

# CLASP

CENTER FOR LAW AND SOCIAL POLICY

## How to Exercise Flexible Work: Take Steps with a “Soft Touch” Law

By Jodie Levin-Epstein  
Work-Life Balance Brief No. 3  
July 2005

Most people think of a flexible work schedule as a perk for the worker.<sup>1</sup> However, businesses benefit, too. That’s because flexible schedules help with employee retention, recruitment, and absenteeism—all of which can add up to a better “bottom line.”<sup>2</sup> Employers also benefit because flexibility, along with a sense of control on the job, leads to healthier workers.<sup>3</sup>

In the U.S., employees are spending more hours on the job, which leaves less time to care for children, elders, and other family members.<sup>4</sup> Workers with caring responsibilities are torn. The tension between time on the job and time for home can result in palpable problems: poor performance or absenteeism at work; poor outcomes as a parent;<sup>5</sup> or less care for loved ones.<sup>6</sup> Flexible scheduling provides a pragmatic solution.

In the U.K., a new “soft touch” law gives some employees the right to ask their employers for a change in work arrangements (e.g., start and stop time, a change to part-time). This soft touch law encourages flexible scheduling without imposing a mandate on employers. Employers in the U.K. are supportive.<sup>7</sup>

Work schedules are no less an issue in the U.S., yet there is no similar federal or state law. While many U.S. businesses offer flexible working arrangements, this benefit is typically concentrated among those with higher incomes.<sup>8</sup> In our aging society, worker shortages and skills gaps are increasing challenges. Thus, every worker is a needed worker and work schedules matter. In fact, flexible work schedules were ranked the third most effective strategy (of 13 strategies) for achieving employee retention in a recent Society for Human Resource Management members’ poll.<sup>9</sup> Along with employers, government has a role in fostering flexible work—if only to safeguard its own investments in such arenas as health care, job training, family stability, and early childhood education.

### About This Brief

The author appreciates the advice and suggestions of Lissa Bell, Shelley Waters Boots, Mark Greenberg, Ariane Hegewisch, and Doug Steiger. The content of this brief, however, is the sole responsibility of the author.

This brief was funded by the Alfred P. Sloan Foundation.

This brief describes how U.K. employers partnered with government on work-life balance, highlights findings about flexible work, and identifies issues to explore in any U.S. adaptation.

## **WHAT IS THE U.K. RIGHT TO REQUEST?**

### **Background**

A new law in the U.K. gives some working parents the right to request a flexible work arrangement.<sup>10</sup> The right, implemented in 2003, enables a parent of a young child (under age six) or a disabled child (under age 18) to ask an employer for a range of different work arrangements. It does not obligate the employer to accept the request. According to the government:

The right is designed to meet the needs of both parents and employers, especially small employers, and aims to facilitate discussion and encourage both the employee and the employer to consider flexible working patterns and to find a solution that suits them both.<sup>11</sup>

The Department of Trade and Industry (DTI) is responsible for implementing the law; its website provides not only a basic summary of the provisions but also offers guidance materials to employers and employees.<sup>12</sup>

### **Business Involvement**

A work-life balance campaign was initiated by the government in 2000 to encourage employers to consider a full range of work-life issues.<sup>13</sup> Interested employers then made the case to other employers through a partnership with government, Employers for Work-Life Balance. The government created a challenge fund for employers interested in achieving better work-life balance. It also established a Work and Parents Taskforce,<sup>14</sup> which recommended that parents of young and disabled children in any size or type of business should be covered under a right to request policy. The government moved ahead with these recommendations and estimated that 13 percent of its working population, 3.8 million parents, would be entitled to request flexible work arrangement.<sup>15</sup>

As early as 2004, a government survey found that 68 percent of employers believed that the opportunity to work flexibly had a positive effect on employee attitudes and morale. A government official suggested that this business support could help fuel a work culture change since it might “give more parents the confidence to raise the issue with their boss either informally or through the new right.”<sup>16</sup>

### **Provisions of the Law**

Key provisions of the law stipulate:

*Who is eligible?* To be entitled to the right to request, a worker must have been employed at the same place for at least a half year. The worker must be the parent/guardian/foster parent (or the workers' partner, including a same-sex partner) of a child under the age of 6 or under age 18 if the child is disabled (applications may be made any time up to two weeks before these birthdates). The worker must have responsibility for the child's upbringing and use the flexible working arrangement to care for the child (including such functions as dropping a child off at school).

