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Department for Business, Energy and Industrial Strategy
Family-related Leave and Pay Team
1st Floor Spur, Victoria Street
London SE24 0DN

Sent via email: supportingfamiliesconsultation@beis.gov.uk

11 October 2019

Dear Sir/Madam

Transparency of flexible working and family related leave and pay policies

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

The BMA welcomes the opportunity to respond to the Department for Business, Energy and Industrial Strategy consultation on transparency of flexible working and family related leave and pay policies. Please find enclosed our submission.

We look forward to working with you on developments in this area as you further develop these proposals. In the meantime, please do not hesitate to contact us for more information if required.

Yours sincerely



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Listed as a Trade Union under the Trade Union and Labour Relations Act 1974.



Creating greater transparency around pay and processes is an important step in reducing gender inequality. It is likely to increase gender parity by shining a light on areas and processes that need to be improved and making individuals more aware of their rights. The proposals may also help to reassure applicants that they will not be discriminated against when asking about flexible working options.

These proposals build on the existing reporting requirements and, if enacted and enforced properly, could be of considerable benefit in reducing the gender pay gap. However, it is important that these proposals lead to, and are underpinned by, genuine efforts to create more inclusive, flexible and supportive workplace cultures. If not, then these measures will be at best unsuccessful, and at worst, counterproductive, giving organisations a veneer of credibility while masking ongoing poor practice.

Question 1:

Do you agree that large employers (250+ employees) should publish their family related leave and pay policies on their website?

Strongly agree.

Organisations should be able to demonstrate that they have policies in place to support working parents and carers.

Question 2:

Do you agree that large employers (250+ employees) should publish their flexible working policies on their website?

Strongly agree.

Organisations should clearly demonstrate what access to flexible working is available to existing and potential employees.

Question 3:

Do you agree that transparency of these policies will help employers to recruit and retain staff?

Strongly agree.

Clear communication of family friendly and flexible working policies will help employees and potential employees understand how an organisation will consider their specific working needs.

Question 4:

Do you agree that, where the employer has a policy on family related leave and pay which extends the statutory minima, reworking and publishing your internal policy document on a public-facing website would not be a significant or expensive task?

Agree.

If internal policies are suitably well-drafted then reworking these into public facing documents should be relatively straightforward and inexpensive. However, there may be rare instances in which elements of internal flexible working policy documents need to remain out of the public

domain: for example, policies that set out specific actions taken to protect staff from harm, such as domestic abuse policies.

Question 5:

Do you agree that, as for family related leave and pay, reworking and publishing your flexible working policy on a public-facing website would be simple and inexpensive?

Agree.

See question 4.

Question 6:

How helpful would the following information be if it was held (and viewable) on a central database – for instance the Gender Pay Gap Reporting Portal:

	Very helpful	Quite helpful	Neither helpful nor unhelpful	Not very helpful	Not at all helpful	Don't know
A. Whether flexible working may be available from the start	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Approach to place, hours and times of work	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Approach to informal flexible working (such as later starts to accommodate health and other appointments)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Enhancements to different types of family related leave and pay, for example: <ul style="list-style-type: none"> • Maternity Leave and Pay; • Paternity Leave and Pay; • Adoption Leave and Pay; • Shared Parental Leave and Pay; • parental leave taken in respect of older children; • or, any other contractual enhancements to family related leave and pay. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Having one central portal which can be viewed by the public would help in a number of ways:

- employees and potential employees could evaluate whether an organisation's working policies and culture reflects their needs; and
- potential employees could compare organisations at application phase and on receipt of job offers. This information would particularly help working parents and carers, and groups of people with shared protected characteristics who may have additional requirements to work flexibly.

The requirement to publish these policies should not detract from the legal duties of employers under the Equality Act 2010 to consider individual requests for flexible working on a case-by-case basis, taking account of things like the need to provide reasonable adjustments for disabled people, the need to avoid unlawful indirect discrimination on the grounds of sex or religion or belief.

