

**Make Work Pay:
Consultation on
improving access
to flexible
working**

Introduction

The TUC brings together more than 5.3 million working people across different sectors and regions who belong to our 47 member unions. We support trade unions to grow and thrive, and we stand up for everyone who works for a living. Every day, we campaign for more and better jobs, and a more equal, more prosperous country.

We welcome the opportunity to submit to this consultation. The TUC and unions have long campaigned for greater access to good quality flexible working. It is vital for achieving gender equality, supporting carers, reducing the disability employment and pay gap, supporting older workers to stay in the workforce for longer and providing everyone with a better work life balance.

Flexible working is any change to when, where and how long people work. It can include compressed hours, flexitime, remote working, part-time work, job-shares and set shift patterns. It is vital that set shift patterns (as opposed to rolling or irregular shift patterns) are recognised as a form of flexible working – for many workers in sectors such as retail, transport and hospitality this is the primary form of flexible working requested and is vital to be able to balance work and life including care.

Flexible working consistently comes up as one of the top issues that union reps deal with in workplaces, with 60 per cent of reps telling the TUC in 2024 that they had dealt with an issue related to flexible working in the last two years¹. We continue to find that too many flexible working requests are rejected and those who do work flexibly face poor treatment.

The provisions in the Employment Rights Act are welcome, and our response provides a trade union view on how to ensure the duty to consult process is robust, fair and consistent. We also believe that legislative change needs to go further if we are to ensure that flexible working is the default for all workers.

Part one: Understanding early impacts of recent reforms.

Question 16: In your view, has overall access to flexible working improved since the 2024 changes were introduced?

Access to flexible working

The pandemic had a significant impact on home working, but we have not seen significant changes in other forms of flexible working. Prior to Covid-19 only a small

¹ <https://www.tuc.org.uk/research-analysis/reports/tuc-equality-audit-2024>

percentage of workers worked from home on a regular basis, rising to around half the UK workforce at the height of Covid-19 restrictions. Since 2022, just over a quarter of Labour Force Survey participants have reported home as their main place of work.²

However, we have not seen significant increases in other forms of flexible working. Comparisons between 2013 and 2020 in Figure 1 show that despite the length of time that the right to request legislation had been in force and the broadening of its scope, it has not brought about the changes intended. The percentage of employees doing no form of flexible working (under the Labour Force Survey definition) only changed by 4 percentage points, from 74 to 70 per cent between 2013 and 2020.

Figure 1 also shows changes since the pandemic, which include the introduction of the day one right to request in April 2024. There have been some small increases for example in the percentage of employees accessing flexitime, but a significant majority still do not access it, and the data does not indicate that the April 2024 changes nor the pandemic have led to a significant increase in the percentage of employees having access to good quality hours based flexible working.³ The percentage of employees doing no form of flexible working has only changed by 3 percentage points since 2020 and we have seen a growth of zero-hour contracts, an exploitative form of one sided flexibility.

	Q4 2013	Q4 2020	Q4 2025
Flexitime	11.3	12.8	13.4
Annualised hours	4.5	7.2	7.4
Term time working arrangements	5.4	4.7	5.3
Job sharing	0.7	0.4	0.4
Condensed or compressed hours			2.8
Zero-hours contracts	2.1	3.2	3.6
On-call working	2.1	2.2	2.4
None of these	73.7	69.6	66.8

² <https://www.kcl.ac.uk/news/uk-workers-increasingly-rejecting-return-to-office-mandates-study-finds>

³ The data is based on the Labour Force Survey definition of flexible working. The TUC would consider other options such as a mutually agreed shift pattern as examples of flexible working and do not consider zero-hours contracts a form of good quality flexible working.

Don't know

0.6

0.4

0.3

Figure 1 Percentage of employees taking up flexible work options under Labour Force Survey definition.

Too many requests are still rejected and access is unequal

TUC polling⁴ done in January 2026 found that a third of people (34 per cent) who have made a flexible working request since April 2024 had it rejected in part or in full, showing that too many people are still not receiving the flexible working that they need. Our polling also finds that certain groups are more likely to miss out on flexible working.⁵

- Non-disabled workers were more likely to say their request had been accepted in full (69 per cent) compared to disabled workers (59 per cent).
- 72 per cent of those with household incomes of over £40,000 had their request accepted in full compared to 59 per cent of those with household incomes of £40,000 or lower.
- White workers were also slightly more likely to report having their requests accepted in full (67 per cent) compared to Black workers⁶ (64 per cent).

This is consistent with previous TUC research which shows high rejection rates and differences in access to types of flexible working for different workers:

- TUC polling from 2019 found that one in three (30 per cent) requests for flexible working were being turned down.⁷
- Polling from 2023 found that half (53 per cent) of new dads and partners entitled to paternity leave who request flexible working don't get the flexibility they ask for and this rises to 64 per cent of dads and partners with household incomes under £40,000.⁸

⁴ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey (October 2024-September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2-12 January 2026.

⁵ The following results are for respondents who had made a request before or after April 2024 as sample sizes become too small to report on after April 2024 only.

⁶ The TUC uses the term 'Black workers' to indicate people of colour with a shared history. 'Black' is used in a broad political and inclusive sense to describe people in the UK who have suffered from colonialism and enslavement in the past and continue to experience racism and diminished opportunities.

⁷ <https://www.tuc.org.uk/news/one-three-flexible-working-requests-turned-down-tuc-poll-reveals>

⁸ <https://www.tuc.org.uk/news/half-new-dads-dont-get-flexibility-they-ask-work-tuc>

- In a survey of 12,859 working mums 50 per cent said their current employer had rejected or only accepted part of their flexible working request.⁹
- Women, younger workers, Black (African/Caribbean/Black British), Chinese and other Asian, and Pakistani and Bangladeshi workers and disabled workers are slightly less likely to access home working following the pandemic.¹⁰
- TUC analysis from 2022 found that women are much more likely than men to be in flexible working arrangements that mean they lose hours and therefore pay. Whereas men are more likely to work from home compared to women, even in industries where predominantly women are employed.¹¹

Analysis of the Labour Force Survey by the TUC (see Figure 2) of access to flexitime (the most popular form of flexible working) found that the percentage of employees with access to flexitime increases as length of time with the current employee increases suggesting that seniority or length of service impacts who has access to flexible working. This is consistent with findings from 2021 analysis.¹²

Length of time with current employer	% of employees on flexitime	% of employees not on flexitime
Less than 3 months	8.8	91.2
3 months but less than 6 months	10.5	89.5
6 months but less than 12 months	10.8	89.2
1 year but less than 2 years	11.4	88.6
2 years but less than 5	13.2	86.8
5 years but less than 10	14.3	85.7
10 years but less than 20	14.4	85.6
20 years or more	17.7	82.3

⁹ <https://www.tuc.org.uk/research-analysis/reports/denied-and-discriminated-against>

¹⁰ TUC submission to House of Lords call for evidence on home working

¹¹ <https://www.tuc.org.uk/news/tuc-women-much-more-likely-men-have-flexible-work-arrangements-lead-loss-hours-and-pay>

¹² https://www.tuc.org.uk/research-analysis/reports/future-flexible-work?page=3#section_header

All

13.4

86.6

Figure 2 Percentage of employees accessing flexitime after length of time with employer. Labour Force Survey Q4 2025

Many of our affiliates also report difficulties for workers approaching retirement. NHBC reported that members' requests to work a shorter working week as they approach retirement is often rejected as the employer states that they need to retain knowledge of more experienced staff. In some instances, rejection has led to early retirement and a loss of experience entirely. The union has argued there could be considerable benefit to mentoring young members to take up high level work as the older member works part-time ahead of retirement.