*What kinds of flexibility must be considered?* Any type of flexibility may be requested. Changes in the total hours of work, times of work, or place of work can be proposed. This covers such arrangements as annualized hours (total hours set by year rather than week), compressed hours (working more hours in a day in exchange for time off on other days), working from home, job-sharing, etc.

*How does the process work?* The employee applies for a permanent change in the terms and conditions for work. This means the employee has no right to revert back to the former work arrangement unless the employer and employee specifically agree that the change is not permanent. The employer must arrange to meet with the employee within 28 days of the request to discuss the request, and then the employer must respond in writing within 14 days of the meeting. If the employee wants to appeal, the first step is to appeal in writing within 14 days, and if an internal resolution is not possible, third party resolutions are available through an employment tribunal, arbiter, or other mechanism.

*What must be included?* The employee is responsible for providing an employer with a carefully thought-out application.<sup>17</sup> This must include the working pattern that is being sought, an explanation of how this change affects the employer—if at all—and how that could be addressed, as well as the proposed date for implementing the change. The employer is expected to consider the request and if the request is refused must identify the business reasons for doing so. Businesses have eight established reasons for refusing a request, ranging from a burden of additional costs to an inability to reorganize among existing staff to planned structural changes.

*How do appeals work?* If an employer rejects a request, the notification must provide details on the employee's right to an appeal. If the issue is not resolved within the workplace a third party can be involved. There are two bases for a formal complaint: the employer failed to follow the procedures or the employer based the rejection of the request on incorrect facts. The third party cannot question the employer's business grounds; the facts that were used can be the basis for the appeal. An employment tribunal<sup>18</sup> that agrees with an employee's appeal can make a compensatory award to an employee capped at up to eight weeks' pay for a maximum of £260 per week.

## **WHAT HAS THE RIGHT TO REQUEST ACHIEVED?**

The right to request flexible work went into effect in the U.K. in April 2003. Already, a variety of governmental and non-governmental surveys have looked at awareness of the

law, take-up, and reasons for the refusal of requests. (A summary of key surveys is included at the end of this document.)

The surveys do not definitively establish whether the law itself deserves “credit” for a flexible work arrangement. This is because the flexible work could be caused by the formal process established in the statute, or it could be achieved informally, independent of the law’s procedures. From the perspective of the law’s proponents, it is not particularly important to distinguish what allows for flexible work; what is important is the growth in such arrangements over time. The gestalt of work is the goal of the soft touch legislation. Indeed, the very act of informing employers and employees of the right to request, of surveying, of reporting on survey findings, and of highlighting the growth of flexibility—whether or not limited to eligible workers under the right to request—could all help expand access to flexibility.

### **Employee Issues**

The following offers highlights from the government’s Second Flexible Working Employee Survey and, for some topics, compares those findings to employee responses from other surveys. The 2005 report included questions for employees generally and also analyzed responses by those groups eligible for the right to request.

*Awareness.* Of all employees (not just those eligible for the right to request) nearly two-thirds (65 percent) were aware of the law. This represents a jump in awareness from 52 percent in the previous year. Employees with children under age six (71 percent) were more aware than employees without dependent children (63 percent). A very small, non-governmental survey done in the first months of implementation found that one-quarter of parents who said they knew about the law did not understand, however, that they had a right to request.<sup>19</sup>

*Requests and Refusals.* Of all employees (not just those eligible for the right to request), 14 percent requested flexible work sometime over the prior two years. Of these requests, 35 percent were because of child care needs; other reasons ranged from a person’s health problems to spending more time with family.

