



WHO'S LOOKING AFTER THE CHILDREN?

A trade union guide
to negotiating childcare



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FOREWORD

Brendan Barber



The TUC has been campaigning for accessible, quality, affordable childcare for more than thirty years. Parents are an essential part of the workforce, but their ability to contribute fully is in part determined by the support they get in caring for their children. Many working parents still find it hard to access the support they need to enable them to meet their work and family commitments.

Children need the best start in life that society can offer and at the heart of the TUC's work on childcare is the question 'what is best for children?' Working parents need support too in being able to balance their work and home commitments, and have choice over their working hours. It is our belief that trade unions and employers can play an important role in providing or subsidising childcare places, or helping parents meet the costs of childcare. Trade unions can take a lead in negotiating with employers on childcare, and there are many examples of trade unions nationally, regionally or at branch and company level successfully negotiating a range of different childcare provisions.

Increasing numbers of working people today have not only childcare responsibilities but also caring commitments for dependent adults. Family-friendly workplace policies and procedures, including flexible working and carers' leave, are increasingly part of the mainstream benefits that employers offer – especially larger employers and those with concerns over recruitment and retention. Trade unionists have been central to this change in workplace practices, but workers still need their trade union to continue to negotiate these rights in the workplace.

This guide is designed to help trade unionists to negotiate for childcare and wider workplace support that enables working people genuinely to balance their work and family commitments.

Brendan Barber, General Secretary, TUC

FOREWORD

Lisa Harker



Over the last few years, great strides have been taken to advance Britain's childcare system. There has been more investment in services and plans for further improvements under the Government's ten-year childcare strategy. Yet Britain still lags behind other countries in terms of the amount, cost and quality of childcare available to parents. We are a long way from the Daycare Trust's vision of good-quality, affordable childcare for all.

That vision will only become reality if central and local government, employers and providers work together to achieve change. Childcare is everyone's business. And the benefits will be shared by all. Good, affordable childcare supports children's development, helps parents to work, creates stable and productive workforces and builds ties across communities.

Trade union negotiators are often in a position to make change happen by understanding and representing employees' needs and working with employers to find solutions to the challenges of balancing work and family life. By offering advice and

inspiration, this guide will help to make that process easier.

Twenty years ago Daycare Trust was established with support from trade unions. We have enjoyed working with the trade union movement over the years and look forward to continuing our productive collaboration in the years to come in order to achieve good, affordable childcare services for all.

Lisa Harker, Chair, Daycare Trust

INTRODUCTION

Since the TUC published its last guide for negotiators on childcare in 1996 the childcare landscape has changed dramatically. A greater understanding of the needs of working parents, along with the steady increase in the numbers of mothers returning to work, has seen substantial investment in childcare since 1998. Childcare tax credit, free hours of care for three and four-year-olds, huge investment in and expansion of Children's Centres, and the extended schools scheme have all made a significant difference to many parents and children.

Availability and cost of childcare are two of the main barriers to parents accessing childcare. Employers can play an important role in providing or subsidising childcare places, or helping parents meet the costs of childcare. Negotiating for childcare can also help with the trade union organising agenda, both in helping to recruit in workplaces where the trade union is seen to respond actively to the needs of the workforce and also, in some cases, organising the childcare workforce.

Trade unions have a vital role to play in ensuring that working parents have access to the childcare support and wider family-friendly policies and practices that they need to enable

them to do their jobs effectively. However, negotiating for childcare alongside wider family-friendly rights in the workplace can be time-consuming and complicated for trade union representatives, especially those taking up the subject for the first time.

This guide is aimed at trade union reps and negotiators and is designed to make the process easier by establishing some of the steps that union reps can take to determine and build support for childcare and family-friendly policies in the workplace; and by setting out some of the options which unions could consider when approaching employers about childcare in particular workplaces.

The guide is divided into three sections:



**STAGE 1: FIRST STEPS -
GATHERING INFORMATION**

**STAGE 2: LEARNING TO WALK
- PREPARING YOUR CLAIM**

**STAGE 3: LEARNING TO RUN
- MAKING YOUR CLAIM**



STAGE 1: FIRST STEPS – GATHERING INFORMATION

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FIRST STEPS – GATHERING INFORMATION

Consult the membership

As with any form of trade union negotiating, preparing the arguments and the financial case for assistance with childcare from the employer is essential in order to ensure success in the campaign. In order to assess the need for childcare in the workplace, the employees will need to be fully consulted.

It is important that you build support in your workplace for childcare and family-friendly policies. You could do this through gaining support from the local branch; and through your workplace trade union meetings.

can attend: think about the location of the meeting and also the time that it is held. Holding a meeting in the evening will probably exclude the very people that you are trying to reach out to – parents or people with caring responsibilities. You might also find it helpful to hold more than one meeting on this issue, to capture those people who work part time or are only in the office on certain days of the week. Involving people in meetings allows them to ask questions and seek clarification on points, which is more difficult to do through other means.

In addition you may find it helps to post requests for views from members on workplace

Organise meetings

Organising meetings to discuss a particular issue is a useful method both for gathering views and opinions and developing policies and campaigns. It may therefore be helpful to organise one on childcare. However, meetings will often attract people who are used to going to meetings or who can fit a meeting into their working day. Make sure that you organise the meeting so that the maximum number of people



1PM
LUNCHTIME
MEETING IN
STAFF CANTEEN



notice boards, via email and via the intranet if your workplace has one. This may also provide members with an opportunity to air their views and also provide you with an opportunity to manage people's expectations. Even the smallest victories can be hard-won and members need to be made aware that they may not get everything they want.

Use the web

Most trade unions have websites, and it may be that policies that have been agreed by your union with employers around the country on childcare and family-friendly policies are published on the website, to allow other members in other parts of the country to have access to these success stories.

You might also find it helpful to identify what other trade unions are doing in this area, especially if a workplace recognises more than one trade union. As with all aspects of trade union negotiating, a joint effort will increase the chances of negotiating the best deal for everyone.

You could also ensure that your union provides links from its website (both nationally and regionally) to the Childcare Link website to aid members further.

Website: www.childcarelink.gov.uk National information line **08000 96 02 96**.

There are also some organisations that offer support to those providing childcare, including employers. Organisations such as the National Childminding Association, the Pre-School Learning Alliance, 4Children (formerly Kids Clubs Network) and the Daycare Trust all provide information on services that are available for parents. You can publish links to these organisations' websites, or provide the contact details of these organisations in union handbooks and on workplace trade union notice boards.

You should make sure that the information you give your members provides details about holiday schemes and childcare provision at either end of the school day, as well as that for pre-school children.





FIRST STEPS – GATHERING INFORMATION



Set up a steering group

Depending on the size of the workplace, it may be worth establishing a steering group that could take collective responsibility for constructing the case for the employer providing childcare support. This group will then be responsible for assessing the need and developing the argument for appropriate care provision. The other advantage of having a steering group is that the more people who are responsible for developing the case for childcare support, the more people there are to answer members' questions on the issue.

Distribute a survey

One of the best ways of assessing the level of demand for childcare, and the type of support that parents want, is by organising and distributing a survey for members to complete. A sample questionnaire is provided in Appendix A at the back of this guide.

It is important to ask about future needs rather than just current ones, as negotiating for childcare and family-friendly policies, as well as establishing the agreed support, can

take some time and parents are often reluctant to move children who are happily settled with a familiar carer. The survey should aim to find out:

- What kinds of childcare provision employees already use, and what kind they would like to use, for example:
 - nursery
 - after school club
 - holiday playscheme
 - friends and relatives
 - childminders
 - expansion of the current scheme if there is already an on-site nursery of some kind
 - extension of the opening hours of the current site provision
 - financial assistance such as childcare vouchers or a childcare allowance to help meet the costs of childcare.
- The hours for which they currently have childcare, and what hours they think they would need in the future.
- Where their childcare is currently based and where they would ideally like their childcare provision to be based (for example, near their homes, or near their workplace).



- The number of children and their ages. (As it can take time to negotiate childcare arrangements, it is worth remembering that these children might be older if and when any childcare support is agreed and implemented.)
- The approximate costs that parents currently pay for childcare.

You could also use the survey to:

- Ascertain what other caring responsibilities the workforce has. Increasingly people are caring for dependent relatives as well as children and this survey could help identify how many people in your workplace are doing this.
- Assess the demand for a more comprehensive package of wider family-friendly working hours, such as flexible working, annualised hours, job sharing and part-time working. All these measures can be organised to the benefit of both the employer and the employee.¹

THINGS TO INCLUDE IN YOUR SURVEY

What kinds of childcare provision employees already use, and what kind they would like to use. ☒

What hours they currently have childcare for, and what hours they think they would need in the future. ☒

Where their childcare is currently based and where they would ideally like their childcare provision to be based. ☒

The number of children and their ages. ☒

The approximate fees that parents currently pay for childcare. ☒

The results from the survey will help you to assess the level of demand for childcare, the type of childcare that parents would like to access – including the opening hours, the costs and the location – as well as the interest in other family-friendly options. One option need not rule out another, but can allow the union to negotiate a comprehensive childcare package.

