91m
Parents of children under 17	+88.0	£134m

Source: DTI estimate \* Figures have been rounded

There may also be broader savings to employers through reduced turnover among the parents of older children. At present, many working parents have some form of flexible working pattern (see appendix 2), but to achieve this a proportion will have had to change their job.

It is difficult to fully quantify this effect. However, a recent CIPD survey<sup>50</sup> identified a labour turnover rate of 16.1% for the UK and found that 8% of people leave their place of employment to either have or look after their children. The above rates of labour turnover can be applied to the number of entitled employees to obtain an estimate of the number of entitled employees who leave their place of employment to either have or look after children<sup>51</sup>. To estimate the effects, it is assumed that extending the flexible working legislation will prevent 2.5% of those identified above leaving their employer. This will result in reduced labour turnover. It will benefit the parent, in terms of continuity of employment; and the employer benefits through skills retention and lower recruitment costs. The savings made through lower recruitment costs are presented in the table below.

<sup>50</sup> CIPD, Recruitment, retention and turnover survey, 2004

<sup>51</sup> This figure is calculated by assuming 16.1% of entitled employees leave their job in a year and that 8% of this group leave to have or look after children.

**Table 2.19. Estimated savings in recruitment costs from lower labour turnover**

Scope of law (including disabled children)	Employees who leave their job or look after children ('000)*	Employees who stay with employer due to new law('000)*	Employer savings in recruitment costs due to new law
Parents of children under 6 (current law)	47	2	-
Parents of children under 9	65	3	£4m
Parents of children under 12	81	4	£8m
Parents of children under 17	105	5	£14m

Source: Labour Force Survey (ONS) and DTI estimates. \* Rounded to nearest thousand.

### Increased productivity and profits

The same methodology that was applied to carers can be used for parents of older children. Again it has been assumed that flexible working arrangements will increase productivity, output and ultimately profits. The table below presents the estimated increase in profits as a result of employees being more productive after a request for flexible working is accepted.

**Table 2.20. Increased profits as a result of increased productivity - parents of older children**

Scope of law (including disabled children)	Extra gross profits (Total) p.a. (£millions)
Parents of children under 6	-
Parents of children under 9	£33m
Parents of children under 12	£52m
Parents of children under 17	£69m

Source: DTI estimates. Figures have been rounded

### Reduced absenteeism rates

It has been assumed again that flexible working will reduce absenteeism rates for employees who adopt a new working arrangement. The same methodology that was used for the carers option has been applied to parents of older children. The table below presents the savings in absence costs for employers.

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**Table 2.21. Savings in absence costs - parents of older children**

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Scope of law (including disabled children)	Savings in absence costs p.a. (£millions)
Parents of children under 6 (current law)	-
Parents of children under 9	£3m
Parents of children under 12	£5m
Parents of children under 17	£7m

Source: DTI estimates. Figures have been rounded

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### Summary of quantifiable benefits for option 3

The table below provides a summary of quantifiable benefits by adding together the savings in recruitment costs (Table 2.18 and Table 2.19), the quantifiable benefit of increased productivity (Table 2.20) and the quantified savings in absence costs (Table 2.21).

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**Table 2.22. Total additional quantifiable benefits - parents of older children**

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Scope of law (including disabled children)	Total additional quantifiable benefits
Parents of children under 6 (current law)	-
Parents of children under 9	£93m
Parents of children under 12	£157m
Parents of children under 17	£224m

Source: DTI estimate \* Figures have been rounded, sum of tables 2.18,2.19,2.20 and 2.21.

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The employer benefits that were outlined at the start of option 2 (costs and benefits of each option) are also applicable to this option.

### Costs

This option represents an extension of the existing law. So it is assumed that it will have negligible implementation costs. Firms are already familiar with how to process a request for flexible working. The cost of communicating the change in eligibility to employees will be very little as it is assumed that firms will already have a method of communication in place that will only need updating.

The same costing methodology that was used for the extension of flexible working to carers has been applied to parents of older children. The cost of making a request remains £63. A notional cost of £21 is assumed for each deadweight request. The average cost of external dispute resolution is £3,300.