- Among all employees, 22 percent with children under age six asked to change their work patterns.
- Among employees with children under age six who requested flexible work, 75 percent received full approval.

In a 2003 report on work-life balance, the government established that “supporting low-income parents is particularly important. Low-skilled workers and their families are particularly at risk of parental and family stress, because their earnings are lower and they tend to have less choice over how they balance their work and family responsibilities.”<sup>20</sup> While the 2005 report provides information by industry and occupation, it does not include data by income (or race, educational status, etc.).<sup>21</sup>

### **Employer Issues**

The Chartered Institute of Personnel and Development (CIPD), the leading organization representing human resources professionals in the U.K. (akin to the Society for Human Resource Management in the U.S.), surveyed employers' on the new right to request six months into implementation.<sup>22</sup> The organization finds numerous reasons to support flexibility. Rebecca Clake of CIPD notes that, "The introduction of flexible working allows employees to gain more control over their work-life balance and can act as an important tool in the organisation's recruitment and retention process." She further found that, "The new working arrangements also help attract underused groups, such as parents and students, allowing organisations to compete in the war for talent."<sup>23</sup> The following highlights the 2003 CIPD findings, except where noted:

*Awareness and Perceptions.* Most businesses are attuned to the new rules, and few have big concerns about the right to request:

- Over two-thirds (71 percent) were aware, prior to implementation of the law, that employees would have a right to request to work flexibly, according to the government's second work-life balance study.<sup>24</sup>
- Business benefits are perceived evenly in a three-way split: 32 percent agree that the right to request benefits business; 34 percent disagree; and 34 percent don't know.
- Ninety percent of businesses felt that compliance has not been a significant problem, 7 percent perceived a problem, 3 percent did not know.

*Requests and Refusals.* Any growth in employees' requests for flexible work as a result of the statute is difficult to ascertain; most organizations wholly or partially approve the majority of requests:

- Twenty-eight percent of organizations reported increases in flexible working requests compared to recent years. This includes not just those eligible under the right to request statute, but other employees as well.
- In the first six months of implementation, statutory requests per organization ranged from none (35 percent of organizations) to one to five (50 percent) to more than five (15 percent).
- Part-time and late/early hour changes are the most common requests.
- While clerical workers are the largest group to exercise the right (44 percent), professional and managerial positions together account for nearly the same amount (48 percent). Some organizations attribute professional and managerial requests to the new law.
- The most common reasons for refusal of statutory requests are an inability to reorganize among existing staff and the inability to meet customer demand.

*Appeals.* The government anticipated approximately 4,000 employment tribunals in the first year of implementation,<sup>25</sup> however; six months into implementation, appeals had not reached anywhere close to this number according to a Price Waterhouse report:

- One percent of employers who turned down requests report tribunal proceedings brought against them.

## **FUTURE U.K. DIRECTIONS**

The U.K. government recently proposed extending the right to request to more workers who have carer responsibilities. The public was invited to comment on whether and how parents of older children and carers of adult relatives might be provided the statutory right. About three million workers are informal carers of parents or loved ones.<sup>26</sup>

The human resources organization CIPD has called for an even greater extension—to all employees, not just carers. CIPD believes that:

Once there is a critical mass of people wishing to work flexibly—not only parents—this increases the chances of finding a workable solution for the team.<sup>27</sup>

The enthusiasm for an extension of the right to request flexible work is tempered by a worry about inequity. The most common type of request for flexible work is a change to part-time work.<sup>28</sup> Yet, part-time workers are sometimes stigmatized and their part-time status results not only in a loss of wages but often in a loss of earning power over time.<sup>29</sup> Fathers, often the higher wage earner, may want to be carers, but the stigma and salary issues make such a choice difficult if not impossible.