Question 7:

To what extent do you believe that a job applicant's decision on whether to apply for a job depends on the publication of the information mentioned above?

Somewhat.

While it is unlikely to be the sole reason determining an applicant's decision to apply for a job it will be helpful for applicants to be able to determine early on in the process whether the organisation's working practices are compatible with their needs. It is likely to vary from individual to individual to, depending on their needs.

Question 8:

How effective do you believe a voluntary approach to encourage greater transparency about an organisation's approach to flexible working and family related leave and pay (e.g. through the Gender Pay Gap Reporting Portal) might be in providing information about employers' policies?

Not very effective.

We saw evidence from the introduction of gender pay gap reporting that a voluntary approach has limited effect in driving action. Very few large organisations reported voluntarily until the mandatory reporting requirements were introduced for them.

We acknowledge that additional mandatory reporting requirements may be viewed as a further administrative burden by some large employers. However, recording this information as part of the systems already in place for annual gender pay gap reporting should mitigate this.

Employers should be encouraged to recognise the potential impact of both transparency and flexible working to improve equality in their organisations.

Question 9:

How effective do you believe creating a facility on the Gender Pay Gap Reporting Portal on GOV.UK to record details about an organisation’s policies on flexible working and family related leave and pay would be:

	Very effective		Fairly effective	Not very effective	Not at all effective	Don't know
A. To provide a central point of information for employees or prospective employees?	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. To let employers record the information as a part of the annual cycle of Gender Pay Gap Reporting?	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If care is taken to ensure the information is made easily accessible and understandable to the public, then the proposals may improve the usefulness of the gender pay gap reporting portal. It also needs to be easy for organisations to post and update information on a regular basis.

Question 10:

How effective do you believe it might be to encourage employers to set out how they are using greater transparency about their employment policies as part of their gender pay gap action plans?

Fairly effective.

As set out in question 8, encouraging organisations will only go so far. Organisations need to prioritise this issue in order to make a real difference. A requirement to set out how they are using transparency to address the gender pay gap is most likely to improve compliance with the aims of these proposals.

Question 11:

Do you agree that it would make sense to enforce a reporting requirement of this kind in the same way as gender pay gap reporting (i.e. a requirement to provide this information as part of the gender pay gap reporting process)?

Strongly agree.

This should be aligned as far as possible with existing requirements for gender pay gap reporting.

Question 12:

Thinking about the balance between what it is practical to provide in a short job advert and what is useful to a candidate, which of the following is the best option (please select one)?

A simple statement (such as “Happy to Talk Flexible Working”)	<input type="checkbox"/>
A short statement covering the organisation’s approach to place, hours and times (e.g. “core hours”) of work	<input type="checkbox"/>
A simple statement and a link to a published policy	<input type="checkbox"/>
A short statement covering the organisation’s approach to place, hours and times of work and a link to a published policy	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

A short statement covering the organisation’s approach to place, hours and times of work and a link to a published policy. This should encourage employers to make a serious consideration of how to apply these principles to their own organisations and encourage discussion with potential applicants at recruitment, rather than being a ‘tick-box’ exercise.

Question 13:

If a requirement was introduced to state in job adverts whether flexible working may be available or not:

- A. Who might the enforcement power sit with? Please describe.*
- B. What should be the process for reporting a breach? Please describe.*
- C. What should be the penalty for a breach? Please describe.*

It would make sense for this to sit with the EHRC which has responsibility for monitoring compliance and enforcing the gender pay gap reporting regulations.

Question 14:

If a requirement to provide a link to your flexible working policy on the gender pay gap reporting portal was introduced, do you agree that it would be helpful also to ask employers to record whether they had advertised jobs as open to flexible working?

Yes. We would support an additional requirement for organisations to report how many jobs had been advertised as open to flexible working. This should include a requirement to report the number of applications received for flexible working and whether or not these applications were granted.