The cost of adaptation is assumed to be equal to 3 days gross wages. Using average earnings figures from the Annual Survey of Hours and Earnings and allowing for non-wage labour costs, this produces costs of £326 for male full-time employees, £274 for female full-time employees, £138 for male part-time employees and £137 for female part-time employees<sup>52</sup>. The annual cost of adaptation is assumed to be constant for each of the various proposals because evidence from the Labour Force Survey suggests that the stock of parents who work flexibly is approximately constant over time. The cost of adaptation per annum for carers is assumed to grow for the first few years. This is because it was assumed that the stock of carers who work flexibly would grow from the first year onwards and eventually become stable. By contrast the stock of flexible working parents is expected to grow in year one only and the stock of parents who work flexibly is assumed to be approximately constant from the second year onwards.

Further details on the take-up rate, deadweight rate and progression of requests can be found in appendix 2.

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<sup>52</sup> All the wage figures above are based on 60% of average gross weekly earnings plus 30% for non-wage labour costs. Note that the New Earnings Survey sample is not entirely representative of part-time employees. In practice, these estimates might slightly over-estimate average weekly earnings of part-time employees.

## Summary of costs

**Table 2.23. Summary of annual procedural costs and cost of accommodating requests\***

Scope of law (including disabled children)	Total procedural cost*	Total costs of making adjustments to working patterns*	Additional cost to employers due to new law**
Parents of children under 6	£46m	£115m	-
Parents of children under 9	£57m	£114m	£40m
Parents of children under 12	£64m	£161m	£64m
Parents of children under 17	£72m	£176m	£87m

Source: DTI estimates \* Rounded to nearest million. \*\*This column represents the difference between the total employer cost (procedural cost + cost of adjustment) for the proposed option and the current scope of law.

The last column in the table above represents the additional costs per year due to the new law.

## Business sectors affected

The table below shows the number of additional employees who would be eligible to request flexible working if the current law was extended to parents of older children. It is assumed that take up rate varies depending on the age on the youngest child, gender of the employee and the employee's current working arrangement.

**Table 2.24. Estimated additional eligible employees ('000)\***

Industry sector	Extending right to parents of children under:		
	Age 9	Age 12	Age 17
A-B: Agriculture & fishing	6	11	24
C,E: Energy & water	20	37	62
D: Manufacturing	204	384	647
F: Construction	76	140	235
G-H: Distribution, hotels & restaurants	218	413	705
I: Transport & communication	81	157	286
J-K: Banking, finance & insurance etc	184	336	560
L-N: Public admin, educ & health	486	976	1,709
O-Q: Other services	62	103	181
<b>Total</b>	<b>1,336</b>	<b>2,557</b>	<b>4,409</b>

Source: Labour Force Survey (ONS) and DTI estimates. \* Rounded to nearest thousand.

## **Unintended consequences**

Parents and carers who are not covered by the legislation may resent employees that are entitled to make a request under the proposed options. This may lead to lower staff morale in the workplace. However firms are being encouraged to consider requests for flexible working from all employees.

## **Equity and fairness**

The proposed options will have a positive impact on parents with older children and carers of sick and disabled relatives. These two groups will be able to achieve a better balance between work and caring responsibilities.

The proposed options will however not prevent other employees from making flexible working requests, and the DTI encourages employers to consider all requests for flexible working seriously and only reject requests where there are clear business grounds to do so.

## **Consultation with small business: the Small Firms' Impact test**

The duty to consider flexible working requests will affect businesses of all sizes. It is a fair assumption that most businesses at some point will eventually employ an eligible parent or carer.

The Work and Parents Taskforce proposed the existing duty to consider flexible working requests with the small firm in mind. It consulted widely; the Federation of Small Business were on the advisory panel and they had many submissions of evidence, from the Association of Convenience Stores to the Small Business Council. The procedure was considered to be straightforward for small firms that do not have a

dedicated personnel capacity. This RIA does not propose any changes in the procedure for processing a request.

The Work and Parents Taskforce also gave two reasons for not exempting small businesses. First, they considered there was a danger that by automatically exempting small businesses, by implication they could be seen as second-class employers.

Second, they commented that

"it is not appropriate to exempt small businesses from a duty to consider that has been designed specifically with their needs in mind".

The same arguments apply when considering extending the scope of the law to parents of older children and carers.

