



Close the Gap response to the UK Government's consultation on Making Flexible Working the Default

November 2021

1. INTRODUCTION

Close the Gap is Scotland's policy advocacy organisation working on women's labour market participation. We have been working with policymakers, employers and employees for 20 years to influence and enable action that will address the causes of women's labour market inequality.

Close the Gap welcomes the opportunity to respond to this consultation on flexible working. The lack of quality flexible working opportunities in the UK labour market sustains women's concentration in low-paid, low-skilled work and results in women's under-representation at management level and in senior grades. The shortage of flexible working is therefore a key cause of the gender pay gap. Improving access to flexible working is thus critical to addressing women's low pay, tackling women's poverty and child poverty, and closing the gender pay gap.¹

Improving the availability of flexible working will have clear benefits for disabled women, single parents, 90% of whom are women, unpaid carers, women with childcare responsibilities, and those experiencing domestic abuse. However, the benefits will not just be women's. There is a clear business case for offering increased access to flexible working. There is a wealth of evidence demonstrating the productivity gains from flexible working, associated with enhanced employee wellbeing and morale, and reputational benefits that make the company more attractive to the best candidates. Employers who offer flexible working are able to recruit from a wider talent pool, address skills gaps, and are more able to retain staff. Indeed, a recent study found that jobs advertised on a flexible basis attracted 30% more applicants than those advertised without flexibility.² Improving the availability of flexible working therefore makes good business sense.

¹ Close the Gap (2016) *Gender Equality Pays: The economic case for addressing women's labour market inequality* available at <https://www.closesthegap.org.uk/content/resources/Gender-Equality-Pays.pdf>

² Government Equalities Office (2019) *Encouraging employers to advertise jobs as flexible* available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966407/Encouraging_employers_to_advertise_jobs_as_flexible.pdf

The labour market changes necessitated by the pandemic have demonstrated that many more roles are capable of being done on a flexible basis. However, it is not pre-determined that this new-found flexibility and changes to workplace cultures will be sustained in the aftermath of the pandemic. Current legal provisions around the right to request flexible working are not fit for purpose. While the statutory right to request was extended to cover all employees in 2014, evidence shows that this has resulted in very little change, with no meaningful increase in women's access to flexible working. However, research by the TUC found that 82% of workers in Britain want to work flexibly in the future, rising to 87% amongst women workers.³ Changes to the regulatory framework are therefore essential to meet this demand and provide greater access to flexible working in the aftermath of the crisis. In order to ensure that changes to flexible working legislation is effective, there is also a need to facilitate a wider cultural shift in the way employers think about and promote flexible working.

2. The context: Women's labour market inequality

The gender pay gap, the key indicator of women's labour market equality, represents the divergent experiences men and women have not only in employment but also in education, training, care and other domestic labour. It is a persistent feature of the UK labour market, remaining stubbornly high at 14.9%.⁴ Women's disproportionate responsibility for childcare and care and the lack of quality flexible working makes it difficult for them to balance work with family life.⁵ Women do the majority of unpaid care in the home for children, older people and disabled people. They are more likely than men to take annual leave, sick leave and unpaid leave to do childcare, and twice as likely to give up paid work in order to care. As a result of balancing earning with caring, women account for 75% of part-time workers and this sees women further concentrated into low-paid and often insecure work, as most part-time work is found in the lowest paid occupations and sectors. Indeed, the gender pay gap in the UK rises to 30.4% when comparing men's average full-time hourly earnings with women's part-time hourly earnings.⁶ Part-time workers also continue to have fewer career, pay and progression opportunities compared to full-time workers.⁷

Women's propensity to have a caring role is key cause of the UK's gender pay gap and women's enduring labour market inequality, preventing women from progressing into overwhelmingly inflexible senior roles.⁸ Previous research has identified lifetime working patterns or work histories, including the number of years spent in employment and time spent in full or part-time work, and time spent undertaking unpaid care as being a