Differences in access to flexible working will be driven by occupational and sectoral factors but evidence also suggests that factors such as protected characteristics and length of service¹³, which can lessen individual workers bargaining power at work, determine workers ability to access flexible working. The data suggests that the changes made in April 2024 have not been enough to ensure equal access to flexible working for everyone and that legislation rooted in a right to request for an individual will always be impacted by discrimination, seniority and other factors making it harder to ensure fair and equal access. We therefore believe the government should introduce more ambitious legislation, as set out later in this response, to move from the current individualised request-based approach to one where flexible work is a normalised way of working and available to all.

Unions have also reported to us that within their own membership they have not seen significant increases in flexible working requests being accepted. NHBC reported that the number of appeals they attend where the original request has been turned down has risen, especially since the pandemic.

Unions frequently raise that the breadth of the eight business reasons mean that employers can easily turn down requests and after April 2024, employees continue to receive rejections citing business need with no consultation. TUC and Flex for All partners asked members of the public to send in consultation responses to the previous government consultation on flexible working in 2021. 5,744 people sent responses and 87 per cent of respondents felt that the business reasons meant employers could turn down requests too easily.¹⁴

Too many still fear asking for flexible working

In addition to rejection rates when requests are made, many people still feel unable to ask for flexible work.

¹³ <https://www.tuc.org.uk/research-analysis/reports/future-flexible-work>

¹⁴ <https://www.tuc.org.uk/research-analysis/reports/making-flexible-working-default>

In January 2026 TUC polling¹⁵, of those that had not asked for flexible working, 41 per cent said they didn't need it and 16 per cent their employer already offered it. However, a significant minority (43 per cent) experienced barriers in asking for flexible working:

- 16 per cent did not know it was an option
- 12 per cent did not think the request would be approved
- 10 per cent were worried it would be viewed negatively by their employer
- 6 per cent said the requests would involve a pay cut and they could not afford it
- 5 per cent were worried about the potential harm to future career prospects
- 5 per cent were worried about the reaction of their colleagues
- 4 per cent were not eligible to make a statutory flexible working request

In addition, overall, 25 per cent of respondents did not know they had a right to request flexible working.

Finally, 58 per cent of respondents said they were unlikely to make a request for flexible working on the first few days of a new job.

Previous research by Timewise has shown that despite greater interest in taking up flexible working, BME workers were more likely to say they would not feel comfortable asking their current employer about changing their work pattern compared to white workers (37 per cent compared 28 per cent).¹⁶

Negative experiences of flexible working

Our polling shows that these fears are not unfounded. As cited above rejection is still fairly common, as is poor treatment of flexible workers. 42 per cent of those who had worked flexibly said they had experienced some sort of negative treatment as a result, rising to 53 per cent of 18–34-year-olds, 49 per cent of disabled workers and 47 per cent of Black workers.¹⁷

¹⁵ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey (October 2024–September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2–12 January 2026.

¹⁶ <https://timewise.co.uk/article/press-release-1-in-2-uk-workers-would-consider-asking-for-flex-on-day-one-of-a-new-job/>

¹⁷ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey

This included feeling their opinion was less valued (13 per cent), getting fewer opportunities compared to colleagues at the same level (12 per cent), receiving negative comments from employers or colleagues (11 per cent), missing out on training opportunities (9 per cent) and being given more junior tasks than before (7 per cent).

Our unions, particularly in healthcare and education, have reported that many members are told they are only able to work part-time if they relinquish leadership responsibilities impacting on progression and pay. Given that these are majority women workforces, this has a significant impact on gender equality at work.

Flexible working is a key driver of workforce participation

Despite levels of rejection, existing fear around asking and negative treatment of those who work flexibly, flexible working is essential for many people to be able to balance work and life including caring responsibilities and health conditions.

TUC polling¹⁸ found that most popular reasons for asking for flexible working were for childcare and other caring responsibilities (34 per cent) and this was higher for women (37 per cent) and for health reasons including a health condition, disability or impairment (38 per cent of requests were made due to this reason), with the latter reason rising to 57 per cent for disabled respondents.

A previous survey of 12,859 working mums by the TUC found that nine in 10 (92 per cent) mums who worked flexibly said they would find it difficult or impossible to do their job without it.¹⁹

Research by the Fawcett Society has shown that 40 per cent of women who are currently not working said that if flexible working was available to them, it would enable them to do paid work.²⁰ ONS survey of adults aged 50 to 65 found that among those who were out of work and would consider returning to work (58 per cent), the most important factors when choosing a paid job were flexible working hours (32 per cent), good pay (23 per cent), and being able to work from home (12 per cent).²¹

(October 2024-September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2-12 January 2026.

¹⁸ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey (October 2024-September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2-12 January 2026.

¹⁹ <https://www.tuc.org.uk/research-analysis/reports/denied-and-discriminated-against>

²⁰ <https://www.fawcettsociety.org.uk/equal-pay-day-2023>

²¹ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/reasonsforworkersagedover50yearsleavingemploymentsincethestartofthecoronaviruspandemic/wave2>

However, despite this Timewise research shows only 31 per cent of jobs are advertised with flexible working options included.²²

TUC polling²³ found that advertising flexible working would support people to enter or move within the labour market. 58 per cent of respondents told us they were somewhat (25 per cent) or very (33 per cent) unlikely to apply for a job without knowing if the working pattern would fit around their life and responsibilities, rising to 62 per cent of women respondents. In addition, 40 per cent of women said they were very unlikely to apply for a job without knowing, compared to 28 per cent of men.

62 per cent of respondents said they would be more likely to apply for a job if flexible working was included in job advert, rising to 68 per cent of women, 68 per cent of 18–34-year-olds and 73 per cent of parents who have children under the age of seven. The TUC has long called for all job adverts to include possible flexible working options with the successful candidate having the option to take these up. This would aid access to and movement within the labour market.

A lack of flexible working is driving people out of jobs

A lack of flexible working is forcing people out of jobs. One-fifth (19 per cent) of people told the TUC they had left a job due to lack of flexible working, with higher rates among women (23 per cent), disabled workers (27 per cent), Black workers (24 per cent), and 18–34-year-olds (31 per cent).²⁴

Public sector unions have raised concerns that employers' shortsightedness on flexible working is detrimental to the ongoing recruitment crisis in public services and increasing access to flexible working could help to retain staff. A recent NASUWT survey of members found that 34 per cent of those considering leaving state education cited lack of flexible working opportunities as a reason for leaving.²⁵ Recent research highlighted by the union based on 150,000 teachers across a four-year period has shown that mothers returning to teaching from maternity leave are more likely to stay in their jobs if they work part-time in comparison to their peers.²⁶

A survey by Unison and Maternity Action of 2,300 women members of Unison who had a baby or adopted a child since January 2022 found that of women who had previously

²² <https://timewise.co.uk/article/flexible-jobs-index/>

²³ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey (October 2024–September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2–12 January 2026.

²⁴ Ibid

²⁵ <https://www.nasuwt.org.uk/static/3284d4dc-bd06-4313-b0f5ef72c2209159/Evidence-Submission-to-the-STRB-35th-Report-December-2024-England.pdf>

²⁶ <https://thekeygroup.com/news-insights/what-happens-to-teachers-after-maternity-leave>

stated that they had left their job after maternity leave 51 per cent cited a lack of flexibility as their main reason for doing this. In a number of cases, breastfeeding mothers had left their jobs to find something more flexible that would allow them to continue breastfeeding.²⁷

Without access to flexible working, education and health care unions also report that many permanent staff are leaving the workforce and entering into bank, agency or supply work, which is less secure, can have worse contractual rights and is sometimes outsourced work. Improving flexible working to allow public sector staff to enter back into substantive employment could improve rights for workers, help to retain staff and with it their knowledge and expertise and support the government's aim to reduce agency spend.