Many small firms already offer some type of flexible working. CBI survey evidence<sup>53</sup> indicates that 70% of all small and medium sized enterprises use part-time working and 40% of small firms offer flexitime working. Small firms have also responded positively to flexible working requests. The CBI found that 82% of requests made in companies with less than 50 employees were accepted, 16% agreed after discussion and only 3% were declined.

Small firms may find it more difficult to accommodate some types of request than larger firms in similar lines of work. For example, there may be less scope to re-allocate duties. However, where this is in practice a significant problem, these are already valid grounds for a refusal.

The Electronic Engineers Federation hosted an employers' focus group on flexible working in the summer of 2004. Two key points emerged

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<sup>53</sup> CBI, Employment Trends Survey 2004.

from the discussion; that employers are likely to agree to applications when requests have been well thought out; and a need for further support and guidance to be provided should the scope of the law be widened.

## **Competition assessment**

The initial analysis of the competition filter is that a detailed competition assessment is not considered necessary.

The proposed legislation will primarily affect the labour market. The cost of processing formal requests incurred by an individual firm will depend on the number of entitled employees employed by that firm and the number of requests made by members of staff. However, the average cost of processing a request and adapting working arrangements is assumed to be approximately constant across firms of different sizes.

The proposed legislation is not assumed to have any impact on market structure since firms can refuse requests on business grounds. The cost of implementation is not higher for new businesses compared to existing firms and does not therefore constitute a barrier to entry. Ongoing costs are assumed to be the same for existing and new businesses.

The proposal will have a negligible impact on a firm's ability to determine its output, price, quality and range of products because requests can be refused on business grounds.

## **Enforcement and sanctions**

### **Enforcement**

Employees trigger the duty to consider by making a request for flexible working. If the employer rejects the request and the employee is not satisfied with the explanation, he or she can appeal to the employer.

If the employee still does not think the employer has given the matter serious consideration, he/she can seek resolution through an external dispute resolution mechanism and ultimately through an Employment Tribunal.

The table below sets out the expected number of external disputes each year from carers of adults that will reach the external dispute resolution stage.

**Table 2.25. Estimated number of external disputes – carers\***

Scope of law	Number of external disputes
Caring for partner only	100
Caring for either a partner or parent/parent in-law	600
Caring for any adult relative	900
Caring for any disabled dependant	1,200

Source: DTI estimate \* Figures have been rounded to the nearest 100.

The table below sets out the expected number of external disputes from parents of older children each year that will reach the external dispute resolution stage.

**Table 2.26. Estimated number of external disputes – parents of older children**

Scope of law (including disabled children)	Number of external disputes	Additional number of disputes due to new law
Parents of children under 6 (current law)	500	-
Parents of children under 9	600	100
Parents of children under 12	700	200
Parents of children under 17	800	300

Source: DTI estimate \* Figures have been rounded to the nearest hundred.

The tables above show that the expected number of disputes will be relatively small.

## **Sanctions**

A tribunal can award an employee compensation if the employer does not comply with the procedure set out in the legislation, or if the employee suffers a detriment or is dismissed for making an application for flexible working.

## **Monitoring and review**

An extension of the right to request flexible working to parents of older workers and carers of sick and disabled relatives will significantly assist parents and carers to achieve an optimal work and family life balance. The impact on employers will need to be monitored.

The most efficient method of monitoring is through surveys of employers and employees. Existing employer surveys suggest that the current flexible working legislation has had little impact on business. The CBI's employment trends survey 2004 found that 62% of firms reported no impact and 25% of firms reported a small positive impact.

The DTI commissioned its first flexible working employee survey in April 2004 and a second survey will be issued in 2005. The 2004 survey asked questions on employee awareness, types of flexible working requested, reasons for requesting flexible working and questions on caring responsibilities. The DTI will continue to monitor employee awareness and take-up of the right to request flexible working through periodic Flexible Working Employee Surveys and the Work-Life Balance Surveys.

The following are considered important success measures:

- increased incidence of flexible working practices;
- increased employment rate for parents of older children and carers of sick and disabled relatives;

- increased satisfaction with work-life balance and personal choice.

## **Consultation**

### *i) Within government*

This partial RIA has been prepared in consultation with interested departments including DWP, DfES, IR, HMT.

### *ii) Public consultation*

See the information provided in part one.

## **Summary and recommendation**

This partial RIA is being published alongside a consultation document. In the light of responses the Government will consider what is the preferred way forward, and this will be reflected in the full RIA that will follow.