³ TUC (2020) *The Future of Flexible Working*

⁴ ONS (2021) *Gender Pay Gap in the UK: 2021*

⁵ Close the Gap (2019) *Flexible Working for All? The impact of the right to request regulations on women in Scotland* available at <https://www.closesthegap.org.uk/content/resources/Flexible-Working-for-All.pdf>

⁶ ONS (2021) *Gender Pay Gap in the UK: 2021*

⁷ TUC (2020) *The Future of Flexible Working*

⁸ Close the Gap (2018) *The Gender Penalty: Exploring the causes and solutions to Scotland's gender pay gap* available at <https://www.closesthegap.org.uk/content/resources/The-Gender-Penalty-Feb-2018.pdf>

significant factor affecting rates of pay.⁹ Women's tendency to be primary carers is premised on gender stereotypes and societal norms that women are more naturally suited to do caring.¹⁰

These barriers are particularly acute for specific groups of women including single parents, 90% of whom are women. Recent research by the Joseph Rowntree Foundation recommended a focus on improved flexible working in the labour market when tackling lone parent poverty. Single parents are often trapped into poverty by a combination of factors, including the escalating cost of childcare, increasing costs of living, including housing costs, and a lack of quality flexible and part-time job roles.¹¹ As a result, quality part-time and flexible work across the labour market would enable single parents to access increased opportunities and higher pay. Single mothers are significantly more likely to be living in poverty and improving access to flexible working is therefore critical in addressing the rising tide of child poverty.

3. The effectiveness of current flexible working regulations

Whilst the employer and employee benefits of flexible working are well-established, evidence continues to highlight a number of persistent barriers to its use. Close the Gap's research, *Flexible Working for All?*¹², looks at the availability and uptake of flexible working in Scotland between 2010 and 2015 to identify whether the extension of the right to request flexible working regulations has resulted in increased flexible working across Scotland's labour market. The research reveals that the right to request has had very little impact on the uptake of flexible working, women's access to flexible working specifically, and therefore gender equality at work more broadly. The key findings include:

- On the whole, the use of formal flexible working in Scotland has changed very little and there is no early evidence of an increase in its use since the extension of the right to request in 2014.
- Part-time work continues to be much more likely to be used by female parents than male parents, with little sign of change. This suggests the persistence of gender norms and stereotypes about men's and women's roles in mixed sex households, and at work, which creates barriers to mothers increasing their hours and to fathers reducing their hours.
- Less than three-quarters (70%) of Scottish employees indicated that they had formal flexible working available at their workplace, even after the extension of the right to request.

⁹ Olsen and Walby (2004) *Modelling gender pay gaps*

¹⁰ Manning, A. and Swaffield, J. (2005) 'The Gender Gap in Early Career Wage Growth' CEP Discussion Paper No. 700

¹¹ JRF (2021) *Freeing low-income single parents from in-work poverty's grip*

¹² Close the Gap (2019) *Flexible Working for All? The impact of the right to request regulations on women in Scotland* available at <https://www.closesthegap.org.uk/content/resources/Flexible-Working-for-All.pdf>

- Over half of employees felt that they have access to informal flexibility however a fifth (20%) of employees indicated that neither informal nor formal flexibility was available at their workplace.

In alignment with the findings of Close the Gap's research, the TUC also highlights limited evidence that current regulations have facilitated any meaningful increase in those working flexibly. The proportion of employees doing no form of flexible working has only decreased by 4 percentage points (from 74% to 70%) over the period of 2013 to 2020.¹³ That 70% of employees are still not working flexibly highlights the lack of change facilitated by the current regulations. The consultation document states that the objectives of the Flexible Working Regulations 2014 have been 'achieved to some extent, with more employees having greater choice over their working patterns'. However, in practice, employees continue to face barriers to accessing flexible working and there remain stark variations in access to flexibility by sector, occupation, and seniority.