This information will be useful when making the case to management.

¹ Many women in particular find that if they want to work part time, or reduce their hours, to respond to caring commitments, then they are often overlooked for promotion and in some circumstances actually demoted. If you find through the survey that there is a high demand for part-time or flexible working, then this would be a strong point to put to your employer and it might contribute to a positive change in the culture of the organisation.



FIRST STEPS – GATHERING INFORMATION

Gather background research

Your case to management will be further strengthened if you have made yourself aware of the current characteristics of the organisation, and if possible the wider world in which it operates. For example, you could familiarise yourself with views of what the organisation or company will look like in the future, including what kind of jobs are being created or, indeed, lost. It is also worth considering whom these jobs are likely to attract (for example, women, men, younger people or people who might have older children).

Your case to management will be further strengthened if you have made yourself aware of the current characteristics of the organisation, and if possible the wider world in which it operates

Most workplaces have a degree of staff turnover but in some it is much higher than in others – in some cases it may be a particular type of job which experiences high turnover or

the workplace has vacancies which are difficult to fill. It is important to be aware of where turnover of staff is high and where it is low, and to explore the reasons behind this. Perhaps childcare could be part of a package to help to recruit and retain staff in these jobs.

There is evidence that women are more likely to return to the same employer after maternity leave when that employer offers a more family-friendly working environment (for example, allowing women to alter their hours, working flexibly or part time, or offering some support towards the costs and provision of childcare). There are several costs associated with high turnover and poor staff retention, with some of these costs being easier to quantify than others. However, employers tend to be concerned about the financial costs to them of a high staff turnover and will look at such things as:

- pay for leave not taken
- recruitment advertising costs
- administration costs
- time used by HR managers and line managers
- overtime costs and temporary staff costs.



Employers might also consider the costs of training a new staff member, and while this is particularly true for those places that employ staff who require specific skills, it can also be expensive for an employer continually to lose ‘organisational’ knowledge. Therefore, as part of your research, you might find it helpful to familiarise yourself with the processes your employer has to undertake each time a staff member is lost. This might help build an understanding of how much it is costing the organisation.

You might find it helpful to find out how many women return after maternity leave, and their reasons for doing so or not. If there are very few, it might be worth trying to contact them to find out why they did not return. Some organisations offer ‘exit interviews’, which might provide the organisation, and the union, with useful data on why people are leaving – this could be brought into the equation once negotiations with the employer begin.

You may also find it helpful to look at the rates of sickness absence among staff. Although most parents have access to emergency time off to care for dependants, many parents do not

know about this right and in some cases the employer only gives the minimum, which is unpaid time off. You should assume that parents would prefer to be able to access formal leave-to-care arrangements rather than using sick leave. Studies into absenteeism among workers have also suggested that people will use sick leave to deal with family crises, such as a child off sick for a day. It may therefore be worth investigating the levels of absenteeism and ascertaining whether offering childcare support would help to deal with this issue. This is a clear area where trade unions should exercise their power and ensure that all their members are aware of the rights to time off that they are entitled to, and try to get the employer to give paid time off.

Childcare can be a constant problem for the many people who are employed to work shifts and ‘atypical’ hours (with typical hours being 8am–6pm) as it is very hard to find childcare providers during these hours. Many rely on friends and family, which might be their preference but it can also be unreliable and parents receive no support from government in terms of tax credits or childcare vouchers (see



FIRST STEPS – GATHERING INFORMATION

below) which can only be used to pay for formal childcare. You should ensure that you know how many people work these hours in your workplace so you can negotiate for them too.

It would be useful to consult colleagues in your own union and in other unions to see what has already been achieved in negotiating childcare. The public sector has often led the way in employer-provided childcare, and this is

Childcare can be a constant problem for the many people who are employed to work shifts and ‘atypical’ hours

often driven by the need to recruit and retain staff. There are also examples in the private sector – especially in large companies – of childcare support for the workforce.

You may also find it helpful to be briefed on what is available locally, including the cost and availability of places with different providers. This will help you to build your case with the employer: either by persuading the employer to establish an on-site nursery in the light of a

shortage of local provision, to buy places in local provision if that is more realistic or to build partnerships with other local employers to pool the childcare provision.

The local authority where your employer operates will have a Children’s Information Service, which should provide you with all the local information you need. If you need more information, you could contact the Early Years Development and Childcare Partnership (EYDCP) officer in the local authority. (For more explanation on local information see Stage 2: Learning to Walk – Preparing Your Claim below.)

Some people in your workplace may need to work late or arrive early, and others might need to work late shifts or night shifts. You should find out what local provision is like for people who work ‘atypical’ hours and also consider what support the employer could give these workers.



Review the family-friendly context

As well as investigating these options, you might also find that it helps to approach the employer about reviewing the working hours policy of the organisation, and ensure that it is 'family friendly'. The existence of family-friendly policies are often identified by employees as creating high-quality workplaces with lower levels of stress. Employers find that these policies will also engender commitment, motivation and work satisfaction from their workforce.² In part this will be because these workplaces recognise the diversity of people's lives: many people are caring for dependent adults and older children, as well as for young children. It can be very difficult to access formal affordable care in these cases, and a sympathetic and supportive employer can make a huge difference to these workers' lives.

Make the business case for good childcare

A number of organisations as well as the Government have tried to make employers aware of the business case of supporting those in their workforce with caring responsibilities. There is a body of evidence which shows that employers who offer specific leave options, combined with financial support for those with caring responsibilities, experience lower turnover of staff and better rates of recruitment. Tight labour markets mean that employers are looking for ways of ensuring that key staff are recruited and retained by their organisations. This is particularly true for women – as women's attachment to the labour market is often directly determined by the age of their youngest child, whereas men's attachment is in general not affected by the age of their children. You could look online for useful information on the business case for family-friendly policies. The TUC is constantly updating the information and useful case studies it provides on supporting trade unions and employers to develop policies to support a better work/life balance. This

² Material on work-life balance policies can be found on the TUC's website at www.tuc.org.uk/changingtimes. The Chartered Institute of Personnel Development also have some very good surveys and reports on flexible working practices at www.cipd.co.uk



FIRST STEPS – GATHERING INFORMATION

information can be found on the TUC's Changing Times website www.tuc.org.uk/changingtimes. Several organisations listed at the back of this guide also provide information that you might find useful when developing your case.

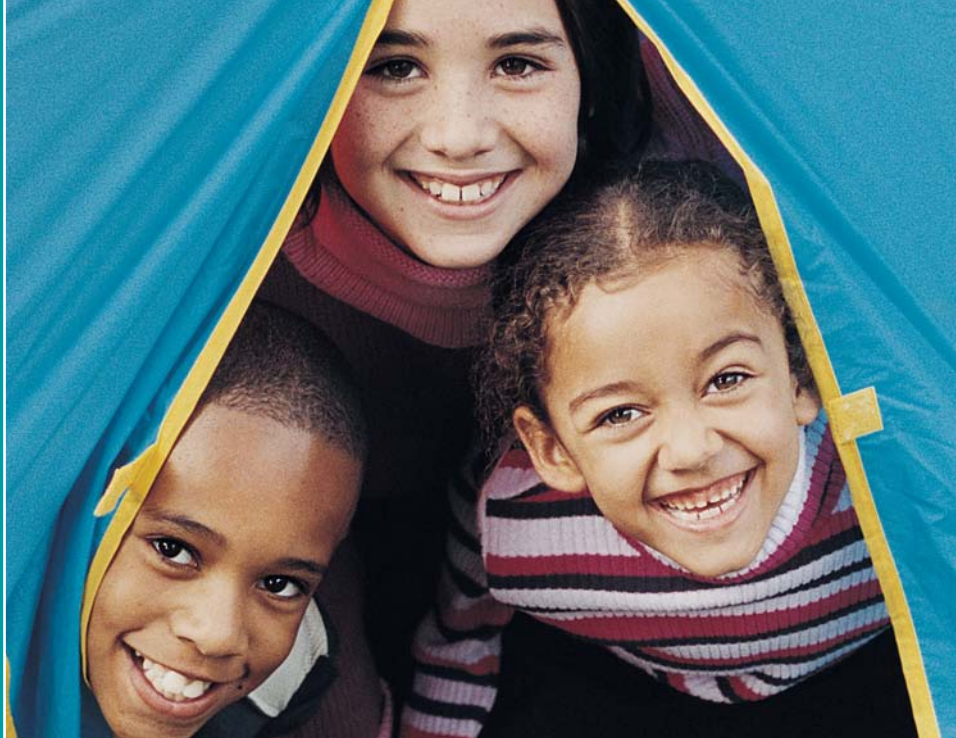
There is a body of evidence which shows that employers who offer specific leave options, combined with financial support for those with caring responsibilities, experience lower turnover of staff and better rates of recruitment

The TUC supports the view that a clear business case made to employers would help as part of wider arguments for encouraging employers to provide childcare assistance to their workforce. However, it is vital that this is not seen as a perk that is just given to those who are in key jobs, which are hard to recruit or retain workers in. There are some jobs for which, for a number of reasons, there is no shortage of workers but the people employed in these jobs

have just the same family commitments (and difficulties) as others. Trade unions have long argued that it is vital to support all families in their efforts to combat long hours and stress, as these have a negative impact on people's family relationships. This is particularly true for low-income families: low-paid employees are particularly at risk of parental and family stress because their earnings are lower and they tend to have less choice over how they can balance their work and family responsibilities. Trade unions need to ensure that any package that is agreed applies to all staff and can operate when the economy is in a recession or the labour market is experiencing lack of buoyancy, rather than just when the labour market is tight.