TUC polling has found that a lack of decent flexible work is a reason that a small percentage of workers turn to insecure employment. 12 per cent of workers on a zero-hours contract (ZHC) polled by the TUC in 2024 said that flexibility to care for children or other people was the most important reason they worked a ZHC. The most common reason for working a ZHC is that it was the only job available or because it is the typical working arrangement for the type of work they do, suggesting it is not a choice.²⁸

Workers should not have to choose between secure and better paid jobs and flexibility and TUC polling shows that ZHC do not in fact offer the flexibility that many claim it does.²⁹

Four in five workers on ZHCs report frequent last-minute scheduling, rising to 85 per cent among carers on ZHCs. Over half said that they often or sometimes had shifts cancelled with less than 24 hours' notice. This rose to almost two thirds for carers' on ZHCs. More than two thirds of those of ZHCs said that they often or sometimes had shifts cancelled with less than a week's notice.

In addition, a third of mums on ZHCs reported that they often had difficulty managing childcare or caring responsibilities alongside their jobs, compared to a fifth of mums surveyed who are not on a ZHC.

Three fifths (61 per cent) of workers on ZHCs said that a contract that offered some guaranteed shifts would be better in their view. This was highest among carers on ZHCs, where almost four fifths (78 per cent) said that it would be preferable for them.

Parents access to flexible working

Many of our affiliates have provided evidence demonstrating difficulties in accessing flexible working for parents, in particular mums and in public services. For example, the NASUWT found in a survey of nearly 4000 teachers that three in 10 teachers who had made a flexible working request to their employer to manage their parental

²⁷ <https://www.unison.org.uk/content/uploads/2026/02/UNISON-maternity-rights-survey.pdf>

²⁸ <https://www.tuc.org.uk/research-analysis/reports/experience-insecure-work>

²⁹ Ibid

responsibilities had their request turned down. 37 per cent of teachers surveyed were forced to consider alternative employment because of their request being refused.³⁰

The Royal College of Midwives shared with us that a lack of access to flexible working is a huge challenge for the midwifery profession, which is made up of predominantly women.³¹ Many midwives returning from a period of maternity leave struggle to access the flexible working they need to manage their return to work and ongoing childcare and breastfeeding support.³² This can result in midwives turning to bank work or leaving the profession altogether and is a significant factor in the recruitment and retention crisis.

RMT have also reported that requesting a set shift pattern, for example working all day shifts as opposed to a standard rolling shift pattern where shift schedules change week to week, is often the only way that women can return to work following maternity leave. Employers report being unable to prioritise flexible working requests for caring responsibilities due to fear of accusations of unfair treatment from other staff members without caring responsibilities.

TUC research in January 2026³³ found that one in seven (14 per cent) of women polled who have children or are expecting a child have lost a job, or felt forced to leave a job, due to pregnancy or becoming a parent. The main reasons cited are the working hours, role or conditions changed in a way that made it difficult to continue (25 per cent), experiencing negative treatment or pressure (25 per cent), inability to secure flexible working (23 per cent), or being selected for redundancy and suspecting it was related to pregnancy or becoming a new parent (20 per cent).

Among parents who reported unfair treatment due to pregnancy or becoming a new parent, the most commonly reported issues were receiving unpleasant comments from their employer and/or colleagues (17 per cent), being denied access to flexible working (16 per cent), being given unsuitable work or workloads (16 per cent) and failing to gain a promotion they felt they deserved (13 per cent). 14 per cent reported bullying by their line manager or supervisor.

For women, the rates of unfair treatment related to being pregnant or becoming a new mother were higher in most instances. 20 per cent had received unpleasant comments from their employer and/or colleagues, 22 per cent were denied access to flexible working, 19 per cent were given unsuitable work or workloads, 14 per cent

³⁰ <https://www.nasuwat.org.uk/news/campaigns/being-a-teacher-and-a-parent-survey-2020.html> and <https://www.nasuwat.org.uk/static/17ad7ef2-879e-40d4-96b3c014e605746a/Teachers-Wellbeing-Survey-Report-2024.pdf>

³¹ RCM, [flexible-working-guidance3.pdf](#)

³² [Urgently Improve facilities to help midwives and MSWs breastfeed at work, says RCM - Royal College of Midwives](#)

³³ <https://www.tuc.org.uk/news/tuc-number-new-and-expectant-parents-losing-their-job-or-facing-unfair-treatment-work>

failed to get a promotion they felt they deserved and 15 per cent experienced bullying from a line manager or supervisor.

Looking at dads and co-parents, of those who were forced to leave a job, the main reasons were working hours, role or conditions changing in a way that made it difficult to continue (30 per cent), experiencing negative treatment or pressure (22 per cent) and being unable to secure flexible working (19 per cent).

Rejection rates cited on page 4 show the broader workplace culture is not supportive of dads and co-parents. TUC polling in 2023 found that one in five dads and partners do not ask for any flexibility for fear of employer response and the impact on their careers.³⁴ Access to flexible working for dads and co-parents would enable them to spend more time with their families and support a more even balance of care between men and women reducing the gender pay gap.

Employers adherence to legislation and Acas Code of Practice

Employees can make a complaint to Employment Tribunal if their employer fails to deal with their request in a reasonable manner, fails to notify the employee of their decision within two months and fails to consult with the employee before rejecting a request amongst other reasons.

14 per cent of people we polled who had made a request since April 2024 said they didn't get a response in 2 months.³⁵ However, the small sample size means that this data is indicative, rather than conclusive.

In addition, our polling shows that a significant minority of employers are not following the Acas Code of Practice on flexible working, in particular the best practice guidance around consulting if a request is to be rejected.

There is no definition in regulation of reasonable manner or what steps to follow when consulting. However, the Acas CoP sets out a minimum standard of fairness that employers should follow. Failure to follow the Code in and of itself does not constitute a breach of employment law but employment tribunals take it into account when considering relevant cases. In some instances, failure to follow the Code could be failing to deal with a request in a reasonable manner.³⁶

The following results are therefore concerning and provide support for the Employment Rights Act provision to set out steps on consulting and to bring these into regulation to

³⁴ <https://www.tuc.org.uk/news/half-new-dads-dont-get-flexibility-they-ask-work-tuc>

³⁵ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey (October 2024-September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2-12 January 2026.

³⁶ <https://academic.oup.com/ij/article/54/1/57/7670986#506869687>

ensure greater compliance, clarity and consistency on what process employers should be following. Results showing that only a third of those who had requests rejected in part or in full understood the reason why demonstrates the need for an introduction of a robust reasonable test.³⁷

Extract from Acas Code of Practice

Polling results

Unless the employer decides to agree to the employee's written request in full, they must consult the employee before they make a decision. In such cases, the employer should invite the employee to a consultation meeting to discuss the request.

34 per cent of respondents who had a request rejected in part or in full were not offered a meeting to discuss the request

The content of the meeting and the way in which it is conducted should allow for a reasonable discussion and consideration of the request. It will usually be helpful to discuss, for example, the potential benefits or other impacts of accepting or rejecting the request, and any practical considerations involved in implementing the request.

32 per cent of respondents whose requests were rejected in part or in full were not asked by their employer to discuss the positive impact the request would have on them and 37 per cent were not invited to discuss the potential negative impacts or challenges of the request. This was in a meeting or not.

If the original request cannot be accepted in full, the employer and employee should discuss if it may be possible to secure some of the benefits that the original request sought. They should discuss, for example, any potential modifications to the original request, or any alternative flexible working options, that may be available and suitable for both sides.