Covid-19 has also illuminated who has access to different types of flexibility such as homeworking and hybrid working, with analysis highlighting a clear disparity in the ability of higher skilled and lower skilled workers to work from home. Less than one in ten of those in the bottom half of earners say they can work from home, compared with 50% of workers in the top half of earners.¹⁴ However, this pattern is also gendered because the majority of low-paid workers are women. While increased access to remote working would be a positive development for many staff, tailored approaches are necessary to meet the diverse needs of different employees. Imposed organisation-wide changes to working location, for example through closing office space and enforcing remote working, is unlikely to be suitable for every employee. It is important that employers seek to find a way of working that meets the needs of both employee and the organisation. Enforced remote working is not genuine flexible working, especially for women who do not have adequate space in their home to work from there. There are also a number of potentially negative consequences to remote working including unsafe working environments, especially for victim-survivors of domestic abuse, and a blurring of work-life boundaries as a result of workers being required to be constantly available.¹⁵

During the pandemic, many women had to work from home as a result of public health restrictions but were often afforded little or no flexibility by their employer in order to do so. The resulting difficulties in balancing paid work, home-schooling and childcare led to many women with caring responsibilities withdrawing from paid work or reducing their working hours, posing significant risks for women's economic equality in the longer term. Indeed, research from the Institute of Fiscal Studies found that, during the first lockdown, mothers are doing paid work for two hours fewer a day than fathers.¹⁶ During

¹³ TUC (2021) *The Future of Flexible Work*

¹⁴ Resolution Foundation (2020) *Doing what it takes: Protecting firms and families from the economic impact of coronavirus*

¹⁵ TUC (2021) *The Future of Flexible Work*

¹⁶ Institute for Fiscal Studies (2020) *How are Mothers and fathers balancing work and family life under lockdown?*

the first lockdown, women were spending two-thirds more time on childcare than men,¹⁷ as well as spending around 10% to 30% more time than fathers home schooling their children.¹⁸ Remote working, without wider flexibility, thus does not enable women to balance their paid work and care commitments.

Remote working is only one example of flexible working, and it is different types of flexible working, with a specific focus on quality part-time working, that women with caring responsibilities need in order to access the workplace.¹⁹ Close the Gap's research found that over the period of 2010 to 2015, there was a small decline in the use of term-time only working and job shares. This is concerning as these types of reduced hours flexibility are most used by women. Moreover, evidence shows that, with the exception of home working, all forms of flexible working have fallen over the past year.²⁰ Timewise research also highlights that the recruitment market is not mirroring the apparent seismic shift that's taken place in the labour market during the pandemic.²¹ It is therefore easy to overstate the impact of the pandemic in changing working practices and it cannot be presumed that employers have drastically changed their approach to flexible working as a result of the crisis. There consequently remains a need for legislative change to facilitate a move to a more flexible labour market across the UK.

4. ANSWERS TO CONSULTATION QUESTIONS

We have included our answers to the relevant respondent information questions as an annex to this submission.

8. Do you agree that the Right to Request Flexible Working should be available to all employees from their first day of employment?

Strongly agree

9. Please give reasons for your answer, including any considerations about costs and benefits that may affect employers and/or employees.

Current regulations stipulate that an employee must have worked for the same employer for at least 26 weeks before they are able to invoke their statutory right to request flexible working. This affects those trying to find new employment, with many women effectively trapped into working for the employer with whom they have negotiated a reasonable working arrangement. This is exacerbated by the lack of jobs advertised on a flexible basis. Across the UK, only 24% of jobs were advertised with flexible options at the start of 2021.²² The current regulations also impact those trying to access the labour market after a period of unemployment or a career break. Women are

¹⁷ Women's Budget Group (2020) ONS New data on time use and parenting in lockdown available at

<https://wbg.org.uk/wp-content/uploads/2020/07/ONS-new-data-on-time-use-and-parenting-in-lockdown.pdf>

¹⁸ University of Cambridge (2020) 'Women bear the brunt of coronavirus economic shutdown in the UK and US' available at <https://www.cam.ac.uk/research/news/women-bear-brunt-of-coronavirus-economic-shutdown-in-uk-and-us>

¹⁹ Timewise (2020) *The Timewise Scottish Flexible Jobs Index 2020*

²⁰ TUC (2020) *The Future of Flexible Working*

²¹ Timewise (2020) *The Timewise Scottish Flexible Jobs Index 2020*

²² Timewise (2021) *The Timewise Flexible Jobs Index 2021*

twice as likely to leave work in order to care²³ and are more likely to be primary caregivers which requires them to balance earning with caring. As a result, women returners and women with caring responsibilities are particularly likely to be disadvantaged by the 26 week service requirement.