## **U.S.-U.K DIFFERENCES**

**In the U.S., work-life balance issues are not yet on the forefront of political discourse.** In the U.K., not only is work-life at the forefront of political discourse but “family-friendly issues such as childcare places and paid paternity leave are becoming battle issues for the major political parties,” according to the leading human resources association.<sup>30</sup> The current Labour government, for example, proposed that by 2010 paid maternity leave extend a full year and that mothers have new rights to transfer pay and leave to fathers.<sup>31</sup> The opposition Tory party proposed that mothers who return to work sooner would get higher payments, receiving 90 percent of pay for their first six weeks.<sup>32</sup>

**In the U.S., working time issues are rarely the subject of legislation.** In contrast, in the U.K., a variety of policies, many driven by directives of the European Union, establish minimum standards for paid and unpaid time off.<sup>33</sup> These include:

*Annual Leave.* All employees are entitled to a minimum of 20 days paid annual leave.

*Working Time.*<sup>34</sup> Workers receive minimum rest periods, special provisions for night work, and a maximum averaged 48 hours of weekly work. However, an “opt out” of the 48 hours has affected employee coverage.

*Unpaid Time Off for Dependant Care.* Workers have a right to deal with family emergencies.

*Unpaid Parental Leave.* Workers have a right to 13 weeks unpaid parental leave if they have been with an employer for 12 months. The time may be taken up to the child's fifth birthday. The U.S. Family Medical Leave Act (FMLA) provides for 12 weeks of unpaid leave but only when an infant or child joins the family.

*Paid Paternity and Maternity Leave.* Fathers are provided two weeks of paid paternity leave. For adoption and maternity leave, workers receive 26 weeks of leave regardless of length of service and 26 additional weeks for employees with at least six months of service. The government reimburses employers for 92 percent of employees' weekly earnings for six weeks of maternity leave. For the next 26 weeks, employers are reimbursed either that amount or a lesser level determined by a formula.<sup>35</sup>

**In the U.S., there is no expectation that part-time and full-time work be treated equitably.** In the U.K., a European Union directive establishes that part-time workers are entitled to the same hourly rate of pay and the same entitlements to annual, maternity, and parental leave on a pro rata basis as full-timers. In addition, part-timers are supposed to have the same entitlement to contractual sick pay and access to training.<sup>36</sup> However, in practice, a gulf remains between part-time and full-time workers. This is largely because of the difficulty in ascribing comparable pay.<sup>37</sup>

In the critical area of health insurance, U.K. workers have equal access independent of whether they work part time or full time. This is because the U.K. provides government-funded universal health coverage. In contrast, in the U.S., coverage is often secured through employers who have the discretion not to cover anyone or not to cover groups of employees, such as part-time workers. U.S. employers provided coverage for only 16 percent of their part-time workers compared to 62 percent of full-time workers.<sup>38</sup>

## U.S. CONSIDERATIONS

**A soft touch law is an appropriate initial step towards more flexible work.** Because we lag behind the U.K. on a range of work-life policies, a law that essentially “signals” the value of flexible work rather than mandates it is an important way to introduce the concept where it is not already practiced. The very “gentleness” of the legislation carries a political advantage—it is hard to object to.

**A soft touch law, while gentle, can accomplish change.** The U.S. already uses one kind of soft touch approach: “transparency” laws, which can change behavior through the provision of information. For example, a restaurant grading system in Los Angeles displays a hygiene score; while the restaurant is not mandated to change its practices, the transparency of the information provides an incentive to improve hygiene.<sup>39</sup> Similarly, without mandating flexible work schedules, the public awareness about the right to request, the request itself, implementation surveys and reports, any articles about “best practices,” government awards, and other efforts could all contribute to change.

**A soft touch law could help put other work-life balance policies into sharper focus.** By making workplace flexibility a “kitchen table” topic for employees and employers, the surrounding work-life policy issues, such as access to quality child and elder care, could come into sharper focus. (See forthcoming *Win-Win Flexibility* from the New America Foundation.)