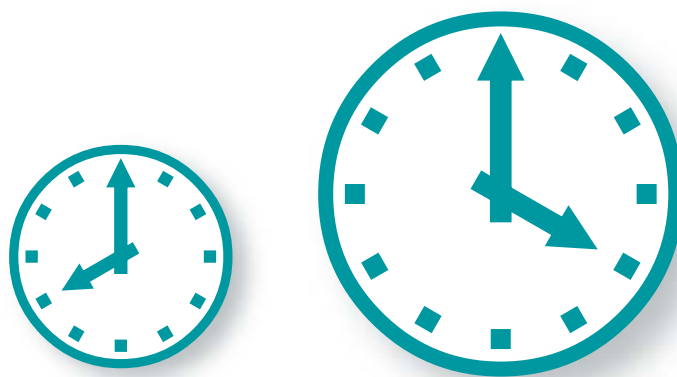
Having conducted your survey and taken soundings from your members, you might find that the workforce wants access to a range of options including:

- flexible hours
- reduced hours
- annualised hours
- term-time only
- job sharing
- working from home.



It may be possible for the employer to offer paid or unpaid carers' leave, which anyone with caring commitments can access. Or the employer might find that the most straightforward option is to offer the entire workforce the right to request to alter their hours, rather than making it dependent on a particular family circumstance – this is certainly an option that is favoured by the TUC and many employers.

The degree of flexibility on offer must suit both the workforce and the employer, so the support will depend on the size of the organisation, along with the level of demand. It is also essential that any options are carefully managed to avoid extra work falling on other staff as a result of the process being mismanaged or ill considered – this is where resentment between workers can fester. Some trade unions have successfully negotiated for staff to work together to develop their own collective work schedules that suit as many in the team as possible. This process works because it allows staff to take control of the hours that they work, understand why



people need to work particular shifts or hours and thus helps to overcome potential resentment. Trade unions have a vital role to play throughout the process.

The TUC and most trade unions can supply you with leaflets and booklets which describe the law covering paid and unpaid family leave including parental leave, flexible working, paternity/maternity support leave³, maternity and adoption leave and rights for carers⁴. You should familiarise yourself with these so that workplace policies are at the very least in line with the law. However, your union may have negotiated better family-friendly policies in other workplaces, so it would be worth investigating if this is the case to help you to develop the package that you want your employer to agree to.



³ This term is used throughout this guide to describe paternity leave which those in same-sex couples are entitled to take.

⁴ Contact TUC Publications on 020 7467 1294 for this series of booklets.



FIRST STEPS – GATHERING INFORMATION

Consider all the childcare options

In order to develop childcare support in your workplace it is important that you familiarise yourself with *all* the childcare options that are available. These options include workplace nurseries which are run by the company; buying or reserving places in external nurseries; providing out of school care – particularly in the holidays but also after and before school; offering childcare vouchers or allowances for childcare support; and offering advice or information about childcare for the workforce. You should also consider what childcare support can be offered for those who need childcare for ‘atypical’ hours, and those who rely on informal care for the bulk of their childcare support.

An ideal package might include a range of options for parents: for example, some

parents might want to have their children at an on-site nursery if that is one of the options available, while others might want some financial support towards childcare that they already use in the form of childcare allowances or childcare vouchers. In some cases, parents might find it helpful to be allowed to have an advance on their salary, in order to pay for childcare. Some people may not need financial support or childcare places, but may want to reduce their hours or work more flexibly in order to meet their childcare responsibilities. If your employer does not already offer it, you should ensure that the workforce has access to childcare support (pay for childcare and other caring costs) while staff are away on official business such as meetings, conferences or training courses outside standard work hours. The more variety that can be offered within a childcare ‘package’ the more members are likely to benefit. More details on the different options available are outlined in the next section.

*The more variety that can be offered
within a childcare ‘package’ the
more members are likely to benefit*



STAGE 2: LEARNING TO WALK – PREPARING YOUR CLAIM

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LEARNING TO WALK – PREPARING YOUR CLAIM

Find out what childcare support is already available in your area

Some employers will never be in a position to offer financial support to their employees to help meet their childcare costs or needs for a childcare place. However, that does not mean that your union and the employer cannot still work together to provide some assistance to the workforce. Workplaces are very useful sites for signposting information and parents may need to seek sources of information about childcare services that are provided locally. This would also be an opportunity to inform employees of how to claim tax credits and government support for those in work.

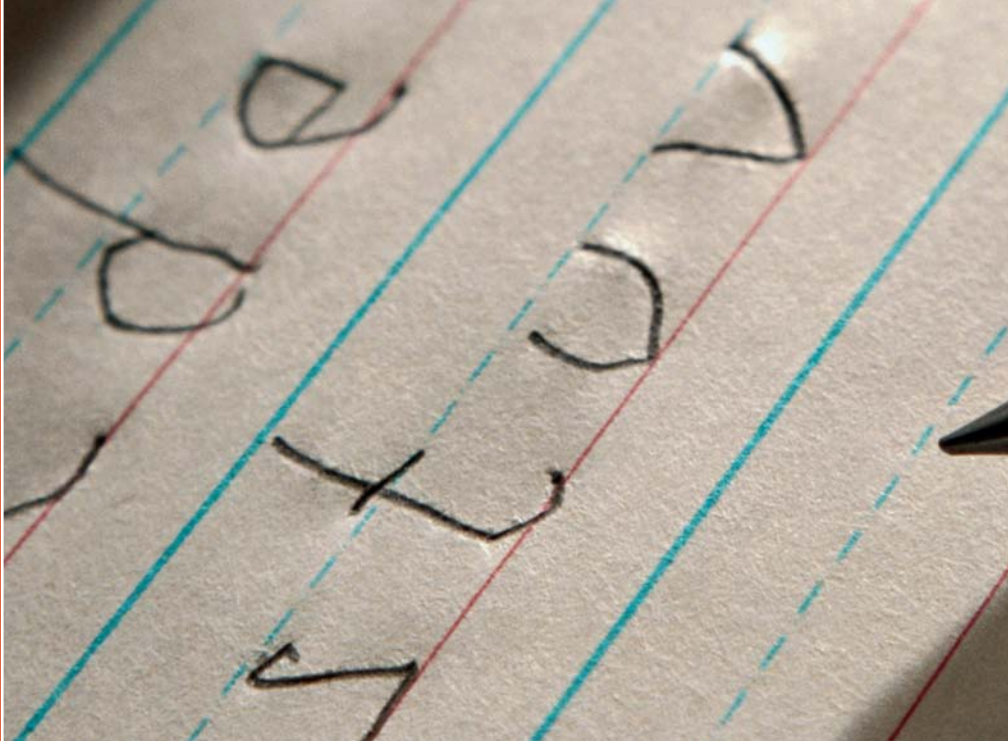
You could download the information that is relevant to the local area, or provide members with the necessary information line and website details so that parents can do this themselves. One of the outcomes of the Government's National Childcare Strategy is that every local authority has an Early Years Development and Childcare Partnership (EYDCP) which brings together the voluntary, public and private sector in the early years and childcare sector. EYDCPs are required to undertake an audit of

local childcare services and provision and produce a plan for developing more high-quality childcare and early years education services every year.

Alongside this, every local authority has a Children's Information Service (CIS), which can provide details of local provision of registered childcare, including day nurseries and childminders, playschemes and after-school provision. The CIS can provide useful information on the average costs of childcare in the local area, the average length of waiting lists, the availability of places for different age groups and the age range for which care is available in the local area. CISs also provide face-to-face or telephone advice on all aspects of childcare for parents and providers.

Assess childcare options in detail

Using the information gathered from the survey (see Stage 1, pages 12-13) as well as meetings and email forums, you and the steering group can identify which forms of childcare would most meet the needs of your members. Below



are some of the options that are available to employers who are providing childcare support for their workforce. You should be mindful that childcare provision should be available to all staff regardless of their grade or position in the workplace, and that these should not be used as criteria for offering or denying them support for their childcare needs.