## **Declaration**

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

**Signed** .....

**Date** .....

**Minister's name, title, department**

### **Contact Details**

1. Any comments on the regulatory impact assessment should be addressed to:

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## APPENDIX A1

### APPENDIX TO PART 1, SECTION B, REVIEWING NOTICE PERIODS

Within this appendix are a series of tables that provide a disaggregation of (Tables B.1. to B.7) that can be found in section B. The tables in section B have been disaggregated by whether the mother is on SMP or MA. Due to rounding the sum of the disaggregated tables may not equal the numbers that appear in section B.

Disaggregated tables for Table B.1:

**Table A1.1: Number of mothers on SMP who return to their employer earlier than expected**

Total number of SMP cases	Number of mothers who work in a larger firm on SMP that return to their employer earlier than expected (=column 1x0.025x0.6)*	Number of mothers who work in a small firm on SMP that return to their employer earlier than expected (=column one x 0.025 x 0.4)*	Number of temporary workers employed to cover the mother (Larger firms) (=0.7 x coulmn two)*	Number of temporary workers employed to cover the mother (Small firms) (=0.4 x column three)*	Number of internal workers reallocated to cover the mother (Larger firms) (=0.3 x column two)*	Number of internal workers reallocated to cover the mother (Smaller firms) (=0.6 x column three)*
291,000	4,400	2,900	3,100	1,200	1,300	1,700

Source: DWP and DTI estimates. \* Figures have been rounded to the nearest 100.

**Table A1.2: Number of mothers on MA who return to their employer earlier than expected**

Total number of MA cases	Number of mothers who work in a larger firm on MA that return to their employer earlier than expected (=column 1x0.025x0.6)*	Number of mothers who work in a small firm on MA that return to their employer earlier than expected (=column one x 0.025 x 0.4)*	Number of temporary workers employed to cover the mother (Larger firms) (=0.7 x coulmn two)*	Number of temporary workers employed to cover the mother (Small firms) (=0.4 x column three)*	Number of internal workers reallocated to cover the mother (Larger firms) (=0.3 x column two)*	Number of internal workers reallocated to cover the mother (Smaller firms) (=0.6 x column three)*
45,000	680	450	470	180	200	270

## Disaggregated tables for table B.2.

**Table A1.3: Mother is on SMP and is returning early (firm is using temporary worker)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms	All firms
Notice Period	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected**	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected**	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected (= column two + column three)**	Total cost of double payment (£)***	Additional cost of using a temporary worker per week (Low estimate, 3% of weekly wage) (=£12.12* x column four)***	Additional cost of using a temporary worker per week. (High estimate, 5% of weekly wage) (=£20.20* x column four)***
4 weeks	2,700	1,000	3,800	1,534,000	46,000	77,000
8 weeks	900	300	1,300	511,000	15,000	26,000
12 weeks	200	100	300	128,000	4,000	6,000

Source DTI estimates, \* = rounded to nearest two decimal places.\*\*rounded to nearest 100.\*\*\* rounded to nearest 1000.

**Table A1.4: Mother is on MA and is returning early (firm is using temporary worker)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms	All firms
Notice Period	Number of instances where the employer pays the mother and temporary worker after the mother returns to work earlier than expected**	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected. **	Number of instances where the employer pays the mother and temporary worker after the mother returns earlier than expected (= column two + column three)**	Total cost of double payment (£)***	Additional cost of using a temporary worker per week (Low estimate, 3% of weekly wage) (=£7.86* x column four)****	Additional cost of using a temporary worker per week. (High estimate, 5% of weekly wage) (=£13.10* x column four)****
4 weeks	570	220	780	205,000	6,200	10,300
8 weeks	190	70	260	68,000	2,100	3,400
12 weeks	50	20	70	17,000	500	900

Source DTI estimates, \* = rounded to nearest two decimal places. \*\* rounded to nearest 10. \*\*\* rounded to nearest 1000.

\*\*\*\* rounded to nearest 100.