**A soft touch law could help build a bridge between employers and employees.** In making a request, employees are required to propose how the change in schedule will be managed. This, in essence, requires the employee to think like a manager. This might have the unintended consequence of building a bridge between employer and employee that could span other issues.

**A soft touch law would be appropriate at different levels of government.** It makes sense for Congress to pursue an adaptation of the U.K. soft touch law since the functioning of the workforce determines the nation’s economic prospects. This does not preclude, however, local or state jurisdictions from building upon any federal law or from moving on a faster track.

**A soft touch debate should focus on eligibility.** There are three broad groups of employees: those with caring responsibilities for children; those with caring responsibilities for adults;<sup>40</sup> and those without caring responsibilities. The U.K. is already moving to expand its law to include all carers—whether of children or adults. If a right to request is established, U.S. human resources professionals might well prefer that it apply to all employees, not just carers. This might seem surprising in light of opposition to expansion of the unpaid FMLA by the Society for Human Resources Management. However, when researchers asked a group of human resources professionals how best to structure a theoretical paid leave program in the future, they preferred an approach that applied to all workers because it “would avoid divisions within the workforce between those with heavy parental or elder-care responsibilities and those with other needs or concerns....”<sup>41</sup>

The U.S. could copy the U.K. law and restrict eligibility for the right to request flexible work to those workers who have been at the job for at least six months. Alternatively, eligibility could be determined based on time frames used in related U.S. laws. For example, FMLA applies to workers with one year of service. To the extent that a flexible working arrangement reduces absenteeism, a shorter time frame is advantageous to both employee and employer. A disadvantage of a shorter time frame is that scheduling accommodations may be made for an employee not yet fully integrated into the company.

A U.S. law could cover firms of all sizes, like the U.K. law. Employee need for flexible working is independent of size of the employer; the issue is universal. Smaller employers without HR departments might argue they do not have the time to consider such requests. Many smaller operations, however, already make accommodations informally. The law could propose to include firms in only certain sectors. However, since the need for flexible working is universal it is not apparent why one sector would be chosen over another, except as a means to phase in the law.



**A soft touch proposal could fund business supports around workplace flexibility.** A federally funded center for best practices on work flexibility would help employers implement the right to request and could go beyond the law to collect and disseminate strategies regarding flexibility generally. A government center (and accessible website) could be established in partnership with the private sector. For example, the Families and Work Institute has launched When Work Works, a privately funded initiative that highlights the importance of “flexibility in the workplace as a strategy to enhance businesses’ competitive advantage in the global economy.” Further, as in the U.K., the government could work with a group of employers to reach out to other employers regarding the rationale for, and alternative ways to implement, flexible work, including the right to request.

In addition, the law could include a national award for a state and/or employers that most effectively used the right to request to undertake an examination of broader work-life issues in the state and/or companies. This could be modeled after the local Sloan Awards for Business Excellence in Workplace Flexibility or could be a joint public-private awards program in concert with the Sloan Awards.

**A soft touch law should be evaluated to assess how flexibility helps or hinders business and workers.** Any evaluation should examine whether the law’s procedures (e.g., the application, time frames, and appeals) need to be tweaked to address burdens for either party in the negotiation. If a U.S. soft touch law required that the employee describe how the employer can manage the schedule change, this would provide an opportunity to research an important question. Did employee participation in the management dilemma of how to rearrange the workplace result in some unintended benefits; for example, a better mutual understanding of the constraints each party faces? An issue to investigate is whether all workers access the right or whether women more than men, higher income more than lower income, certain sectors over others take up the right. The implications of disparate take-up should be addressed. While new research indicates that choosing a work schedule to meet caring needs does not in and of itself lower mothers’ wages, part-time employment does have a negative effect.<sup>42</sup> Finally, an evaluation should assess the advantages that accrue to both businesses and workers due to the new law.