On-site or workplace nursery⁵

This is the most expensive and ambitious option for employers but it offers the advantage of being convenient for parents because of their proximity to the workplace and also of having longer opening hours than conventional nurseries. Workplace nurseries primarily provide care and early years education for children aged 0-5 years. Some are open all year round and others will be open only during term time. Opening hours are usually geared to the needs of the workforce but tend to be open between 8am and 6pm (although some workplaces put upper limits on how many hours a child can be in the nursery for each day – for example, not more than nine hours).

Workplace nurseries tend to be used by the workforce only but, in some cases, employers might join forces with other employers to give places to more parents who need them, or open up places to the local community. It is also quite common for an employer to contract a specialist (often private) nursery provider to set up and manage the nursery.

All childcare provision for children aged 8 and under is regulated by the Children Act 1989, which sets standards for the quality of care provided, including the premises. Since 2001, the Office for Standards in Education (Ofsted) has been responsible for inspecting all registered childcare providers, including workplace nurseries. Every childcare provider must meet 14 national standards and is inspected at least once every 18–24 months. However, you should also make yourself aware of any developments in this area of the law, in case changes have occurred since this guide was published.

The setting up of costs of a nursery will depend entirely on the workplace premises. For example, if existing premises can be converted then initial

⁵ For examples on the types of childcare support that different employers have opted to offer their workforce, see *Childcare Support*, Incomes Data Services, HR Studies 799, June 2005, which gives examples of workplace nurseries in 11 different organisations across the public, private and voluntary sector.



LEARNING TO WALK – PREPARING YOUR CLAIM

costs will be less than for a whole new building to be developed. Likewise, running costs (heat, light, building maintenance) may be absorbed into the general budget. A workplace nursery may also be able to use a staff restaurant to provide meals and thus save on kitchen costs (Finch S, 1993: 12 – see bibliography on page 51).

There are government grants available to help with the start-up costs of workplace nurseries and there are also capital allowances to cover the cost of equipment for a workplace nursery (such as furniture, durable play equipment and equipment for heating, washing and cooking); alongside this there are tax incentives on places in workplace nurseries for both employers and employees. Employers can claim tax relief on the day-to-day costs of running a workplace nursery as well as a playscheme. Running costs would include rent, rates, heating and lighting, staff wages, food and play equipment with a short life (*Childcare Support*, Incomes Data Services, HR Studies 799, June 2005: 6).

There are several organisations in the voluntary and private sector that can help with drawing up the detailed costs of establishing

an on-site nursery. It would be worth contacting them as part of the proposal that you will eventually need to present to management. (The contact details are at the back of this guide.)

ON-SITE OR WORKPLACE NURSERY: NEGOTIATING FOR THE CHILDCARE WORKFORCE

Despite huge government investment in childcare, childcare workers are still paid low wages. With an average wage of just £5 per hour (2004 wages), childcare workers earned 35 per cent below the average hourly wage of women working part time in 2004. Women make up 98 per cent of childcare workers, and this is reflected in the numbers training to go into the sector.

Only qualified early years and nursery staff should staff workplace nurseries and trade unions have a duty to ensure that the childcare workforce is provided with decent wages, terms and conditions in workplace nurseries as well as in other childcare settings, and that affordable childcare is not provided at the expense of the childcare workforce.

Furthermore, many childcare workers would like to access opportunities to train for more qualifications. Continuous professional training for those working in the childcare sector is an ambition that the Government has identified in its 2004 ten-year childcare strategy, in recognition of the fact that the childcare workforce tends to be poorly qualified and childcare settings experience a high turnover of staff. Ensuring that staff have access to training and development opportunities will increase retention and morale of staff in childcare settings, which is better for the cared-for children. You can use your influence as trade unions to negotiate for training and career development opportunities for the workforce; and also ensure that these workers are encouraged to become trade union members.



LEARNING TO WALK – PREPARING YOUR CLAIM

On the whole, parents using a workplace nursery would pay less per place than they would for a place in a conventional nursery. Tax legislation which is designed to encourage employers to offer workplace nurseries means that neither the employer nor the employee pays tax or national insurance on the amount that they pay for a childcare place in a workplace nursery. This exemption is extended to employees from other companies who work on the same site as the employer offering the workplace nursery.

A subsidised childcare place can be offered in several ways to the workforce, for example:

- subsidise every place by a fixed percentage or by a fixed price
- means-test the subsidy so that lower paid employees receive a larger subsidy
- offer the place at a percentage of the employee's salary
- calculate the costs of the place according to both salary and the number of children the employee has in the nursery.

When considering the option of a workplace nursery you should be mindful that the initial take-up is likely to be gradual so the income return for the employer is likely to be low in the

first instance. In a workplace nursery, this would mean that staff should be recruited gradually as the provision grows. These factors should be built into the case that you make to your employer (see below).

Partnership schemes

Workplace and on-site nurseries are the most expensive and ambitious option for employers, and so it has tended to be large employers who have the premises and the staff capacity to enable the organisation to recoup the benefits of the initial outlay. For employers where a workplace nursery is not a viable option or the workplace is not an appropriate setting, forming a partnership with one or more other local employers may help to spread the costs of the nursery and ensure that places are filled.

Alternatively, some employers choose to buy or reserve places in pre-existing local nurseries which employees can then access: these could be nurseries that are run by local authorities or attached to another employer such as a hospital, college or company. Since the employer is often buying many places, they can negotiate discounted rates for their employees.



This option also enables a wider choice in the type of childcare the employee can access: for example, the employer may be able to reserve places with local childminders as well as day nurseries.

You may therefore find it helpful to investigate if there are any forms of childcare locally that your employer could buy into in a partnership scheme so as to share the costs and the benefits. Some employers may find that this is the most cost-effective way of providing childcare, both for pre-school children and for childcare that operates at either end of the school day and during the school holidays. Also you may find that you can enter an agreement with a provider who operates locally and provides childcare or out-of-school care, in which your employer could purchase places.

All these options help to share the costs, provide flexibility for parents and children, offer greater parent choice and can also help those employers who have several different sites where the workforce need childcare support. It can provide particularly useful support to

those parents who have children of different ages and need a variety of care.

Out-of-school care

Many parents find it difficult to access care for their children at either end of the school day and during the school holidays, and yet this is when many of them will need it the most. Parents often find caring for school-age children is more demanding and complicated than caring for them when they are babies and of pre-school age.

The Government's commitment to develop childcare for school-aged children up to the age of 14 at either end of the school day will see schools being open from 'dawn to dusk' and will allow children to participate in Breakfast Clubs from about 8am before school and After School Clubs till 6pm. There will be a mix of providers of this care, and it is unlikely to be free. It is therefore important to ensure that the childcare you negotiate for members with the employer is accessible to those who have older children and might need financial assistance in order to access care for their children.



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This could be done in two ways: the employer could either offer vouchers to allow the employee to buy the care that may suit those workers who do not work near their children's school; or the employer could buy places with local providers that employees could then access. Alternatively, the employer may find it helpful to link up with another local employer, or group of employers, to see if there is enough demand for such a scheme between them. The latter will be more useful to those employees who work near their children's school, and a partnership between employers would help to bring down the costs. Some larger employers are in a position to offer on-site play schemes.

When you are negotiating with employers it is useful to remind them that this form of support is particularly helpful in terms of recruitment and retention of workers, but also for those employers who may experience seasonal peaks in demand around the school holiday period, making it hard to give employees leave at this time.

Childcare vouchers

Employers who have offered childcare support to their workforce have often done so in the form of childcare vouchers. These are vouchers that the employee receives instead of, or in addition to, their salary to pay for their childcare. If they are given instead of salary they will be offered under a salary sacrifice scheme (see page opposite). The childcare must be registered, which means that the vouchers cannot be used to pay for informal childcare such as friends or relatives who care for the child.

The advantage of vouchers rather than any form of payment direct to the parents is that the first £50 each week is exempt from both tax and national insurance contributions (NICs) for the employee, and NICs for the employer. The employee can receive childcare vouchers up to any value in place of or in addition to their salary.



Tax advantages

Changes to tax law in 2005 have made it easier for employers and employees to access childcare support for registered childcare. This encourages employers to respond to the childcare needs of their workforce and help the government in its efforts to provide more childcare assistance for working parents. Three types of childcare provision are now exempt from tax and NICs for the employee, and NICs for the employer:

- childcare vouchers (a maximum of £50 per week per parent is covered by the exemption)
- direct payments to a childcare provider (again a maximum of £50 per week per parent is exempt from tax and NICs)
- workplace childcare provision/nurseries (the full amount of the cost of the childcare place, including the subsidy provided by the employer, is exempt from tax and NICs).