Of those who had requests rejected in part or in full 42 per cent were not offered alternatives or modifications.

The person holding the meeting should have sufficient authority to make a decision.

Of those who had requests rejected in part or in full less than half (48 per cent) said their employer ensured they met with someone who had the authority to make the decision.

³⁷ Polling results include statutory and informal requests to ensure a representative sample size but these results are consistent with findings for those who made only statutory requests where sample sizes are smaller.

<p>They should confirm the decision in writing without unreasonable delay, taking into account the statutory two-month period for deciding requests including any appeal (see paragraph 37).</p>	<p>40 per cent of those who had requests rejected in part or in full said they did not receive a written record of the decision. 33 per cent of respondents overall, regardless of outcome, said they did not get a written record of the decision.</p>
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<p>If the employer rejects the employee's request, the written decision should clearly explain the business reason(s) (see paragraph 9). It should also set out any additional information which is reasonable to help explain the decision.</p>	<p>Of those who had requests rejected in part or in full only 1/3 (36 per cent) felt the decision was fully explained and 31 per cent didn't understand the reasons for rejecting the decision or only understood to a small extent.</p>
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<p>There is no statutory right of appeal against a decision about a request for flexible working. However, allowing an employee to appeal is good practice. The written decision should make it clear that the employee has the option to appeal the decision.</p>	<p>Of those who had requests rejected in part or in full 42 per cent were not offered an appeal.</p>
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<p>There is no statutory right of accompaniment at meetings held to discuss a request for flexible working. However, allowing an employee to be accompanied is good practice. This can be helpful in giving employees confidence to make requests and in supporting both parties to find a mutually agreeable solution.</p>	<p>32 per cent of all respondents who made a request and were invited to a meeting to discuss it were invited to bring someone with them.</p>
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In a roundtable between unions and the Department for Business and Trade, unions shared that they felt the new duty to consult had not made a difference in increasing the number of flexible working requests that had been approved or exploring alternatives and many employers treated it as a tick box exercise. In addition, they stated that many employers regularly do not follow the Acas Code supporting the polling outlined above. We believe that penalties at Tribunal need to be increased to incentivise employers to follow this guidance.

In a roundtable with unions reps from education, health and social care, police, retail, seafarers and hospitality and DBT, there was consensus amongst union reps that employers routinely fail to consult and there is a lack of creative thinking by employers to find solutions, for example multiple staff members having part-time work rejected

but no investigation into whether two members of staff would consider a job share. In addition, they stated that employers failed to provide evidence when rejecting a request and that the eight business reasons meant employers could continue to reject requests with vague reasoning. Many spoke of a poor culture towards flexible working where it continued to be seen as a perk not a core condition to allow people to thrive at work.

Part 2: A new process for consulting employees on flexible working requests

Question 17. Do you feel the proposed objective is appropriate for the consultation meeting?

The objective of this meeting is:

To consider ways to address challenges with the requested arrangement and explore whether a suitable alternative arrangement could be agreed.

a) Yes

b) No

c) Do not know

Question 18: What do you think should be the objective for this consultation meeting?

We welcome steps to consult being laid out in legislation and there being an objective for consultation. However, the current meeting objective encourages employers to enter with the pre-determined decision to find alternatives rather than seek agreement on the original request. A consultation meeting could be an opportunity for employees to provide evidence and further information on why they believe the request can work and address any points of concern by the employer in the hope of reaching an agreement. Research by BEIS and EHRC³⁸ found that mums reporting employers' initial reluctance to agree flexible working requests was fairly common and between 24 per cent and 39 per cent of requests were only approved following discussion showing the importance of talking about a request before deciding on rejection or an alternative. If at the meeting it becomes clear this is not possible, then, suitable alternatives could be discussed.

³⁸ <https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancyand-maternity-discrimination-research-findings>

Therefore, the meeting aim should be reframed to emphasise finding resolutions to challenges in order to accept the request and if this is not possible then exploring whether suitable alternative arrangements could be agreed.

In addition, the Acas Code of Practice states that 'Unless the employer decides to agree to the employee's written request in full, they must consult the employee before they make a decision.' The government needs to make clear in steps for consultation that consultation must take place if *any* aspect of the request is being rejected.

We agree that the meeting must be compulsory, and we also believe a meeting should be arranged even if the employer plans to accept the request (see below for more information).

Setting up the meeting

- *The meeting must be held without unreasonable delay, and must take place within the two month period for making a decision. In practice, to allow time for potential follow-up conversations to agree an alternative arrangement before a decision is agreed, the conversation should happen within six weeks of a request being made.*
- *The employee must be informed about the context of the meeting in advance to allow them to prepare for it.*
- *A person with the authority to make a decision about flexible working arrangements must attend the meeting. This could be the employee's line manager, or it may be a different member of staff. They will be referred to as the decision maker for the purposes of the requirement to consult.*
- *The decision maker will be required to keep a record of the discussion during the meeting.*

Question 19: How much advance notice do you think an employee should receive before the meeting is held?

- a) 1 day
- b) 3 days
- c) 1 week

d) Other, specify:

- e) The requirement should be to give fair notice, accounting for ways of working within the organisation
- f) No minimum notice should be required
- g) Do not know

We believe the employee should be given 10 working days' notice of a meeting being held. This gives enough time for the employee to prepare for a meeting and leaves sufficient time after the meeting for the final decision of the request, including any appeal, to be finalised within the two months. We believe that 10 days gives employees enough time to prepare when they may be juggling work, caring and other responsibilities.

10 working days would also ensure that the employee could be accompanied to the meeting by a union representative (more information on the need to be accompanied is provided below). Without enough notice, there is a risk that employees are being rushed into a meeting, which could be their only chance at meaningful consultation, alone and with no time to prepare.

Question 20: Do you agree with the proposed requirements for setting up the meeting?

Partly, explained below

Question 21: What do you think the requirements for setting up the meeting should be?

Timeline of meeting

We believe the conversation should happen sooner than 6 weeks after the request has been made. This is because a meeting at 6 weeks leaves very little time before the two-month deadline for any follow up discussion, the final decision to be communicated and for an appeal to take place. The employee should receive 10 days' notice, and the meeting should happen within four weeks of the request being made.

The Acas model policy for flexible working requests states that employers should hold a meeting within 10 days of the request demonstrating that it is reasonable for employers to be asked to hold meetings within four weeks. We would also strongly recommend that employers are required in policies to set out the timeframes for dealing with a request, including an appeal process to ensure the decision is taken within the two months. An example timeline could be provided in the Acas Code accompanying guidance.

Employees may be making the requests in relation to time pressured situations for example childcare arrangements. Unions in our education sector have told us that sticking to the 2-month timeline is essential due to the strict notice periods for teachers as many will have to leave work should a request be rejected.

Right to appeal

The suggested consultation requirements do not include the right to appeal. This is fundamental to a fair process and already included in the Acas Code. It is best practice

is that all employers, regardless of size of organisation, should be required to have appeals conducted by a person not previously involved with a request to ensure impartiality and build employee trust in the process. Appeals also reduce the chances of requests reaching dispute as it provides an additional internal process to ensure legislation and workplace policy have been followed correctly. Therefore, an appeal must be included in the required consultation process and this needs to be factored in when creating timelines for the first consultation meeting.

Appeals are preferred over moving straight to a grievance procedure given they would be heard within the 2-month timeframe and if the consultation steps are not followed correctly, an employee would need a timely route to address this. Additionally, employees may be reluctant to raise a grievance because it might be seen as a serious complaint about an employer's behaviour, perhaps as the first step in what might ultimately become a legal process³⁹, rather than a disagreement over a specific decision that can be resolved. Many workers may also fear negative repercussions, such as detriment or unfair treatment. Having an appeals process could also reduce grievances and future litigation.