## Disaggregated tables for table B.3

### Benefits

**Table A1.5: Mother is on SMP and is returning early (firm is using temporary worker)**

Type of firm	All firms	All firms	All firms	All firms
Notice Period	Fewer instances where the employer pays the mother and temporary worker after the mother returns to work earlier than expected*	Savings made due to less double payment** (£)	Savings made through avoiding the extra payment of a temporary worker (Low estimate)**	Savings made through avoiding the extra payment of a temporary worker (High estimate)**
4 weeks	-	-	-	-
8 weeks	2,500	1,023,000	31,000	51,000
12 weeks	3,500	1,406,000	42,000	70,000

Figures have been rounded. \*Rounded to nearest 100. \*\* Rounded to nearest 1000

### Benefits

**Table A1.6: Mother is on MA and is returning early (firm is using temporary worker)**

Type of firm	All firms	All firms	All firms	All firms
Notice Period	Fewer instances where the employer pays the mother and temporary worker after the mother returns to work earlier than expected*	Savings made due to less double payment** (£)	Savings made through avoiding the extra payment of a temporary worker (Low estimate)**	Savings made through avoiding the extra payment of a temporary worker (High estimate)**
4 weeks	-	-	-	-
8 weeks	500	137,000	4,000	7,000
12 weeks	700	188,000	6,000	9,000

Figures have been rounded. \*Rounded to nearest 100. \*\* Rounded to nearest 1000

## Disaggregated tables for table B.4

**Table A1.7: Mother is on SMP and returning late (firm is using temporary worker)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms
Notice Period	Number of instances where mother returns late**	Number of instances where mother returns late**	Number of instances where mother returns late (= column 2 + 3)**	Additional cost of using a temp per week (Low estimate, 3% of weekly wage) (=£12.12* x column four)**	Additional cost of using a temp per week. (High estimate, 5% of weekly wage) (=£20.20* x column four)**
4 weeks	3,100	1,200	4,200	51,100	85,200
8 weeks	1,500	600	2,100	25,600	42,600
12 weeks	800	300	1,100	12,800	21,300

Source DTI estimates, \* = rounded to nearest two decimal places.\*\* rounded to nearest 100.

**Table A1.8: Mother is on MA and returning late (firm is using temporary worker)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms
Notice Period	Number of instances where mother returns late**	Number of instances where mother returns late**	Number of instances where mother returns late (= column 2 + 3)**	Additional cost of using a temp per week (Low estimate, 3% of weekly wage) (=£7.86* x column four)***	Additional cost of using a temp per week. (High estimate, 5% of weekly wage) (=£13.10* x column four)***
4 weeks	430	160	590	4,600	7,700
8 weeks	140	50	200	1,500	2,600
12 weeks	40	10	50	400	600

Source DTI estimates, \* = rounded to nearest two decimal places. \*\*Rounded to nearest 10. \*\*\* Rounded to nearest 100.

## Disaggregated tables for table B.5

### Benefits

**Table A1.9: Mother is on SMP and is returning late (firm is using temporary worker)**

Type of firm	All firms	All firms	All firms
Notice Period	Fewer instances where mother returns late	Savings made through avoiding the extra payment of a temporary worker (Low estimate)	Savings made through avoiding the extra payment of a temporary worker (High estimate)
4 weeks	-	-	-
8 weeks	2,000	26,000	43,000
12 weeks	3,000	38,000	64,000

Figures have been rounded to the nearest 1000.

### Benefits

**Table A1.10: Mother is on MA and is returning late (firm is using temporary worker)**

Type of firm	All firms	All firms	All firms
Notice Period	Fewer instances where mother returns late	Savings made through avoiding the extra payment of a temporary worker (Low estimate)	Savings made through avoiding the extra payment of a temporary worker (High estimate)
4 weeks	-	-	-
8 weeks	400	3,100	5,100
12 weeks	500	4,200	7,100

Figures have been rounded to the nearest 100.

## Disaggregated tables for table B.6

**Table A1.11 : Mother is on SMP and returning late (firm is using internal reallocation)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms
Notice Period	Number of instances where mother returns late**	Number of instances where mother returns late**	Number of instances where mother returns late (= column 2 + 3)**	Additional cost of using internal reallocation per week (Low estimate, 9% of weekly wage) (=£36.35* x column four)***	Additional cost of using internal reallocation per week. (High estimate, 15% of weekly wage) (=£60.59* x column four)***
4 weeks	1,300	1,700	3,100	111,000	185,000
8 weeks	700	900	1,500	56,000	93,000
12 weeks	300	400	800	28,000	46,000