Close the Gap agrees with the report of the Women and Equalities Committee which concluded that the 26 weeks service threshold is 'unhelpful and unnecessary'.²⁴ Ensuring that the right to request is extended to all employees from their first day of employment will increase women's access to the labour market, as well as enabling women to move jobs, potentially allowing women to access more working hours and higher paying roles. At present, the lack of flexibility when taking up employment all too often forces women into increasingly insecure work which is associated with low-pay and poor terms and conditions.

There is also little evidence that the 26 weeks continuous service requirement is effective. Analysis of the Labour Force Survey finds that use flexi-time, of one of the most common forms of flexible working, sees only a small increase after the 26 week service threshold has been met. 9.3% of employees with less than three months service utilise flexi-time, rising to only 11% for those with between six months and 12 months service.²⁵ In fact, other factors including organisational seniority, access to networks in the workplace, and trust continue to dictate access to flexible working, highlighting the need for both legislative and cultural change.

That less than a quarter of jobs across the UK are currently advertised with flexibility may prevent women from applying for jobs as a result of a lack of clarity around available flexibility. This is coupled by an understandable reluctance to ask about flexibility during the recruitment process because of a legitimate fear of discrimination. The consultation document highlights that the UK Government do not think this is the right time to introduce a statutory requirement for employers to say in jobs adverts whether flexible working is available. However, such a duty would assist in implementing the day one right, with employees being clear as to what forms of flexible working are available. This would also assist with women finding employments which meet their needs with regards to flexibility.

10. In your organisation, do you currently accept requests for flexible working arrangements from employees that have less than 26 weeks continuous service? Please answer this question from the perspective of the employer.

Yes

11. Given your experiences of Covid-19 as well as prior to the pandemic, do all of the

²³ Rubery, Keizer and Grimshaw (2016) *Flexibility bites back: The multiple and hidden costs of flexible employment policies*

²⁴ Women and Equalities Committee (2021) *Unequal Impact*

²⁵ TUC (2021) *The Future of Flexible Work*

business reasons for rejecting a flexible working request remain valid? Please answer this question from the perspective of the employer.

No

13. If no, please state which reasons from the list above are no longer valid and why.

The regulations state that employers must consider applications but are not obliged to grant all requests if one of eight business reasons can be proven. The business reasons set out in the current regulations are wide-ranging and include the burden of additional costs, a detrimental impact on quality, an inability to reorganise work amongst existing staff or a detrimental effect on ability to meet customer demand.²⁶ In practice, it is therefore relatively easy for an employer to refuse a request should they not be persuaded of the business benefits of flexible working as a result of the breadth of business reasons. This leaves limited options available to an employee who has their request refused, especially as the current regulations do not offer a right to appeal. Therefore, in addition to the proposals outlined in this consultation, we would support changes to require employers to consider appeals relating to flexible working requests.

The right to request flexible working does not equate to a right to work flexibly and those that request it have no guarantee of it being approved. Indeed, around three in ten requests from employees seeking to access flexible working are turned down by their employer.²⁷ The use of particular forms of flexible working also varies by sector which may lead to requests being rejected if they request a form of flexibility which is uncommon with that job or sector. Many female-dominated occupations have relatively high proportions of employees reporting that they work part-time, but relatively low proportions of employees utilising flexi-time. For example, 26.6% of employees in caring personal service occupations work part-time whereas only 3.7% work flexi-time. By contrast, 30.5% of the male-dominated science and technology professional occupational group works flexi-time whereas only 4.3% work part-time.²⁸ As a whole, formal flexible working in Scotland appears more likely to be used by female parents of dependent children, those working in the largest firms and those working in the public sector.²⁹ A lack of creative thinking about how to implement various forms of flexible working erects a barrier to culture change and the broad-ranging business reasons provide employers with too much scope to reject requests.