Informed of context prior to meeting

We agree that the employee should be informed of the context of the meeting in advance as this supports a transparent process and allows employees time to prepare.

We believe that employers should hold a meeting with employees even if they plan to accept the request. Good communication and understanding between line manager and employee are essential for effective flexible working, which a meeting could enable.

Topics for discussion could include whether a review period is needed, the process for contractual changes, if amendments to workload are needed, if amendments to team communication are needed e.g. if team meetings are scheduled to take place at a time the person can no longer make, conversations about access to training or if any other changes to team or individual working styles are needed.

This meeting could help counter some of the disadvantages that flexible workers experience, including but not limited to, overwork, isolation and lack of access to progression and development.

FDA research in 2019⁴⁰ found that part-time workers reported receiving no adjustment in their workload and 40 per cent of part-time women felt that flexible working had a negative impact on their career progression/performance weighting. If implemented well, these disadvantages can be avoided.

Employers should advise employees ahead of the meeting that the request has been accepted to ensure transparency in the process and put employee's minds at ease.

³⁹ Working Families (24 November 2025). "Grievances do more harm than good"
<https://workingfamilies.org.uk/news-events/blogs/grievances-do-more-harm-than-good/>

⁴⁰ <https://www.fda.org.uk/home/Getinvolved/flexible-working-civil-service-making-reality.aspx>

Employers should also let the employee know in advance what will be discussed in the meeting so they can prepare sufficiently and make additional suggestions.

Decision maker in the room

We strongly agree that the decision maker should be present at the meeting. Our unions report that a common cause for delay and rejection is the right person not being available and as our polling shows, despite this being in the Acas Code, too many employers are not ensuring this takes place. Having the correct decision maker in the room ensures the process is substantive and meaningful rather than a tick box exercise and that issues raised can be dealt with during the meeting.

Written record of meeting

We agree that the decision maker should keep a written record of the discussion and that this must be shared with the employee as soon as possible. We believe a written record of any meetings regarding flexible working should be provided even if the decision is to accept the request to ensure transparency.

Right to be accompanied

In addition, the requirements for setting up a meeting should include the right to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union at all meetings in relation to flexible working requests, including an appeal, and should mirror the right to be accompanied s10 legislation in the Employment Rights Act 1999 for consistency. This is in line with the Acas Code and is best practice.

The Post-Implementation Review (PIR) of the Flexible Working Regulations 2014⁴¹ stated that take-up of flexible working was greater among workplaces with a recognised union than the economy overall. The review also stated that employers that reported any employees that were members of a trade union or independent staff association (60 per cent) were more likely to be aware of the extension in eligibility of the right to request flexible working than employers that had no employees that were members of a union (39 per cent).

As we can see unions play an important role in increasing access to and raising awareness of flexible working. A union rep has access to training and guidance on flexible working that individual employees may not. Access to this can support the employee to submit a clear request, a request that is in line with the law and workplace policies and think through all the potential impacts the request may have on the employee and employer.

⁴¹ https://www.legislation.gov.uk/ukxi/2014/1398/pdfs/uksiod_20141398_en.pdf

Union reps can support someone to prepare their request and for the meeting, which is important given that many will feel nervous approaching managers, are not used to making formal requests, may not be familiar with legislation or workplace policies and may be worried about submitting a request due to the stigma still surrounding flexible working. In ensuring that the process is correctly followed, union reps also play an important role in ensuring that requests are resolved early without having to go through grievance or tribunal processes. This structured approach is of benefit to the employer who will have a clear basis with which to engage with the worker. Acas' response to its consultation on the draft Code of Practice on handling requests for flexible working in 2024 also highlights the positives of this for both employee and employer.⁴²

During a meeting a rep can also take notes on behalf of the employee and ask clarifying questions if anything is not clear.

It is essential that companions can be a rep, officer or fellow worker so that those in workplaces without union reps still benefit from this. Employees should be allowed to have companion at all meetings related to a flexible working request including consultation and appeals.

During the meeting

The meeting must allow for sufficient discussion of the request and any potential alternatives

- *The decision-maker must clarify whether the employee would like the proposed request to be considered as a reasonable adjustment in accordance with the Equality Act 2010.*

Identifying challenges and problem solving:

- *The decision-maker must clearly communicate any challenges they identify with the original request. They must explain why they feel that it would not be feasible to accommodate the request, or why the request is not reasonable, referring to the relevant business reason(s).*
- *The decision-maker must consider whether there might be ways to navigate these challenges and accommodate the request.*
- *For example, if the proposed start date of the flexible working arrangement is incompatible with business needs according to a relevant business reason, the employer must consider whether a different start date may be feasible and discuss this with the employee.*
- *If the potential impacts of a new arrangement are unclear, an employer and employee could choose to trial it for a fixed period of time.*

⁴² <https://www.acas.org.uk/about-us/acas-consultations/code-of-practice-flexible-working-requests-2023/response>

Exploring alternatives: if the original request cannot be feasibly accommodated, the employer and employee must consider whether there are feasible alternative arrangement(s). As with other requests, employers can only reject proposed alternative arrangements where a relevant business reason applies. Employers must record the outcome of this discussion and communicate this with the employee.

Question 22: In your view, which of the elements set out in the suggested process above should be part of the meeting between a decision maker and employee about a statutory flexible working request? Select all that apply.

- a) Asking if the employee would like the request to be considered as a reasonable adjustment, in accordance with the Equality Act 2010
- b) Discussing any challenges in accommodating the original request
- c) Exploring alternative start dates for the proposed request
- d) Considering alternative arrangements that could be accommodated
- e) Discussing the option of a trial period
- f) Other, - see below for answer**

Asking if the employee would like the request to be considered as a reasonable adjustment, in accordance with the Equality Act 2010

There is widespread recognition of the role that flexibility in hours and location can play in ensuring disabled workers are able to access and stay in work; reducing the disability employment gap and disability pay gap.⁴³ Widening access to and normalising flexible working would ensure workplaces are flexible by default and reduce the stigma and discrimination that many disabled people face when requesting flexibility in hours or work location.

Disabled workers have a different set of rights, and access changes to hours or location through the reasonable adjustment provisions set out in the Equality Act 2010. Employers must make sure they are treating such requests under the correct area of legislation. TUC affiliated unions tell us that it is common for employers to treat

⁴³ <https://www.lancaster.ac.uk/work-foundation/publications/breaking-down-barriers/>; <https://www.tuc.org.uk/research-analysis/reports/disabled-workers-access-flexible-working-reasonable-adjustment/>; <https://www.tuc.org.uk/research-analysis/reports/workers-experience-long-covid/>; <https://www.kcl.ac.uk/csmh/assets/2025/39-steps-flex-plus-working-disability-inclusion-report-2025.pdf>

reasonable adjustment requests as flexible working requests and thus use the wrong legislation to determine the outcome.

We are concerned that asking an employee during the meeting if their request should be considered a reasonable adjustment is too late and if discussed in this meeting, it will still be reviewed as part of a flexible working process not a reasonable adjustment process. This should happen before a meeting takes place to ensure to make sure both employee and employer come to the meeting knowing what legislation and workplace policy their request is being discussed under and so they are able to prepare. Asking in the meeting undermines the first aim of the consultation process; that 'the employee must be informed about the context of the meeting in advance to allow them to prepare for it'.

In addition, employer confidence on reasonable adjustments is low, therefore, if it were raised at the meeting, there is risk that a reasonable adjustment will still be considered under flexible working legislation and a conflation of the two continues.