**APPENDIX A:**  
**KEY SURVEYS**

Following are surveys by different U.K. organization on the right to request flexible work. They are organized by the organization that undertook the survey.

**Department of Trade and Industry**

*Results of the First Flexible Working Employee Survey* by Ted Palmer, April 2004.

3,485 employees were surveyed over four months from the end of 2003 into early 2004. The survey includes all workers—not just those eligible for the right to request. Thus, it offers some indications about requests for flexibility by those workers who are not parenting children and those not parenting children under age 6 or under 18 and disabled.  
[www.dti.gov.uk/er/emar/flex\\_survey\\_results.pdf](http://www.dti.gov.uk/er/emar/flex_survey_results.pdf)

*Results of the Second Flexible Working Employee Survey* by Heather Holt and Heidi Grainger, April 2005.

3,222 employees were surveyed over three consecutive weekends in January 2005. The survey includes all workers—not just those eligible for the right to request.  
[www.dti.gov.uk/er/emar/errs39.pdf](http://www.dti.gov.uk/er/emar/errs39.pdf)

*The Second Work-Life Balance Study: Results from the Employers' Survey* by Woodland et al, National Centre for Social Research, November 2003.

1,509 employers (with five or more employees) were interviewed between December 2002 and April 2003. The survey explores employers' perspectives related to work-life balance broadly. It includes questions related to the right to request but preceded implementation, and thus, is viewed as a baseline for future evaluations. The report builds on a 2000 survey.  
[www.dti.gov.uk/er/emar/errs22MainReport.pdf](http://www.dti.gov.uk/er/emar/errs22MainReport.pdf)

*The Second Work-Life Balance Study: Results from the Employees' Survey* by Jane Stevens et al., MORI Social Research Institute, March 2004.

2,003 employees (at firms with five or more employees) were interviewed between January and February 2003. The survey explores employees' perspectives related to work-life balance broadly; it includes employees who are eligible along with those not eligible to make a right to request. The survey includes questions related to the right to request. The report builds on a 2000 survey.  
[www.dti.gov.uk/er/emar/errs27.pdf](http://www.dti.gov.uk/er/emar/errs27.pdf)

## **Equal Opportunities Commission**

*Working Families Right to Request Flexible Working: Review of Impact in the First Year of Legislation* by Christine Camp, March 2004.

35 employers and 259 parents were surveyed. Many of those surveyed were members of Working Families, a non-profit focused on the benefits from a better balance between home and work. Other survey participants had approached the non-profit seeking legal advice. The report is focused on the right to request and explores both parent and employer issues.

[https://www.workingfamilies.org.uk/asp/employer\\_zone/reports/R2R\\_Report\\_March2004.doc](https://www.workingfamilies.org.uk/asp/employer_zone/reports/R2R_Report_March2004.doc)

## **Chartered Institute of Personnel and Development**

*A Parent's Right to Ask: A Review of Flexible Working Arrangements*, October 2003.

Human resources staff in 510 organizations across public, private, and voluntary sectors were surveyed. The survey was largely focused on the right to request law which at the time was six months old and included questions about expansion of the right to other employees. Chartered Institute of Personnel and Development targeted the questionnaire to HR staff.

[www.cipd.co.uk/subjects/wrkgttime/flexwking/prntrighttoask.htm?IsSrchRes=1](http://www.cipd.co.uk/subjects/wrkgttime/flexwking/prntrighttoask.htm?IsSrchRes=1)

*Flexible Working: Impact and Implementation*, February 2005.

Human Resources professionals from 585 U.K. organizations took part. The survey explored work flexibility broadly. The survey considered how organizations are making use of flexible working practices, their motivations for doing so, and the effects they are seeing on their businesses.