Barriers such as negative line manager attitudes and a cultural presumption against flexible working may also exist to dissuade employees from submitting an application in the first place. The rate of refusal may also be artificially deflated as a result of

²⁶ ACAS (2014) *Code of Practice 5: Handling in a reasonable manner requests to work flexibly*

²⁷ TUC (2021) *The Future of Flexible Work*

²⁸ Close the Gap (2019) *Flexible Working for All? The impact of the right to request regulations on women in Scotland* available at <https://www.closesthegap.org.uk/content/resources/Flexible-Working-for-All.pdf>

²⁹ Ibid.

employees deciding not to submit a request because they know it will not be accepted. Research conducted in Scotland found that 52% of employers think flexible working creates more work for line managers, and 30% felt that those working flexibly are less committed to their career.³⁰ The research highlights continued sectoral differences in attitudes to flexibility with 75% of manufacturing employers believing that flexible working means more work for line managers and 50% of financial and insurance employers stating that flexible workers are less productive.³¹

In addition, almost two in five mothers (38%) in Scotland said they would have liked to work more flexibly but did not ask their employer. The most common reasons given by these mothers were that they did not make a flexible working request because they thought it would not be approved (64%) or because they were worried about it being viewed negatively by their employer (50%).³² Two-thirds of mothers said that they did not make a flexible working request because they thought it would not be approved and almost a third (29%) also said they were worried about their colleagues' reaction. This research aligns with evidence around the impact of the "motherhood penalty" which remains a significant cause of occupational segregation, including women's under-representation in senior roles, and the gender pay gap. EHRC research on pregnancy and maternity discrimination found that more than a quarter (27%) of employers felt pregnancy put an unreasonable cost burden on the workplace³³ and around half of mothers (51%) who had their flexible working request approved said it resulted in negative consequences as they were treated less favourably as a result.³⁴ A more specific set of business reasons would therefore give employers less scope to reject flexible working requests because of negative attitudes to flexibility.

Changes to working patterns and practice necessitated by Covid-19 have underscored concerns about workplace culture that perpetuate presenteeism³⁵, and a cultural resistance to different types of flexible working which create a significant barrier to women's progression and labour market equality. While the consultation document presents positive evidence around employers being more likely to increase homeworking and flexible working availability in the aftermath of the crisis, there is also a range of available evidence which highlights more negative employer responses. Ultimately, the shift to flexible working has been a reactive one, rather than a strategic decision to change workplace culture.³⁶ Timewise research found that, while 73% of

³⁰ Flexibility Works (2020) *Flex for Life*

³¹ Ibid.

³² Equality and human rights commission (2016) 'Three out of four Scottish working mothers say they've experience pregnancy and maternity discrimination' Available at - <https://www.equalityhumanrights.com/en/our-work/news/three-out-four-scottish-working-mothers-say-they%E2%80%99ve-experienced-pregnancy-and>

³³ Ibid.

³⁴ Ibid.

³⁵ Presenteeism is the practice of being present at work outwith one's normal hours, and for more hours than is required. Cultures of presenteeism negatively impact women because of their disproportionate caring responsibilities outwith work which makes it more difficult to be at work outside their normal hours.

³⁶ Timewise (2020) *The Timewise Scottish Flexible Jobs Index 2020*

employers are expecting more requests to work from home, only 36% of employers report being more likely to grant them.³⁷ It therefore cannot be presumed that the pandemic has drastically altered employers views on flexibly and it is important that the businesses reasons do not remain a barrier to employee access to flexible working. If the updated regulations are to improve access to flexible working, we believe that the business reasons for rejecting a flexible working request should be more specific and tightly-drawn.

14. Do you agree that employers should be required to show that they have considered alternative working arrangements when rejecting a statutory request for flexible working?