Finally, early identification of this issue reduces the chance for dispute later in the process.

Discussing any challenges in accommodating the original request

Looking at the following wording: 'The decision maker must clearly communicate any challenges they identify with the original request. They must explain why they feel that it would not be feasible to accommodate the request, or why the request is not reasonable, referring to the relevant business reason(s). The decision-maker must consider whether there might be ways to navigate these challenges and accommodate the request.'

We believe this should be reframed to emphasise finding resolution to challenges to accept the original request in the first instance. In addition, we believe that employers should be required to provide evidence for the challenges. As our polling shows of those who had requests rejected only a third (36 per cent) felt the decision was fully explained and 31 per cent didn't understand the reasons for rejecting the decision or only understood to a small extent.⁴⁴ Unions have also told us that employers often state a challenge with no evidence to back up the explanation meaning it is very difficult to navigate and overcome. Having to provide explanation and evidence makes it harder for employers who are culturally against flexible working to simply state a business reason as a challenge.

⁴⁴ Opinion polling on behalf of the TUC. Representative of the UK working population (18+), excluding full-time students. Weights have been applied on age interlocked with gender and highest qualification, region, ethnicity, full-time and part-time working, and employee and self-employed employment. Targets based on estimates from the Annual Population Survey (October 2024-September 2025); highest qualification targets based from the 2021 and 2022 census. Sample size 3,000. Fieldwork dates: 2-12 January 2026.

Exploring alternative start dates for the proposed request

Yes, we believe different start dates is a potential alternative that could be considered in the meeting if the original request cannot be agreed to. However, if the employee has a hard start date for example childcare or caring appointments, the employer should work with them to navigate this and ensure the employee does not experience unfavourable treatment for example having to take unpaid leave.

Considering alternative arrangements that could be accommodated

Yes, but as stated this should be after they have exhausted options to accept the original request. Alternatives must also be developed with the employee to ensure they are reasonable. Again, a trade union rep will have much experience in dealing with flexible working requests and ideas for possible alternatives. Therefore, employees should have the right to be accompanied.

Without these three steps, we are concerned that alternatives proposed by employers could be unworkable or that a common alternative offered by employers could be part time work. For many workers part-time work is the flexibility they need but a lack of other forms of flexible working currently forces some workers, mainly women with caring commitments, into part-time roles, reducing their earnings and future pension. Women's overrepresentation in part-time work is a significant factor in the gender pay and pension gap.

Discussing the option of a trial period

Yes, we agree a trial period can be an important element as part of a consultation process.

Communicating Outcomes in Writing

Currently, employers are required to notify employees of the outcome of their flexible working request. Under the new proposals, employers would also be required to provide written notification of both:

- *The outcome of the meeting: a summary of what was discussed and any conclusions or next steps agreed during the meeting between the employer and employee about the flexible working request (for example, whether alternative arrangements were explored, or if a trial period was agreed).*
- *The outcome of the request: the final decision made by the employer about the flexible working request (for example, whether the request was approved, rejected, or if an alternative arrangement was formally agreed).*

Question 23: Do you agree that employers should be required to communicate the outcome of the meeting, as well as the outcome of the statutory request, in writing?

a) Yes

b) No

c) Do not know

The employer should also be required to provide explanation and evidence in writing with the outcome to demonstrate that any decision to reject is reasonable. Evidence will be an important factor for employees to understand decisions, can help provide clarity on any disagreements and help employees reach informed decisions about whether to consider an appeal, grievance or in some cases a tribunal and potentially reduce the chance of having to pursue further proceedings.

In addition, written outcomes should be communicated in a timely manner to ensure an appeal process can take place within the two months if needed.

Question 27: Do you have any further thoughts or suggestions on the process for the requirement to consult outlined above?

The importance of collective agreements on flexible working

The TUC welcomes the government's strengthening of statutory process. We believe that greater requirements on the duty to consult are needed to ensure that statutory requests are followed consistently and dealt with thoroughly, with a view to more being accepted. We are aware that employees are often encouraged to make informal flexible working requests. This comes with risk to employees that arrangements could be withdrawn when new managers come in, revoked at short notice and it risks discrimination, unfair practice and unequal access as informal arrangements are often based on a worker's relationship with their line manager, a line manager's view of flexible working and an employee's 'status' within an organisation. The best way for employers to reduce the number of formal flexible working requests being made, manage ad hoc requests for flexible working and to ensure a positive culture towards flexible working is to have collective agreements and policies such as flexible working, paid carers leave, disability leave, parental leave, domestic abuse leave, flexi-time and hybrid or remote working policies. These should be negotiated with the recognised trade union.

Right to appeal and right to be accompanied

The process for consultation should more closely mirror the current Acas Code. Embedding these into the statutory framework will ensure more consistent application and avoid confusion over what the requirements of employers are. In particular, the statutory framework should include a right to be accompanied to a meeting and a right to appeal. Both the right to appeal and right to be accompanied are fundamental to a fair process and both will help to reduce the chances of disputes.

Part three: Training, resources and support

Question 31. If you would like to see additional guidance for employers on flexible working, what format do you think this should take? This could include guidance on statutory or informal requests. Select all that apply.

- a) Guidance on handling specific types of requests, for example on compressed hours or remote working
- b) Guidance for specific sectors, such as hospitality or logistics
- c) Guidance for specific ways of working, for example people working shift patterns
- d) Case study examples
- e) Visual aids, such as flow charts setting out steps to follow in handling requests
- f) Additional written guidance
- g) Video clips with short explainers
- h) Webinars
- i) I do not think additional guidance is needed
- j) Other formats, specify:** _____

We believe that additional guidance for employers should be in the Acas Code of Practice, in statutory guidance or set out in legislation. The steps to consult must be part of legislation and breach of these grounds to take an Employment Tribunal claim. The process for responding to flexible working requests outlined in this response should form part of the Acas Code. Therefore, the Employment Tribunal would have the power to increase compensation by 25 per cent if there has been a failure to comply with the code of practice by the employer.

As outlined below the Code should also include information on supporting mums returning from maternity leave. In addition, we believe that that the Code should include a checklist so employers can demonstrate they have followed the required steps when dealing with a statutory request.

Our unions report and our polling shows that too many employers are still failing to comply with legislation and follow the Acas Code. Therefore, we believe that penalties at tribunal need to be increased to incentivise employers to follow these. Please see our answer to question 36.

In addition to guidance to ensure compliance with new legislation and compassionate responses to flexible working, training managers in how to deal with requests fairly and

effectively is also needed. Guidance should also promote the need to design flexible working policies in consultation with recognised trade unions. Example case studies from across sectors and example policies, including suggested detailed timelines, for employers could be in non-statutory guidance, for example Acas have a policy template.

Stronger protections for new mothers

TUC polling shows that a lack of flexible working coming back from maternity leave is one of the primary factors forcing new mothers to leave the workforce. Unions also share that this is one of the biggest problems when it comes to denial of flexible working requests. We believe the best way to tackle this is a right to flexible working rather than a right to request for all workers and an advertising duty as outlined below. However, the government can take immediate action to strengthen protections for new parents.

Any guidance on flexible working, including the Acas Code and new statutory guidance should include that rejection of a flexible working request of a woman returning from maternity leave could amount to indirect sex discrimination and should link to EHRC guidance.⁴⁵ The Acas Code and statutory guidance should highlight that flexibility for new mothers could include phased returns, flexitime, part time work and other forms of flexible working to support wellbeing and retention. In addition, it should be included that a refusal of a man's request for flexible work may also be indirect sex discrimination or direct sex discrimination, if a woman in similar circumstances has been offered flexible work as outlined in the EHRC guidance. Research indicates that Acas is one of the most popular areas for employers to find guidance on flexible working, demonstrating the importance of having equality guidance built into the Code and statutory guidance.⁴⁶

In addition, it should highlight that flexible working can be an important risk mitigation method when assessing the risks to pregnant women and new mums and to support breastfeeding mothers. The Management of Health and Safety at Work Regulations 1999 requires employers to protect the health and safety of new and expectant mums.