Source DTI estimates, \* = rounded to nearest two decimal places.\*\*rounded to nearest 100.\*\*\*rounded to nearest 1000

**Table A1.12: Mother is on MA and returning late (firm is using internal reallocation)**

Type of firm	Larger firms	Small firms	All firms	All firms	All firms
Notice Period	Number of instances where mother returns late**	Number of instances where mother returns late**	Number of instances where mother returns late (= column 2 + 3)**	Additional cost of using internal reallocation per week (Low estimate, 9% of weekly wage) (=£23.58* x column four)***	Additional cost of using internal reallocation per week. (High estimate, 15% of weekly wage) (=£39.31* x column four)***
4 weeks	200	270	470	11,000	19,000
8 weeks	100	140	240	6,000	9,000
12 weeks	50	70	120	3,000	5,000

Source DTI estimates, \* = rounded to nearest two decimal places.\*\*rounded to nearest 10.\*\*\* rounded to nearest 1000.

## Disaggregated tables for table B.7

### Benefits

**Table A1.13: Mother is on SMP and is returning late (firm is using internal reallocation)**

Type of firm	All firms	All firms	All firms
Notice Period	Fewer instances where mother returns late*	Savings made through avoiding the extra cost of internal reallocation (Low estimate)**	Savings made through avoiding the extra cost of internal reallocation (High estimate)**
4 weeks	-	-	-
8 weeks	1,500	56,000	93,000
12 weeks	2,300	83,000	139,000

Figures have been rounded. \* rounded to nearest 100. \*\* Rounded to nearest 1000

### Benefits

**Table A1.14: Mother is on MA and is returning late (firm is using internal reallocation)**

Type of firm	All firms	All firms	All firms
Notice Period	Fewer instances where mother returns late*	Savings made through avoiding the extra cost of internal reallocation (Low estimate)**	Savings made through avoiding the extra cost of internal reallocation (High estimate)**
4 weeks	-	-	-
8 weeks	200	6,000	9,000
12 weeks	400	8,000	14,000

Figures have been rounded. \* rounded to nearest 100. \*\* Rounded to nearest 1000

## **APPENDIX A2**

### **APPENDIX TO PART 2; FLEXIBLE WORKING ESTIMATES FOR PARENTS OF OLDER CHILDREN AND CARERS**

#### **Analysis of take-up and employer response for policy two (extending the right to request flexible working to parents of older children)**

The impact of a duty to consider will depend upon a number of factors. The key cost-benefit drivers, however, will be take-up of the right to request, i.e. how many parents make a request for flexible working, and how employers respond to those requests.

It is likely that take-up will vary by sex and by whether or not parents already have any identifiable 'flexible' working pattern.

Table A2.1 disaggregates the eligible group of parents by sex, age of youngest child, full-time/part-time status and whether or not they said they had one of a number of identifiable 'flexible' working patterns.

**Table A2.1: Disaggregation of eligible parents ('000s)**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	122	35	125	44	338	68	11	*
1	58	22	137	56	313	65	13	*
2	51	20	118	47	256	49	*	*
3	51	25	97	45	224	38	*	*
4	62	14	97	36	201	32	*	*
5	45	28	119	50	194	42	*	*
6	56	22	97	59	164	33	*	*
7	60	22	104	71	184	37	*	*
8	64	22	90	57	163	33	*	*
9	61	22	93	44	144	32	*	*
10	71	35	80	49	163	27	*	*
11	61	35	79	46	143	28	*	*
12	72	33	81	45	155	29	*	*
13	66	33	65	47	136	29	*	*
14	75	31	73	33	130	32	*	*
15	85	37	58	33	128	28	*	*
16	61	32	52	22	110	23	*	*

Source: Labour Force Survey Spring 2004.

Notes: FT/PT = Full-time/Part-time. 'flex' = any of flexi-time, term-time working, job shares, annualised hours, nine-day fortnights and four and a half day weeks. \* = less than 10,000.

## Deadweight

Table A2.2 sets out some illustrative estimates of deadweight requests.