Salary sacrifice

These changes to the tax law override all previous tax legislation governing employer support for childcare. It is important to note that the payments can operate in two different ways:

- The payment is made *in addition* to the salary. This is most beneficial to the *employee* as it saves them money and costs the employer more.
- The payment is made *instead* of the salary. This is known as salary sacrifice. This is most beneficial to the *employer* as it allows them to offer the scheme within the existing salary bill while saving on NICs. The point of salary sacrifice is that an employee exchanges a portion of their salary for a benefit from an employer – in this case a childcare payment. In practice this reduces the amount of salary that is eligible for tax or National Insurance Contributions (NICs) by the employee, and the amount of salary on which the employer is obliged to pay NICs. It is important to note that childcare vouchers offered through a salary sacrifice scheme are only available to those classed as employees not workers. NB: An employee's salary must not fall below the National Minimum Wage through accessing childcare vouchers. See Appendix B for more details.

The payments can operate with a combination of the above: for example, an employer could provide version 1 to those who earn below a



LEARNING TO WALK – PREPARING YOUR CLAIM



certain income, and version 2 to those who earn above a certain income. If an employer chooses to provide childcare vouchers through the salary sacrifice scheme, they can either contract a specialist childcare voucher organisation to run the scheme, or they can administer it themselves.⁶

Trade unions have some reservations about these schemes. A salary sacrifice scheme tends to benefit some employees more than others, and only employees⁷, rather than workers, are eligible to use it. Although employers are obliged

Salary sacrifice schemes mean that an employee will not be paying tax or NICs on a portion of his or her salary, and in the short term this may be a very attractive saving for an individual employee.

to offer the scheme to all their employees, it is up to an individual employee whether they choose to take up the scheme. So while trade unions can negotiate for a scheme to operate within a workplace, they are not in a position to negotiate collectively what the absolute benefits to each

employee will be, as this will depend on each individual's earnings and liability for income tax and NICs.

Salary sacrifice schemes offer payment to an individual to help pay for a place, but they do not provide places. For some parents, accessing a place is the biggest obstacle. If more and more employers offer vouchers instead of workplace nurseries, then there is a danger that more parents will face this obstacle.

Salary sacrifice schemes mean that an employee will not be paying tax or NICs on a portion of his or her salary, and in the short term this may be a very attractive saving for an individual employee. However, there are adverse effects to salary sacrifice schemes, and trade unions must provide their members with as much information, or access to sources of information, about the costs and benefits of the scheme to an individual to enable people to make informed choices.

Salary sacrifice schemes effectively reduce an employee's basic salary. This is the salary on which many other workplace benefits are calculated, such as pay increases, sick pay, overtime payments, company-enhanced maternity pay and paternity/maternity support



pay, shift allowances, uniform allowances, on-call time and company pension schemes. Employers can calculate all these benefits using 'notional' salary, which is the salary that the employee would have earned before the sacrifice, and trade unions should negotiate to ensure that employers do this. This will allow employees to maintain the link with their full salary that exists before the sacrifice is in place.

Trade unions should also alert their members to the effects that salary sacrifice schemes have on state benefits, tax credits and student loan repayments. If an individual's actual – rather than notional – salary falls below the Lower Earnings Limit as a result of a salary sacrifice scheme, this will affect an individual's state pension entitlement as well as access to other salary-related state benefits and in particular it could affect an individual's entitlement to the Second State Pension.

As a trade union rep, you should also be aware of those who will not benefit from the introduction of a salary sacrifice scheme, as this is important in determining how to negotiate with employers, and also for informing

members about the pros and cons of a salary sacrifice scheme. Trade union reps are not authorised to provide individual financial advice to members but most unions do provide access to financial service providers.

It would also be worth advising members to discuss the financial implications with a financial adviser or expert to ensure that they are clear of the long and short-term consequences of accessing a salary sacrifice scheme.

More comprehensive information about Salary Sacrifice and Childcare is in Appendix B at the end of the guide.

Develop an inclusive policy

Trade unions have a long and proud history of opposing discrimination and winning workplace rights for all workers. Some employers might try to provide childcare support only for a certain type of worker, probably 'employees' only, which will exclude agency workers and those working on service-related contracts.

⁶ More information about these options is available from the Daycare Trust – details are at the back of this guide.

⁷ Some of the most important employment rights are only available to those who are classed as employees rather than workers. The distinction between the two is a complex area of law. If you are not sure if you, or someone you are representing, is a worker or an employee you must take their contract of employment and seek legal advice from the union's legal team or lawyers.



Furthermore, it is important that the policies and practices you negotiate in the workplace reflect the diversity of families today. Increasingly, lone parents, often women, are heading families and it is also important that trade unions can negotiate on behalf of lone parents, who can find it hard to juggle the commitments of work and family. Employment rights for parents now explicitly include lesbian and gay parents, as well as parents who have adopted children, and it is important that all workplace policies explicitly include these parents. In some families, grandparents are the prime carers and it is important that their dual role in these circumstances is recognised in workplace policies and practice.

There are instances where legally the employer is obliged to provide support only for employees rather than workers, and for certain family members rather than others (for example, under the salary sacrifice scheme outlined below). On the whole, trade unions have an essential role to play in ensuring that all workers benefit from the union's negotiations and are not excluded from childcare support or family-friendly packages.

CHECKLIST

You should produce a case that provides value for money and is based on:

- equal opportunities ☒
- staff recruitment ☒
- and retention ☒
- good employee relations ☒
- training costs ☒
- business need ☒
- management time ☒
- company image. ☒

You should also consider enhancing or formalising existing measures including:

- maternity pay and leave ☒
- flexitime arrangements ☒
- help with childcare ☒
- information ☒
- job sharing ☒
- homeworking ☒
- paid time off to care in emergencies. ☒

Produce a feasibility study

By now you will have identified the needs within the workplace; the different options that are available locally; and examples of successful negotiations in other workplaces locally and nationally. You are now in a position to draw up a feasibility study, which is a useful way to present and cost the most popular childcare options. You may find it helpful to do this alongside a specialist childcare consultant as well as the steering group that you may already have established.

It is important to adopt a professional and business-like approach to ensure the success and integrity of the project – this should be seen as the basis of a long-term childcare policy for the company and its employees.



STAGE 3: LEARNING TO RUN – MAKING YOUR CLAIM

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LEARNING TO RUN – MAKING YOUR CLAIM



What your claim should include

When making the claim to your employer the following are important:

- You should draw on the company's equal opportunities policy or statement.
- Ask for a childcare package that includes a range of options to provide choice to your members. In managing your members' expectations, you will have warned them that you may not get everything all at once. A package will mean that you might not get everything you are asking for at once, but the process is often one of gradual improvement.
- Remember that childcare should be open to all staff, male and female, full and part time regardless of pay, grade and length of service or type of contract.
- Identify what training will need to be included – especially if what is being negotiated is a comprehensive package that might involve manager approval for time off and renegotiating working hours.
- Ensure that you negotiate for decent terms, conditions and training opportunities for the childcare workforce who will run it, if you are

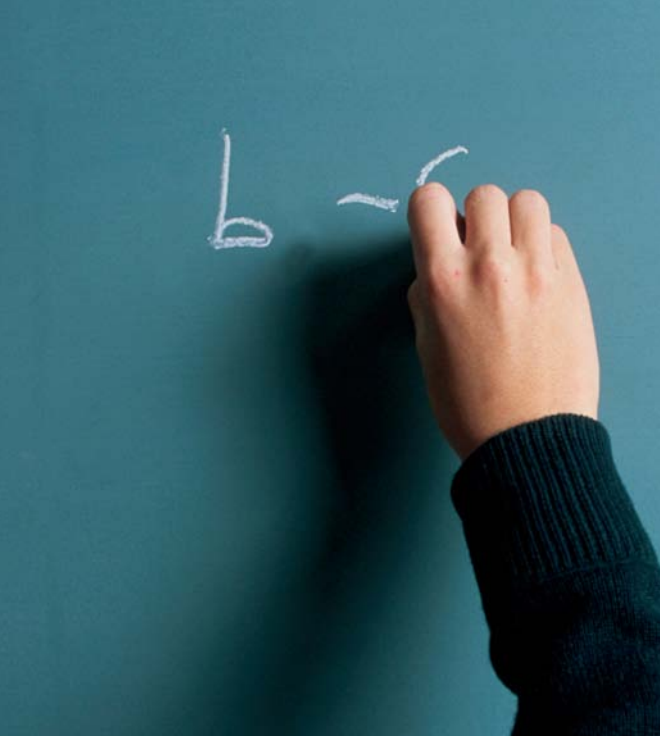
asking for a workplace nursery or play scheme. You should ask the CIS and trade unions what the locally negotiated rates are.

Present a case for a scheme that provides a consistent, reliable, quality service. It should cater in particular for the needs of the child, as well as the parent.

Present a business plan

Once the initial claim has been made the employer will require a business plan. This costs the chosen childcare provision over a set time and sets the estimated costs against predicted benefits – such as savings on recruitment and retraining. You should ensure that the union, the personnel department and finance department are all involved; this may be another opportunity to draw on specialist advice. Smaller workplaces might just have the key members of staff with responsibility for these areas.