Employers should also be encouraged to have proactive and positive conversations on keep in touch days around the option to request flexible working if the new parent needs it. This should be done without assuming they will want to change their working pattern or reduce their hours. As outlined in EHRC guidance, employers should not suggest that if new mums want to reduce their hours, they will have to move to another job, or disadvantage them in any other way.

⁴⁵ <https://www.equalityhumanrights.com/guidance/pregnancy-adoption-and-maternity-return-work>

⁴⁶ Department for Business and Trade. 2023. *Findings from the Management and Wellbeing Practices Survey*.

In addition, the new mandatory gender pay gap action plans are an opportunity to encourage employers to improve access to flexible working and information could be included here.

Sectoral guidance on flexible working should include information about indirect sex discrimination and the importance of flexible working for new mums, particularly those sectors where access to flexible working has been more difficult.

Finally, the current UK framework provides too much scope for discrimination against pregnant women and new mothers during a period when women are particularly vulnerable and more support and flexibility are required.

As outlined in our response to the consultation on enhanced dismissal protections for pregnant women and new mothers, we believe there should be limited scope for dismissal of pregnant women and new mothers, for example in exceptional circumstances such as gross misconduct or business closure. Further, before any such dismissal employers should have fulfilled all their wider legal obligations (for example individual risk assessments and subsequent adjustments, consideration of flexible working requests) and followed due processes and provide evidence to that effect before moving to dismissal procedures. On flexible working, this should include looking at whether a flexible working request was made, were the right processes followed and what was the outcome of the request.

Question 36: Which, if any, of the following ways to address barriers to flexible working do you think we should explore further over the years ahead? Select all that apply.

- a) Encouraging organisations to communicate their approaches to flexible working with candidates
- b) Improving enforcement of the right to request flexible working
- c) Improving employee awareness about different arrangements
- d) Improving employer awareness about different arrangements
- e) **Something else, specify:** _____

We welcome the provisions in the Employment Rights Act and the steps taken to improve access to flexible working, as well as points a-d (in particular b) above but they will be insufficient to make flexible working the default. Whilst legislation is rooted in a right to request framework, we do not believe that access to flexible working will significantly shift. We believe the following changes are needed to address the barriers to flexible working, tackle some of the downsides of flexible working and ensure employees are aware of their rights.

Advertising duty

We believe the government should introduce a duty on employers to publish the flexible working options that are possible in a role in job adverts and give workers the right to take up the advertised flexibility from day one. If employers feel that a role cannot accommodate any form of flexibility, they should be required to transparently set out the reasons that justify this.

A TUC survey of working mums⁴⁷ shows the popularity of this approach, 99 per cent of those who responded believed the government should implement this policy and 99 per cent also stated they would be more likely to apply for a job if it included the types of flexible working available in the job advert. TUC polling in January 2026 also found that 62 per cent of respondents said they more likely to apply for a job if flexible working was included in job advert, rising to 68 per cent of women, 68 per cent of 18–34-year-olds and 73 per cent of parents with children under the age of seven.

The practical and legal steps to this policy should be as follows:

- When employers recruit to a post they would have a legal duty to consider which flexible working arrangements are available in the role and publish these in the job advertisement.
- If an employer considers that no flexible working arrangements are appropriate for the new role, they should set out that no form of flexible working is suitable in the job advert and why.
- All roles should be deemed suitable for flexible working unless it can be shown that the unavailability of flexible working is a proportionate means of achieving a legitimate aim. Flexible working legislation would reflect objective justification as set out in the Equality Act 2010.
- The new post-holder would have a day one right to take up the flexible working arrangements that have been advertised.
- Where there is a union, the review of what flexible working options in each job role should be done with union representatives and in line with collective bargaining structures.

Polling of HR managers⁴⁸, conducted for the TUC by YouGov⁴⁹, reveals that this process would be easy for most employers to follow. Around six in ten (59 per cent) of HR managers polled said it would be easy to include specific information about the types

⁴⁷ <https://www.tuc.org.uk/research-analysis/reports/denied-and-discriminated-against>

⁴⁸ <https://www.tuc.org.uk/news/tuc-poll-seven-10-hr-managers-support-greater-flexible-working-their-workplace>

⁴⁹ YouGov conducted an online survey of 903 HR managers between 11-25 November 2021. Total sample size was 903 adults. Fieldwork was undertaken between 11th - 25th November 2021. The survey was carried out online. The figures have been weighted and are representative of all HR DMs.

of hours-based flexible working arrangements available in each job advert, or they already do this. This rose to 62 per cent of HR managers when asked about home or remote working.

In order put flexible working options in job adverts, companies would need to identify the types of flexible working that are possible in a job before advertising. Over three quarters (78 per cent) of HR managers polled said this would be easy to do for home or remote working, or that they do it already. Almost two thirds (62 per cent) of those polled said this would be easy to do for hours-based flexible working arrangements, or that they already do this.

These figures were not significantly different for HR managers from SMEs (1 to 249 employees):

- 59 per cent said it would be easy to include specific information about the types of hours-based flexible working arrangements available in each job advert, or they already do this. This rose to 61 per cent when asked about home or remote working.
- 63 per cent of those polled said this would be easy to identify the types of hours-based flexible working arrangements, that are possible in a job before advertising, or that they already do this. This rose to 75 per cent of respondents when asked about home or remote working.

A survey of union reps by the TUC found that just under half of reps (48 per cent) with a collective agreement on flexible working said their agreement requires the employer to advertise at least some jobs as open to flexible working.⁵⁰

As well as being easy for most employers to implement, we believe that the duty to publish specific flexible working options in an advert or set out why flexible working cannot be accommodated in line with the above would also not be complicated to enforce. We propose that responsibility for enforcement sit with the EHRC and would envisage the enforcement approach reflecting that taken by the Commission in relation to pre-employment health questionnaires or discriminatory advertisements. The EHRC is currently solely responsible for dealing with enforcement in relation to both pre-employment health questions (s60 Equality Act 2010) and publication of discriminatory adverts.⁵¹ In relation to discriminatory adverts the EHRC sets out its approach in a series of publications.⁵² Upon receipt of a complaint, the EHRC assess the content and context of the advert along with any correspondence between the advertiser/publisher and complainant. They may then write to the advertiser and/or publisher to ask what their justification is for the advert. If the Commission receives a reliable justification or an assurance that it was an error and will not happen again, they close the complaint.

⁵⁰ <https://www.tuc.org.uk/EqualityAudit2021>

⁵¹ See s54(3) https://www.legislation.gov.uk/ukpga/2006/3/pdfs/ukpga_20060003_en.pdf

⁵² <https://www.equalityhumanrights.com/en/publication-download/what-equality-law-means-advertisers-and-publishers>

However, if a satisfactory assurance is not received, the Commission considers whether taking further steps, such as enforcement action, might be of significant public benefit.

As the Commission itself highlights, this balanced and proportionate approach means that most complaints in relation to discriminatory adverts are resolved without taking formal action. A similar approach is adopted in relation to pre-employment health questions. The enforcement of a duty to publish flexible working options in job adverts is unlikely to take up more resource for the EHRC than that allocated to their work on unlawful advertisements as this is far wider in scope, covering not only job advertisements but also advertisements for goods, facilities and services and accommodation.