**Table A2.2: Illustrative deadweight assumptions**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	0.05	0.3	0.5	0.5	0.05	0.1	0.3	0.3
1	0.05	0.2	0.1	0.1	0.05	0.05	0.05	0.05
2	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
3	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
4	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
5	0.03	0.2	0.05	0.05	0.03	0.05	0.05	0.05
6	0.03	0.2	0.05	0.05	0.03	0.05	0.05	0.05
7	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
8	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
9	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
10	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
11	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
12	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
13	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
14	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
15	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
16	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05
17	0.03	0.1	0.05	0.05	0.03	0.05	0.05	0.05

Source: DTI estimates

The following principles have been used in deriving these assumptions:  
 Deadweight is expressed as a proportion, i.e. 5% of mothers (and fathers) with children under the age of one working full-time without any

identifiable 'flexible' working pattern are assumed to already make a request for flexible working<sup>54</sup>.

It has been assumed that the most likely time to seek a change to working patterns is in the year after birth of a child, especially the option to work reduced hours (half of women in full-time jobs before taking maternity leave return on a part-time basis<sup>55</sup>).

Deadweight is not zero among full-time 'non-flexible' employees because some may obtain flexibilities not captured in surveys (e.g. changing starting and finishing times that do not fit into a formal flexi-time scheme).

Nor is deadweight 100% for those with part-time or other 'flexible' working options. Many parents will have changed jobs to secure these types of working (and thus made their 'request' via the jobs market rather than internally). In other cases, the 'flexibility' might be an incidental feature of a job they had taken for other reasons and thus no request for change had been made.

For mothers working full-time, there is an increased proportion seeking flexible working options when their children start school (i.e. in the 5-6 age group).

#### *Take-up scenarios*

Table A2.3 sets out the new (after excluding deadweight requests, i.e. as a result of the option) take-up rates of requests for flexible working.

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<sup>54</sup> For disabled children aged 6-17, the equivalent assumptions are 0.2 for mothers working full-time, 0.4 for mothers working part-time and 0.1 for fathers.

<sup>55</sup> Callendar *et al.*, 1997.

**Table A2.3: Take up rates of 'new' requests for flexible working**

Age of youngest child	Mothers				Fathers			
	FT non flex	FT flex	PT non flex	PT flex	FT non flex	FT flex	PT non flex	PT flex
Under 1	0.55	0.4	0.25	0.25	0.15	0.2	0.2	0.2
1	0.25	0.1	0.15	0.15	0.05	0.15	0.05	0.1
2	0.17	0.1	0.15	0.15	0.05	0.05	0.05	0.1
3	0.22	0.15	0.2	0.2	0.05	0.05	0.05	0.1
4	0.17	0.1	0.15	0.15	0.05	0.05	0.05	0.1
5	0.22	0.05	0.2	0.2	0.07	0.1	0.05	0.1
6	0.27	0.1	0.2	0.15	0.07	0.1	0.05	0.1
7	0.17	0.1	0.15	0.15	0.03	0.05	0.05	0.1
8	0.17	0.1	0.15	0.15	0.03	0.05	0.05	0.1
9	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
10	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
11	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
12	0.12	0.05	0.1	0.1	0.03	0.05	0.05	0.1
13	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
14	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
15	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
16	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1
17	0.07	0	0.05	0.05	0.01	0.02	0.05	0.1

Source: DTI estimates

Corresponding assumptions for parents of disabled children are that 20% of mothers and 10% of fathers make a request per year.

These estimates have been constructed on the following principles:

- Survey evidence suggests that many women working full-time before maternity leave return to work on a reduced hours basis,

and those that remain in full-time work would value the option of part-time or other flexible forms of working<sup>56</sup>.

- Among this group (mothers currently working full-time but without any apparent 'flexible' working pattern) demand for flexible working remains strong throughout the early years. Women might make more than one request in order to accommodate changing childcare needs.
- Legislation might encourage demand for flexible working from fathers, especially in seeking changes to working hours following the birth of their child or when the mothers ends maternity leave.
- Some allowance is made for an increase in demand when the child reaches school age (and the cut-off point for eligibility approaches).

#### *Numbers of requests accepted by employers*

Requests can be accepted by employers at a number of stages: when a request is first made; at the appeal or internal grievance stage; and following recourse to external dispute resolution (either an Employment Tribunal or another form of dispute resolution). It is therefore necessary to map the progress of requests through these various stages. This is done in Table A4.

Note that the number of requests made by parents of disabled children is equal to 27,000<sup>57</sup> and that in table A2.4 requests made by parents of disabled children are not included in the total number of new working arrangements.