Strongly agree

15. Please give reasons for your answer.

The consultation document highlights the UK Government's ambition to 'support genuine, two-sided flexibility', with a starting point of encouraging 'better discussion between employee and employer'. Requiring employers to show that they have considered alternative working arrangements when rejecting a statutory request will require an employer to actively engage with the request, rather than being able to reject this outright. This will also encourage creative thinking and lead to employers exploring different options that may otherwise not have been considered. This could have unanticipated advantages for employers who will be able to benefit from the clear business case for introducing flexible working as a result of finding alternative solutions which work for their business, and the employee.

Close the Gap would be interested in the detail of this proposal, specifically how employers will be required to evidence that they have considered alternative working arrangements and how this will be communicated to the employee. Statutory guidance should be provided on the level of detail employers will be expected to provide, how employers will have to demonstrate how they reached their decision, and how this will be communicated to employees. Guidance should also outline the process for implementing this alternative arrangement, including any timescales for employees to consider this change, and when any changes to working patterns should be implemented.

16. Would introducing a requirement on employers to set out a single alternative flexible working arrangement and the business ground for rejecting it place burdens on employers when refusing requests?

No

³⁷ Ibid.

Any additional burden placed on employers would be proportionate to the size of the business. The requirement to set out an alternative flexible working arrangement will also help to build employer capacity on flexible working, encourage new ways of working and help employers to benefit from shared learning on good practice. As a result, the time taken to handle request is likely to reduce over time. Employers will also be able to reduce any burden on individual line managers by ensuring that any changes to the regulatory framework are communicated to all managers through regular training on flexible working. This will assist the organisation in ensuring that policies and decision-making processes remain compliant with the relevant legislation while also ensuring that line managers have capacity to deal with requests in a prompt manner.

18. Do you think that the current statutory framework needs to change in relation to how often an employee can submit a request to work flexibly?

Yes

19. Please give reasons for your answer.

One application per year means that employees are unable to lodge additional requests as a result of a change of personal circumstance, or changes to the workplace which may have rendered their flexible working request more feasible. For example, a request may have been initially rejected on the grounds that work cannot be reorganised among other staff or people cannot be recruited to do the work. However, additional recruitment since the initial request or changes to working patterns among other staff may mean these business reasons are no longer valid. There should therefore be scope for employees to submit additional requests throughout the year.

However, Close the Gap is clear that changing the statutory framework to allow for additional requests will not have the desired impact without wider capacity building on flexible working among employers and line managers. Without such action, these changes will merely lead to subsequent requests being rejected. It is therefore vital that employers provide training to build capacity among line managers on flexible working and that the Government provide access to good guidance on best practice flexible working. In addition, we believe that changes to the frequency with which employees can submit requests must be accompanied by wider changes outlined in this consultation response, including requiring employers to demonstrate that they have actively considered the request by suggesting alternative arrangements and access to an appeals process.

We also note that limiting employees to one request per year is in contrast to the one-sided flexibility which is demanded by employers in an increasingly precarious labour

market.³⁸ Rising precarity is particularly pertinent in female-dominated sectors including retail, hospitality and social care. Research by the Living Wage Foundation³⁹ found that more than half (52%) of women in shift work are likely to receive less than a week's notice for working hours, shifts or work schedules. Over a quarter (26%) of those in insecure work reported experiencing unexpected cancellations of shifts in the past 12 months, with women being more likely than men to report receiving no payment when shifts were cancelled (29% compared to 20%).⁴⁰ This presents particular challenges for women in planning childcare around irregular shift patterns and also gives rise to the so-called "insecurity premium" which refers to the extra costs workers have to cover as a result of being called into work, such as last-minute childcare or transport costs. Increasing the number of flexible working requests that are permitted is therefore a positive step towards genuine flexibility.

20. Do you think that the current statutory framework needs to change in relation to how quickly an employer must respond to a flexible working request?

Yes

21. Please give reasons for your answer.

Three months is a significant amount of time for employers to respond, particularly when coupled with the 26 week threshold for submitting flexible working requests. The current timescales could create real barriers to women being able to maintain employment, particularly if their request for flexible working relates to their caring responsibilities and means they are unable to balance paid work with care.

22. If the Right to Request flexible working were to be amended to allow multiple requests, how many requests should an employee be allowed to make per year?