We believe however that the EHRC should be given additional, ringfenced funding to drive employer compliance in the first two years of a new advertising duty.

To ensure individuals are aware of their rights, changes to legislation should be accompanied by a public messaging campaign, so individuals would have a better understanding of when to report advertisements.

In the case of a failure of an employer to offer advertised flexibility to a successful candidate, the most appropriate route to redress would be through a claim in the Employment Tribunal.

Right to Flexible Working

To ensure those in jobs also have greater access to flexible working, there are wider areas that we would like to see the legislation strengthened to ensure a right to flexible working rather than a right to request.

- A day one right to request flexible working for all workers, not just employees. The government is committed to reviewing the issue of employment status and has stated that it intends to move towards a single status of worker. We urge the government to move quickly to undertake this work. The review should look closely at access to flexible working as part of the review. As it stands, workers are told by their employers that they are self-employed or limb-b workers and therefore denied these important rights. Yet, such workers are often heavily under the control of their employer, who will determine their shift patterns and hours of work, but have the same need for flexible working as other workers. A form of flexible working is having a mutually agreed set shift pattern. Any review should ensure that as many workers as possible are brought under the protection of employment law, including being given the right to have, or at the very least, the right to request flexible working.
- Workers should have a right to appeal and right to be accompanied to meetings. Unions have shared that many employers already have right to appeal and right to be accompanied demonstrating that these are not burdensome, and many employers find them helpful in managing flexible working requests.

- Employers should respond within one month of a request being submitted.
- Restrictions on the number of flexible working requests made removed, recognising there will be an albeit small number of workers will need to make requests more than twice a year. The NHS for example has already removed limits of the number of flexible working requests.⁵³
- We are concerned that keeping the eight business reasons to reject a flexible working request will mean that employers are still able to reject requests easily. Replacing these with criteria for rejection mirroring objective justification as set out in the Equality Act 2010 would be a fairer process.

Strengthen powers of Employment Tribunals

We also believe the remedies for flexible working fall short. Employment tribunals in claims regarding flexible working should be able to make recommendations to employers and the amount of compensation awarded should be increased. Our view is that it is not currently sufficiently high enough to act as a deterrent to employers, especially large employers, from refusing requests unreasonably or failing to follow the procedure. Increasing the compensation would incentivise all employers and only financially impact those employers found in breach of legislation at tribunal. Too many employers also fail to pay awards ordered by tribunals and the government should ensure that the Fair Work Agency is given the power and resources to ensure that workers receive what is due to them.

Role of trade unions

As noted above, trade unions are well placed to offer knowledge and expertise on rights and in engaging with employers constructively to reach agreement on flexible working requests. As highlighted in the response there is a lack of awareness of the right to request flexible working. Union reps are well placed to ensure that everyone in the workplace including the employer is aware of existing and new rights, that rights are upheld and that due processes are followed correctly.

The Employment Rights Act 2025 will give greater access rights to trade unions and will give equality reps statutory rights. Equality reps can ensure new and existing rights are understood and implemented, can support employers to implement good practice and help to monitor unintended consequences and resolving issues. We welcome the introduction of these important new rights in October. It should be made clear in any accompanying guidance that equality reps will play an important role in ensuring workers have access to flexible working.

⁵³ <https://www.england.nhs.uk/long-read/national-flexible-working-people-policy-framework/>

Monitoring of flexible working requests

We welcome the introduction of gender pay gap action plans and government commitments to legislate for mandatory ethnicity and disability pay gap reporting and action plans. The TUC has long called for pay gap reporting across the three protected characteristics and action plans to ensure employers have clear plans to reduce their pay gap. The current guidance on gender pay gap action plans by the government encourages employers to monitor uptake of flexible working and the protected characteristics of those that use it and advertise flexible working options as part of these action plans although neither are a requirement.

Greater access to good quality flexible working is important for reducing gender, disability and ethnicity pay gaps.

For action plans to have significant impact proposals must be ambitious and effectively enforced. Further, the TUC believes it is vital that employer action plans are based on data regarding what is driving an organisation's pay gap. This will enable employers to take the right measures for their organisation. We think that a core action must be to require employers to gather more and better data to understand the drivers of their pay gaps and what action they need to take to address them and include data on flexible working as part of this. This should include the take up of flexible working and the retention and progression rates of those staff who are affected by these decisions. Such monitoring would support employers to understand the barriers workers face and deliver transparent, equal and fair access to flexible working.

The following monitoring information should be reported:

1. the number of flexible working requests granted and rejected broken down by:
 - f) sex, age, ethnicity, disability and sexual orientation
 - g) whether the requests were formal or informal
 - h) whether the requests were time-limited or not
 - i) employment status (zero hours contract, agency worker, self-employed, freelancer, fixed term contract and permanent employee)
 - j) pay quartile
2. the proportion of jobs advertised as flexible and the proportion of flexible workers appointed
3. the number of appeals received, and their outcomes

The NHS Terms and Conditions handbook, section 33 provides an example of how mandatory flexible working reporting already works in practice.⁵⁴

⁵⁴ <https://www.nhsemployers.org/publications/tchandbook>

Right to disconnect

Flexible working should not mean work constantly bleeding into leisure time. Despite views that home workers are not as hard working, several studies have shown that when workers work from home, they tend to work harder and longer.⁵⁵

Polling by Prospect in April 2021⁵⁶ after the third UK lockdown, showed that whilst the majority of respondents (58 per cent) said home-based working had a positive impact on work-life balance, many were finding it difficult to switch off from work. 30 per cent of new remote workers reported working longer unpaid hours during the last year.

Across the economy, we have also seen a rise in work intensification, with 61 per cent of workers reporting feeling exhausted at the end of most working days.⁵⁷ New technologies have also blurred the boundaries between work and home. TUC polling of all workers found that 36 per cent of workers are spending more time outside of contracted hours reading, sending and answering emails compared to 12 months ago.⁵⁸

FDA research⁵⁹ in the senior civil service has found that an increase in remote working was identified by members as having the potential to lead to a blurring of the boundaries between work and home, an expectation of constant availability and an encouragement of digital presenteeism. While flexible working has the potential to improve work-life balance, an 'always on' culture, and the rise of 'on-demand' services requiring 'on-demand' workers, could lead to longer working hours.

The TUC continues to campaign for a 'right to switch off', as set out in Labour's manifesto. The government should bring in such a right, following similar models to those that are already in place in Ireland and Belgium. The government has committed to bringing in a statutory code of practice on the issue. The TUC urges ministers to move at pace to introduce the code while ensuring it is robust enough to safeguard workers from an "always on" culture.

⁵⁵ Mazmanian, M., Orlikowski, W. J., & Yates, J. (2013). The autonomy paradox: The implications of mobile email devices for knowledge professionals. *Organization Science*, 24(5), 1337-1357. , Glass, J. L., & Noonan, M. C. (2016). Telecommuting and Earnings Trajectories Among American Women and Men 1989-2008. *Social Forces*, 95(1), 217-250. , Lott, Y., & Chung, H. (2016). Gender discrepancies in the outcomes of schedule control on overtime hours and income in Germany. *European Sociological Review*, 32(6), 752-765. Taylor, P; Scholarios, D; Howcroft, D. "Covid-19 and Working from Home Survey Preliminary Findings".

⁵⁶ <https://library.prospect.org.uk/id/2021/00381?display=authoritypdf&revision=1>

⁵⁷ <https://www.tuc.org.uk/research-analysis/reports/work-intensification>

⁵⁸ Ibid

⁵⁹ <https://www.fda.org.uk/home/Getinvolved/flexible-working-civil-service-making-reality>