It is important that whatever agreement you negotiate with your employer, you are able to secure a commitment to an ongoing level of



employer support, subsidy and funding. Increasingly, trade unions and employees are facing pressure to cut costs and recover funds by increasing fees.

You could also incorporate within the business plan some opportunities to promote and publicise the childcare package that is finally agreed. Within this you could identify any organisations and companies that sponsor awards for organisations that are particularly family friendly, as these are useful for promoting a company's good working practices and can act as an incentive for an employer.

Finally, try to incorporate an opportunity to monitor the package and review it. In this way it can respond to the changing needs of members. As women's and men's working lives change, so too will their family commitments, which in turn will have an impact on the package that is offered by the organisation.

NEGOTIATORS' CHECKLIST

- Set up a working group or steering group ☒
- Assess demand (survey, questionnaires, meetings, online/ intranet forums) ☒
- Do your research ☒
- Take advice if you need to – especially if it is pro-bono (free!) ☒
- Cost the claim you are making ☒
- Make the claim ☒
- Agree a timescale for implementation ☒
- Publicise the agreement as widely as possible – both to the workforce but also in your union ☒
- Continue to review and evaluate to ensure you can respond to the demands of your members. ☒

It is important that whatever agreement you negotiate with your employer, you are able to secure a commitment to an ongoing level of employer support, subsidy and funding



LEARNING TO RUN – MAKING YOUR CLAIM

Useful answers to common arguments

There is no demand

Traditionally, childcare has been viewed as a parent's problem to overcome, rather than something they can receive support for from the Government, their employer or their trade union. Parents will often say that they did not make enquiries about childcare, as they did not think they could or they thought it would be likely they would be turned down. Parents may also feel that they will be labelled as troublemakers or too demanding if they approach their employer for support. Trade unions can provide a vital link between the parent and the employer in terms of negotiating provision.

Parents always manage

It might look this way, but in many instances it is not the case. Many women leave their jobs or have to find other ones that fit round their caring responsibilities because they get so little support from their employer. This often means that women move into low-paid and low-status work, and this is a particular problem for lone

parents. The stress that can result from these situations can lead to huge tension within families and problems for people at work: trade unions can successfully negotiate on behalf of these workers to ensure that women in particular get the support they need to balance their work commitments with those from their family. The advantages to the employer include reduced absenteeism and staff turnover, increased loyalty and commitment from staff, improved morale and potentially more flexibility.

If people choose to have children, then they should pay for them

Trade unions have a long, proud tradition of collectivism and solidarity – working parents need that as much as anyone else. Society needs parents to be able to do the job of parenting well: we all benefit if parents are supported in their efforts to balance their work and caring commitments. Children are happier too – and they are the workforce of the future. On the whole, parents make huge sacrifices for their children – including a financial one – and rarely are they looking to get free support.



Why should parents get all these extra benefits?

Childcare and family-friendly support is not an additional benefit, any more than pensions, sick pay and training. It makes an enormous difference to parents if they know that they can get support, and everyone benefits if there is a stable, committed workforce. Children are the workforce of tomorrow. Employers have a vital role in supporting parents, as do trade unions and indeed the Government. Providing flexible working opportunities to all staff and not just parents and/or carers can benefit the whole organisation.

Why can't children be left with a relative or friend?

While many parents use informal care to meet some or most of their childcare needs, many would prefer to use formal care if it was available, not least because they often feel that they are imposing on friends and relatives if they ask them too often. Parents need to have organised care and know that their childcare is guaranteed to be available – and registered childcare can be the most reliable form of childcare.

Families are very diverse, and not everyone has access to friends and relatives who are on hand to provide care when a parent works. In addition, parents may want their child to benefit from the company of a group of children or from the kind of regulated, quality and stimulating care that a formal provider is obliged to deliver.

Childcare is not our business

Childcare provision is a long-term investment to an employer with enormous benefits and returns on that investment. Where there are difficulties with recruitment and retention, or where there has been significant investment in staff development and training, a childcare and family-friendly package may help to overcome these problems. Childcare is also an important part of being an equal opportunities employer: it allows both women and men to participate in the workforce equally and to the best of their ability.

The organisation is just a small business – it's too small to consider this kind of support

Not offering childcare support can be even more costly to a company where every



LEARNING TO RUN – MAKING YOUR CLAIM

employee is a key worker. Small businesses will rely on the skills and knowledge of individual workers more than large organisations do. Often it is just one or two people who have good product knowledge, links with the customer base or suppliers, understandings of the workplace systems, and other skills that can only be replaced at considerable time and expense to the employer. The cost of recruitment, training and management time should be taken into account, and no claim for support should be dismissed out of hand without giving it proper consideration.

We have no difficulty recruiting staff

There are some jobs for which this may be true – often jobs that employ women over part-time hours that fit in with caring responsibilities. However, there is also often a high turnover in these companies, and this is a cost to the employer. Retaining staff is as vital as recruiting staff for the success of a company. Most good employers will want to draw on a pool of workers who understand the job, are reliable and do not need much initial training and supervision. Providing a family-friendly package that includes childcare support can

only add to the reliability and quality of those employed. Trade unions have a key role in ensuring that even workers employed in areas where there are no difficulties in recruiting have access to decent terms and conditions including this form of support.

If we have had a problem in the past, we have always managed to get round it

No benefit should be granted on such an ad-hoc basis – this is unhelpful to the parent and the employer. Equality of access can only be guaranteed if trade unions are involved from the beginning and are able to negotiate a package that benefits all members, rather than just one or two individuals, and which can be properly publicised to new members.

The majority of workers here are men, so there's no need for this kind of support

It is really important not to make assumptions about a workforce or an individual, without consulting them first. Family life is changing dramatically, and this is affecting men's lives as well as women's. Shared parenting is increasingly common, with both parents wanting an active role in their child's life.



These days, a company that employs mainly men may find that there are several times of the year when these men are the primary carers for their children and will need support from their employer. Families these days rely on the income of two parents, so financial assistance for childcare that men can access will make a significant difference to a family's income. Fathers may wish to access care for their children during the school holidays at either end of the school day. An effective equal opportunities policy will recognise the role that men play outside the workplace, and support them in this.

Childcare is just too costly for us to consider

Providing childcare can be costly, and there is no point in assuming that this is not the case. Different childcare options will cost different amounts. There are various childcare support options that an employer can provide at varying costs: these range from setting up a workplace nursery to providing information to employees about finding and using childcare. Employers will also find that there are tax and NICs savings to be made through certain forms of childcare provision.

Also, the costs must be set against the benefits and long-term savings, hence the need for a value-for-money business case to be made. It is worth remembering that parents are used to paying for their childcare costs and will expect to pay something towards any provision that they receive from the employer. At this stage no one is talking about a completely free provision.

Dad, will
I get a
childcare place?

Ask the
boss

I did, and
she said 'yes'

APPENDIX A: SAMPLE QUESTIONNAIRE



You should draft your questionnaire according to the support you want to negotiate with your employer. If you think that the most you can get is support for childcare costs, then you will need to tailor your questionnaire to those questions. If, however, you think that you can negotiate a workplace nursery, or employer support for places in a local nursery, then you will need to ask questions relevant to that.

Please answer the following questions in order to help us assess the need for childcare support from our employer. You should answer this questionnaire whether or not you have children in your household at present. Your response will be treated as strictly confidential and none of your details will be passed on to third parties.

About you

1. Are you Male ☐ Female ☐
2. How many hours a week do you work? _____
3. Do you work shifts? Yes ☐ No ☐
4. What is your annual salary?/What grade are you? _____

About your children

5. Are you responsible for any children aged between 0 and 16? Yes ☐ No ☐
6. If yes, what are the ages of the children?
Please indicate the numbers of children in each age group.
0-12 months _____
1-2 _____
3-5 _____
6-8 _____
9-16 _____
7. Are you planning to have more children in the future? Yes ☐ No ☐



About your childcare arrangements

8. What form of childcare do you currently use?

- Childminder ☐
 Nursery ☐
 Family/friend/relative ☐
 Other ☐

9. How long are your children looked after for?

_____ hours per week between 8am and 6pm

_____ hours per week between 6pm and 8am

10. How much do you currently pay for your childcare? £ _____ per week.

11. How satisfied are you with your current childcare arrangements?

- Very satisfied ☐
 Satisfied ☐
 Dissatisfied ☐
 Very Dissatisfied ☐

12. If you are dissatisfied, why is this?

- Unreliable ☐
 Too expensive ☐
 Poor quality ☐
 Far from home/work ☐
 Not the type of childcare I want ☐

13. If you have a child – or are planning to have one in the near future – would you find any of the following forms of childcare helpful?

- a. Afterschool care ☐
 b. Holiday playscheme ☐
 c. Workplace nursery ☐
 d. Placement in local nursery/childminder ☐
 e. Childcare allowance and/or vouchers ☐
 f. Assistance in finding local childcare ☐
 g. Increased dependency leave (e.g. parental leave, carers' leave) ☐
 h. Flexible working options ☐
 i. Other ☐

14. It would help us to know how many places you would require and when (e.g. in two months' time, in two years' time) of the options listed above.