There should not be a limit on the number of requests an individual can make

23. Please give reasons for your answer, including any consideration about costs, benefits and practicalities.

In line with our response to question 24 below, which would give employers less than three months to respond to requests, we believe that employees should be able to make a minimum of four flexible working requests per year. As it is very unlikely that employees will make constant use of the right to request regulations, we therefore support a change to the statutory regulations to provide no limit on the number of requests that are permitted per year. If implemented effectively, the requirement

³⁸ TUC (2021) *The Future of Flexible Work*

³⁹ Living Wage Foundation (2021) *The Insecurity Complex: Low-paid workers and the growth of insecure work*

⁴⁰ Ibid.

placed on employers to suggest an alternative flexible working arrangement when rejecting requests is likely to will further reduce the probability of high numbers of requests from the same employee. The introduction of unlimited flexible working requests would provide sufficient scope within the system for employees to request flexible working when there has been changes in their personal circumstances, or chances to the workplace which may render flexible working more feasible.

24. If the Right to Request flexible working were amended to reduce the time period within which employers must respond to a request, how long should employers have to respond?

More than two months, less than three months

25. Please give reasons for your answer, including any consideration about costs, benefits and practicalities.

Ensuring that flexible working requests are responded to on a prompt basis will prevent women being forced towards insecure work where flexibility is achieved at the expensive of employment rights and pay.⁴¹ While we are supportive of a shorter timeframe for responding to flexible working requests, we also recognise that our submission supports additional responsibilities being placed on employers when handling flexible working requests, including considering an alternative arrangement. We therefore believe the statutory framework for responding to requests should be reduced to more than two months, less than three months. This timeframe provides sufficient scope for employers of all sizes to actively consider flexible working requests, while also giving due consideration to alternative arrangements.

26. Are you aware that it is possible under the legislation to make a time-limited request to work flexibly?

Yes

27. What would encourage employees to make time-limited requests to work flexibly? Please provide examples

There is a need to raise awareness of the availability of time-limited flexible working requests at the national level, as well as among employers across all sectors of the UK economy. At the workplace level, employers should foster a culture of flexible working within their organisation by clearly communicating flexible working policies with staff. Building capacity in line managers through training will also ensure that line managers understand time-limited requests for flexible working and can apply this policy appropriately within the workplace.

⁴¹ TUC (2020) *The Future of Flexible Working*

28. Please share your suggestions for the issues that the call for evidence on ad hoc and informal flexible working might consider.

Access to informal flexibility will often depend on having a supportive line manager or a degree of job autonomy. Job autonomy is often absent in lower paid and lower skilled roles, which also tend to be female-dominated. It is therefore important that line managers are enabled to challenge the status quo in their team, and capacity should be built in line managers to generate creative solutions to operational challenges.

Best practice on flexible working includes the publication of a written flexible working policy for the organisation. This policy will provide guidance to which all staff can refer, while also highlighting the organisation's commitment to working flexibly. However, in order to ensure that these policies are implemented appropriately, employers should provide mandatory training for line managers on flexible working. Access to informal flexible working continues to be hindered by line managers who have a presumption against flexible working in the workplace. Where line managers have discretion over granting requests, whether informal or formal, subjectivity and bias can lead to inconsistent and unfair practice. As line managers often act as 'gatekeepers' to flexible working, negative attitudes towards flexible working can function as a barrier to women's development and progression.

Employers should seek to create a workplace culture where flexible and part-time working is valued in the same way as full-time working patterns. This can be achieved by ensuring that the organisation's commitment to flexible working is visible, with strong messaging from senior leaders within the organisation. Employers should also monitor flexible working requests, and whether or not they are granted. This should involve gathering data on flexible working requests by gender and department to identify any patterns around demand for flexible working, and the decision-making process. This will enable employers to address any issues through workplace policies and training.

ANNEX – RESPONDENT INFORMATION

1. Are you (select the appropriate option):

Are you:	Answer
An Individual	
An employer	
Representing employers' or employees' interests	
Other (please specify)	Third sector organisation

The remaining questions within this section do not apply.