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<sup>56</sup> A recent survey of working parents found that 25% of mothers who returned to work on a full-time basis would have liked the option of flexible working (WEU survey, forthcoming).

<sup>57</sup> Figure has been rounded to the nearest thousand.

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**Table A2.4: Progress of requests through the various stages (000's)**

Scope of law (excluding disabled children)	Parents of children under 6	Parents of children under age 9	Parents of children under age 12	Parents of children under age 17
1) No. of new requests	478	627	713	790
2) Proportion accepted at first stage (0.88=88%)	0.88	0.88	0.88	0.88
3) No. of requests accepted at first stage =1x2	421	552	627	695
4) Proportion of requests taken to second stage (0.5=50%)	0.5	0.5	0.5	0.5
5) No. of second stage requests =(1-3)x4	29	38	43	47
6) Proportion accepted at second stage (0.2=20%)	0.2	0.2	0.2	0.2
7) No. of requests accepted at second stage =5x6	5.7	7.5	8.6	9.5
8) No. of requests turned down by employer= 5-7	23	30	34	38
9) Proportion referred to external dispute resolution (0.02=2%)	0.02	0.02	0.02	0.02
10) No. of additional external dispute resolution cases=8x9	0.5	0.6	0.7	0.8
11) Proportion successful at external dispute resolution stage	0.2	0.2	0.2	0.2
12) No. of requests accepted at external stage = 10x11	0.1	0.12	0.14	0.16
13) No. of requests unsuccessful at external stage = 10-12	0.4	0.48	0.56	0.64
14) Total no. of new working arrangements = 3+7+12	427	560	636	712

Source: DTI estimates

### **Analysis of take-up and employer response for policy three (extending the right to request flexible working to carers with other caring responsibilities)**

#### *Deadweight*

The rate of deadweight requests for carers is equal to 11%. This represents a weighted average of the deadweight rate for mothers with a youngest child under 6 years old. It was assumed that mothers with a youngest child under 6 have a similar profile to carers of adults.

### *Take up rate*

The effective take-up rate is equal to 69%, (after less intensive carers have been excluded from the base). This figure was derived by dividing the number of full time carers plus 20% of flexible working carers by the total number of employed carers. It was assumed that all full time employees would make a request and 20% of carers that already work flexibly would also make a request (they may want to adjust their current working pattern). To derive figures for part time and full time employed carers an assumption was made that the profile of part time and full time work amongst carers resembled that of mothers with a youngest child under 6.

The take-up rate of new requests is equal to 58% (this rate excludes deadweight requests). This means that 58% of entitled carers are expected to make a request as a result of extending the scope of law to carers.

### *Numbers of requests accepted by employers*

The assumptions that were applied to parents with older children were also applied to carers with other caring responsibilities. The table below outlines the progress of requests made by carers.

**Table A2.5: Progress of requests through the various stages (000's)**

Scope of law	Caring for partner only	Caring for partner and parent/parent in-law	Caring for any adult relative	Caring for any disabled dependant
1) No. of new requests	19	205	318	419
2) Proportion accepted at first stage (0.88=88%)	0.88	0.88	0.88	0.88
3) No. of requests accepted at first stage =1x2	17	180	280	368
4) Proportion of requests taken to second stage (0.5=50%)	0.5	0.5	0.5	0.5
5) No. of second stage requests =(1-3)x4	1	12	19	25
6) Proportion accepted at second stage (0.2=20%)	0.2	0.2	0.2	0.2
7) No. of requests accepted at second stage =5x6	0.2	2.5	3.8	5.0
8) No. of requests turned down by employer = 5-7	0.9	9.8	15.3	20.1
9) Proportion referred to external dispute resolution (0.02=2%)	0.02	0.02	0.02	0.02
10) No. of additional external dispute resolution cases=8x9	0.02	0.20	0.31	0.40
11) Proportion successful at external dispute resolution stage	0.2	0.2	0.2	0.2
12) No. of requests accepted at external stage = 10x11	0.004	0.04	0.06	0.08
13) No. of requests unsuccessful at external stage = 10-12	0.01	0.16	0.24	0.32
14) Total no. of new working arrangements = 3+7+12	17	184	285	376

Source: DTI estimates. Figures have been rounded, differences between sums of components are due to rounding