- a. Places _____ When (year) _____
 b. Places _____ When (year) _____
 c. Places _____ When (year) _____
 d. Places _____ When (year) _____
 e. Places _____ When (year) _____
 f. Places _____ When (year) _____
 g. Places _____ When (year) _____
 h. Places _____ When (year) _____
 i. Places _____ When (year) _____

APPENDIX B: SALARY SACRIFICE AND CHILDCARE

A short briefing

Some employers currently offer support for the childcare costs of their employees, perhaps by offering a place at a workplace nursery or by offering childcare vouchers. Until now, employees who received this form of support towards their childcare costs were taxed on its full value.

From 6 April 2005 the Government has changed tax and National Insurance regulations, so that neither the employer nor the employee pays tax or National Insurance Contributions (NICs) on the first £50 of childcare support.

An employer that offers childcare support to staff will often now be doing so under what is commonly known as a ‘salary sacrifice’ scheme. This briefing explains what a salary sacrifice scheme is and how it can affect an employee’s⁸ earnings, benefits and tax credits.

EMPLOYER SUPPORTED CHILDCARE – THE CHANGES FROM 6 APRIL 2005

| Type of Benefit | Before 06/04/05 | After 06//04/05 |
|--|---|---|
| Childcare vouchers supplied by the employer | Vouchers are exempt from National Insurance Contributions (NICs) for both employers and employees | The first £50 per week in vouchers are exempt from NICs and tax for the employee and exempt from NICs for the employer |
| An employer contracts a childcare provider on an employee's behalf | Employers and employees are exempt from NICs | The first £50 per week towards the costs of a nursery or childcare place is exempt from tax and NICs for the employee and NICs for the employer |

Source: www.daycaretrust.org.uk

APPENDIX B: SALARY SACRIFICE AND CHILDCARE

Disclaimer

The information contained in this briefing is guidance only and is based on information from the Inland Revenue. Any employee who is considering using childcare support on offer from her or his employer through a salary sacrifice scheme is strongly advised to consider the implications for their contract of employment, their pay, in-work benefits, state benefits and tax credits, and consult their trade union, and/or a legal and/or financial adviser.

What is 'salary sacrifice'?

Salary sacrifice is a scheme that allows an employee to give up the right to receive part of their cash-pay due under her or his contract of employment in return for the employer's agreement to provide the employee with some form of non-cash benefit.

Under the terms of the Employer Supported Childcare Vouchers scheme, an individual will sacrifice their cash-pay (taxable salary) in return for childcare vouchers, which are exempt from National Insurance Contributions (NICs). This will mean that the employee will retain their NICs and tax and can therefore receive more in vouchers than they would have received through the taxable salary – at

no extra cost to their employer. However, it also means that the amount of earnings on which NICs are paid is reduced; and it may take an individual's earnings below the Lower Earnings Limit (LEL), which can have long-term implications that are discussed later.

Salary sacrifice schemes are offered to employees on a range of benefits such as computers, bicycles, mobile phones and childcare. The Inland Revenue oversees salary sacrifice schemes because they operate under tax law rather than employment law.

How is the salary sacrifice scheme being used to pay for childcare?

From 6 April 2005 an employer can pay directly towards a childcare service such as a workplace nursery, a subsidy to a registered provider outside the workplace, or by selling a childcare voucher to the employee (usually via a childcare voucher company whom the employer contracts to administer the scheme). The employer then deducts the amount paid out in vouchers from the employee's taxable salary – and this amount is exempt of tax and NICs for both the employer and the employee. It is important to note that vouchers can only be



used to meet the costs of childcare provided by a registered or approved childcare provider⁹, and that cash payments made to parents by the employer to cover childcare costs are not covered by the scheme.

Each employee is entitled to receive up to a maximum of £50 per week in childcare vouchers under a salary sacrifice scheme. This means that while there is no limit to the amount of childcare vouchers an employer can supply, only the first £50 a week qualifies for NIC exemptions for the employer and NIC and tax exemption for the employee.

The employer must provide the support to a parent, which means that unemployed parents and those that are self-employed are not eligible. Neither can a close relative¹⁰ or another member of the family claim on behalf of a child of whom they are not the parent. Each employed parent is entitled to claim the support, even if both parents work for the same company or employer who is offering the scheme, and the number of children each parent has makes no

difference to the amount that can be claimed under the exemption. However, a parent can only claim for an eligible child: a child is eligible up to 1 September after their 15th birthday; or if the child is registered as disabled, up to 1 December following their 16th birthday.

How long can an employer offer support for childcare under the salary sacrifice scheme?

An employee can access the salary sacrifice scheme for as long as they need to, but they need to be aware of the implications of belonging to the scheme. Under a salary sacrifice scheme, an employee's contract is amended to make it clear that the parent is entitled to a lower taxable salary in return for the equivalent amount being paid in childcare vouchers. Legally this is necessary, as the Inland Revenue needs evidence that the salary sacrifice is effective.

The amended contract should state the date the revised arrangement came into force; the cash salary as a result of the salary sacrifice;

⁹ Registered care is inspected and has to meet certain national standards. In England and Wales, registration of childcare is concerned with children aged under 8; in Northern Ireland it is 13 and under; and in Northern Ireland it is under 16. Approved care refers to individuals approved under an approval scheme or approved group scheme and concerns children aged 8 and over. It is a voluntary scheme and is not subject to the same inspection criteria as registered childcare, but subject to basic quality assurance criteria. To be approved, a childcare provider must either have a recognised childcare qualification or have completed a childcare induction course; they must have undergone an enhanced Criminal Records Bureau (CRB) check; they must have a valid first-aid certificate relevant to the care of children; and they must be aged 18 and over. Nannies working in the child's home are covered. Relatives, including grandparents, are not covered unless they are already caring for children other than the child they are related to.

¹⁰ This refers to a parent, grandparent, aunt, uncle, brother or sister of the child – and includes people linked to the child by blood, half-blood, marriage or affinity.

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the value of the benefit; the type of benefit being provided (e.g. workplace nursery place, childcare vouchers); how long the arrangement will be in place for. It should ideally include an option to terminate the arrangement if there are changes in circumstances and trade unions should negotiate to allow individuals to opt in and out of the scheme with as little notice as feasibly possible. The employee may not retain the right to return to the previous level of salary within the terms of their contract, so ideally the change would be for a specific period of time, e.g. one year or until the child reaches a certain age, which is written into the contract, and during that time the employee cannot return to their previous salary.

What might an employee need to consider if they are thinking of taking up childcare vouchers being offered by their employer?

Childcare support operating within a salary sacrifice scheme can affect current or future entitlement to a range of benefits. This is because the entitlement to some benefits is based on the amount of NICs that are paid on the employee's salary and entitlement to other benefits is based on their actual earnings. Any

individual who chooses to take up childcare support offered within a salary sacrifice scheme by their employer must carefully consider what the sacrifice might mean in practical terms.

For example, an employee will need to consider whether accessing childcare vouchers now will have an effect, or a potential effect, on their right in the future to the original (higher) taxable salary; what the effect will be on any pension scheme that is being contributed to by the employer; whether entitlements to any tax credits will be affected; and whether other benefits such as state pension or statutory maternity and paternity pay will be affected.

Salary sacrifice schemes may affect entitlement to state benefits and tax credits and so the implications of joining a scheme should be thought through carefully by the individual before they agree to taking them up and altering their contract of employment.

If someone is currently earning the National Minimum Wage can they receive childcare vouchers through a salary sacrifice scheme?

The National Minimum Wage provides a legally binding minimum hourly rate of pay to workers aged 18 or over – with few exceptions.



A salary sacrifice scheme must not reduce an individual's taxable salary below the National Minimum Wage (NMW), so if an individual is currently earning the NMW they are not entitled to receive childcare vouchers within a salary sacrifice scheme unless the employer offers them, free of tax and NICs, over and above the individual's earnings. The tax office¹¹ has to approve salary sacrifice schemes, and they will not do so if an employee's earnings fall below the NMW as a result of them accessing childcare vouchers.

How might accessing childcare vouchers through a salary sacrifice scheme affect benefit entitlements?

The Inland Revenue states that, for most employees, paying fewer NICs will not adversely affect benefit entitlements. This is because the employee will probably still be:

- paying enough NICs to qualify for benefits
- earning between £79 a week (which is the Lower Earnings Limit for the tax year 2004/2005) and £91 a week (the Primary Threshold for the tax year 2004/2005) so

they are deemed to be paying NICs for the purposes of building up benefit rights even if they are not actually paying NICs

- already earning below the LEL before the salary sacrifice starts.

Also, if the employee joins the salary sacrifice scheme for only a short period of time, then their contribution history will only be affected for that period and the effect on their benefits may be minimal.

However, it is important to be aware of those benefits that might be affected by joining a salary sacrifice scheme. Entitlement to some state benefits is based on the amount of NICs an individual has paid, or is deemed to have paid – these are known as contribution-based benefits. Contribution-based benefits include Incapacity Benefit; Jobseeker's Allowance (JSA); and State Pension, including the State Second Pension.

Reducing cash-pay through salary sacrifice can reduce the amount of earnings on which an individual pays their NICs to below the LEL. This, in effect, could mean that they are no longer paying (or deemed to be paying) NICs.

¹¹ Her Majesty's Customs and Revenue Office

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However, even if an individual's earnings remain above the LEL, she or he will be paying fewer NICs and so may be reducing their entitlement to contribution-based benefits.

How will accessing a salary sacrifice scheme affect entitlement to a State Pension?

If an employee chooses to take up childcare vouchers through a salary sacrifice scheme, they will not be paying NICs on up to £50 a week of their salary. This will affect their entitlement to a Basic State Pension (BSP) and a State Second Pension (S2P), although their earnings may be high enough or their use of the scheme may be for a short enough period for this not to affect them in the long term.

If an employee is not sure what the long-term impact will be on their state pension entitlements they *must* seek financial advice. An individual is only entitled to the BSP if they have paid the equivalent of ten years' full NICs. This means that even if they have made contributions all their working life, but for a variety of reasons (working part time, time out of paid employment altogether) they have not made up the equivalent of ten years' full NICs, they will not be entitled to any BSP. If they are not entitled to BSP, then they

will not be entitled to the S2P either. However, they may have paid enough NICs to be entitled to a BSP, but not to receive the S2P.

The entitlement to the BSP is also dependent on how much an individual earns: if they earn below the Lower Earnings Limit (LEL) then they are not entitled to make NICs. This applies to each job – so even if someone has three jobs which, when their wages are added together, means they earn more than the LEL each week, for the purposes of calculating the BSP, these will not count.

If an individual earns between the annual LEL (£4,108) and £11,600 they will be deemed to have earned £11,600 for the purpose of calculating their State Second Pension accrual. However, entitlement to the S2P will be affected if their earnings fall below the LEL and may be affected if the reduced earnings fall between £11,600 and the Upper Earnings Limit (which for the tax year 2004/2005 was £31,720).

What other benefits might be affected by entering into a salary sacrifice scheme?

There are some state benefits that are earnings-related, that is, based on the level of earnings.



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Earnings-related benefits include:

- The State Second Pension (see earlier)
- Maternity Allowance (MA): according to the Inland Revenue, if a woman's cash earnings fall below an average of £30 per week, she will lose her entitlement to MA. If her average earnings fall to between £30 and £115, she might still be entitled to MA but at a reduced or variable rate.

Any amount of an individual's earnings which are sacrificed in return for a NICs-exempt benefit such as childcare vouchers *will not be included* as part of the earnings for the purposes of calculating earnings-related benefits. Furthermore, if taxable earnings are reduced to below the Lower Earnings Limit, the entitlement to earnings-related benefits would also be reduced.

Will any of my work-related payments be affected by taking up the childcare vouchers as part of a salary sacrifice scheme?

Some statutory benefits are only available to those people who work. These are work-related payments and are paid by the employer but either fully or partly refunded by the Government. Work-related payments include

Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP), Statutory Adoption Pay (SAP), and Statutory Sick Pay (SSP).

Work-related payments are based on average earnings calculated over a fixed period before an individual receives them. For example, SMP is calculated using the average earnings over a number of weeks (usually the eight weeks up to and including the 15th week before the baby is due), so if a woman enters a salary sacrifice scheme, the amount of taxable earnings that are sacrificed may not count towards her average earnings for calculating the payments, so the amount she would be entitled to receive could be reduced.

However, an employer can exercise some discretion over the level of salary used to calculate average earnings for the purposes of work-related payments. It is good practice for an employer to maintain the link with the full-salary value when calculating these payments – this is known as 'notional' or 'base' salary.

So, for example, if before entering the salary sacrifice scheme a woman earned £200 per week before tax, but on taking up the vouchers she then earned £150 per week in salary and claimed £50 in vouchers, her

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employer could calculate her SMP based on the £150 she had earned in the previous number of weeks before going on maternity leave. It is solely at the employer's discretion to calculate the SMP on the £200 that she would have been earning had she not taken up the salary sacrifice offer. The £150 is her actual salary; the £200 is her notional or base salary. Trade unions should negotiate for notional or base salary to be used for the purposes of measuring work-related benefits.

This should also apply to any salary-based enhancements such as shift-work, on-call and overtime allowances and uniform allowances. It is important that trade unions negotiate for this on behalf of their members, and that this is written into the individual's amended contract.

I am currently receiving tax credits from the Government. How will these be affected by the salary sacrifice scheme?

A salary sacrifice scheme can affect tax credit entitlement. Parents are strongly advised to find out to what extent any tax credits they receive will be affected before they commit themselves to receiving childcare vouchers through a salary sacrifice scheme.

In April 2003 the Government introduced Working Tax Credit (WTC) and Child Tax Credit (CTC) to help working families on low to middle incomes. WTC also has a childcare element to it – the childcare tax credit – that enables families to receive support for eligible (registered) childcare. The amount of WTC a family receives is dependent on several factors, including the number of hours worked, the level of earnings received, how many children are in the family and the amount of eligible childcare costs.

Working Tax Credit is calculated on actual taxable earnings, so if these are reduced via a salary sacrifice scheme an individual's WTC entitlement might *increase*.

However, if an individual has childcare costs that are eligible for the childcare element of the Working Tax Credit and chooses to receive childcare vouchers through a salary sacrifice scheme, the amount of their childcare costs that are then eligible for the childcare element of WTC will be *reduced* by the amount that is covered by the voucher.

Therefore, in some instances, parents might be better off receiving support for their childcare costs through WTC rather than through childcare vouchers.



Does an employee have to take up a childcare voucher if the employer offers the scheme?

It is at the discretion of the employer as to whether this support is offered, but from 6 April 2005, it has to be offered generally to all employees if it is offered at all, so support cannot be dependent on someone's grade or position within the organisation. The exemption must be available to all staff in a particular location where the scheme operates. (So if the employer operates across several different sites, they only have to offer it on one site but they have to offer it to all staff who work on that site. The advantage of trade union negotiations is that it can ensure that all staff, across all sites, benefit from the offer.)

All employees must be given a choice as to whether they take up a salary sacrifice benefit such as childcare vouchers. In order to make that choice, an individual employee must be provided with information about the implications of taking a salary sacrifice. This should indicate that the duration of the salary sacrifice might affect their entitlement to state benefits (such as Job Seekers Allowance and the State Second Pension), statutory benefits (such as maternity and paternity pay) and tax credits.

Who administers the childcare vouchers?

Several privately run companies will run a childcare voucher scheme for an employer, and they will usually charge an administration fee which is the same amount as, or just under, the amount of saving an employer will make through not paying NICs as a result of the scheme. However, employers can run the scheme themselves and information about this option is available from organisations such as the Daycare Trust (details in Appendix C).

Where can I find out more information?

To find out more about the tax and NICs in relation to employer supported childcare, see the HM Revenue and Customs (HMRC) leaflet IR115 www.hmrc.gov.uk/leaflets/ir115.pdf

Information about tax credits can also be obtained from the HM Revenue and Customs at www.taxcredits.hmrc.gov.uk/HomelR.aspx

APPENDIX C: USEFUL ADDRESSES

Contacting a trade union

Most unions have websites and will have the telephone number on your membership card or in the phone book. You could try talking to the shop steward at your workplace or the equality rep if there is one. Also try the national or regional women's officer, or equality officer.

The TUC's website also provides contact details for all its affiliated unions' HQs, including links to their homepages.

See www.tuc.org.uk/tuc/unions_main.cfm

Daycare Trust

21 St George's Road, London SE1 6ES

t 020 7840 3350

e info@daycaretrust.org.uk

www.daycaretrust.org.uk

4Children

City Reach, Greenwich View Place
London E14 9NN

t 020 7512 2100 f 020 7537 6012

e Information@4Children.org.uk

Equal Opportunities Commission

t 0845 601 5901

www.eoc.org.uk

Pre-School Learning Alliance

69 Kings Cross Road, London WC1X 9LL

t 020 7833 0991 f 020 7837 4942

e press@pre-school.org.uk

www.pre-school.org.uk

Working Families

1–3 Berry Street, London EC1V 0AA

t 020 7253 7243 f 020 7253 6253

e office@workingfamilies.org.uk

www.workingfamilies.org.uk

National Childminding Association

Royal Court, 81 Tweedy Road
Bromley BR1 1TG

t 0845 880 0044

www.ncma.org.uk

SureStart Unit

www.surestart.gov.uk

Carers UK

20-25 Glasshouse Yard, London EC1A 4JT

t 020 7490 8818

www.carersuk.org

APPENDIX D: BIBLIOGRAPHY



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