[www.cipd.co.uk/NR/rdonlyres/257CE4EE-356B-43F5-8927-5C86203D7AA1/0/flexworksurv0205.pdf](http://www.cipd.co.uk/NR/rdonlyres/257CE4EE-356B-43F5-8927-5C86203D7AA1/0/flexworksurv0205.pdf)

## **Maternity Alliance**

*Happy Anniversary? The Right to Request Flexible Work One Year On*, 2004.

104 responses were collected from parents who had been in touch with the Maternity Alliance either through its hotline or website. The survey was focused entirely on the right to request. Responses were collected during January and February 2004 (the new law went into effect April 2003).

[www.maternityalliance.org.uk/documents/Flexible\\_working2.pdf](http://www.maternityalliance.org.uk/documents/Flexible_working2.pdf)

## ENDNOTES

<sup>1</sup> Flexible work schedules are part of workplace flexibility. Workforce flexibility is not the same thing. Rather, workforce flexibility covers new job tasks or overtime work for the employee. Companies competing in the global marketplace often pursue workforce flexibility.

<sup>2</sup> In the U.S., Ernst & Young found in a survey that its own flexible work policies were increasing retention. Among female employees, 76 percent are still with the company four years after hire compared to 72 percent in the mid 1990s. Over a quarter of the company's 23,000 U.S. employees work some type of flexible schedule. Huff, C. (May 2005). "With Flextime, Less Can Be More."

[www.workforce.com/archive/feature/24/04/11/index.php](http://www.workforce.com/archive/feature/24/04/11/index.php). In the U.K., the Department of Trade and Industry (DTI) notes that some businesses, even before the new law, made such changes because of perceived benefits to business: "Employers say flexible working helps them retain skilled staff and reduce recruitment costs; raise staff morale and decrease absenteeism; and react to changing market conditions more effectively...businesses have successfully introduced flexible working practices for their own benefit, and that of their employees." <http://www.dti.gov.uk/bestpractice/people/flexible-working.htm>. In the UK attrition among all employees declined from 21.5 percent to 17 percent in just one year of a flexible work week schedule at Eversheds, a law firm. Huff, C. (May 2005). "Making the Case for Flexibility." *Workforce Management*. <http://www.workforce.com/archive/feature/24/04/11/240413.php>.

<sup>3</sup> Workplace stress, including such factors as the amount of hours at work and the timing of those hours can contribute to such problems as heart disease. When workers have a sense of control, this can help reduce health problems that can result when workers have little control over their jobs. Landsbergis, P. (September 2003). *Working Yourself to Death – Stress on the Job*. Facts of Life: Issue Briefings for Health Reporters, Vol. 8, No. 9. Center for the Advancement of Health.

<sup>4</sup> Landsbergis, P. (September 2003). *Working Yourself to Death – Stress on the Job*. Facts of Life: Issue Briefings for Health Reporters, Vol. 8, No. 9. Center for the Advancement of Health; U.S. parents have increased their work-load the equivalent of a full-time month between 1970 and 2000. Boots, S.W. (December 2004). *The Way We Work: How Children and Their Families Fare in a 21<sup>st</sup> Century Workplace*. Washington, DC: New America Foundation. As the bi-partisan Aspen Covenant established, in the U.S., "our workplaces can force employees to make dispiriting choices between the commitments to their employers and the needs of their children, parents, and other loved ones. Work arrangements must not impair the ability of employees to nurture the young, the old or the infirm." p.15

Aspen Institute Domestic Strategy Group. (2002). *Grow Faster Together. Or Grow Slowly Apart. How Will America Work in the 21st Century?*

[http://www.aspeninstitute.org/AspenInstitute/files/CCLIBRARYFILES/FILENAME/0000000225/DSGBrochure\\_final.pdf](http://www.aspeninstitute.org/AspenInstitute/files/CCLIBRARYFILES/FILENAME/0000000225/DSGBrochure_final.pdf)

<sup>5</sup> Boots, S.W. (December 2004). *The Way We Work: How Children and Their Families Fare in a 21<sup>st</sup> Century Workplace*. Washington, DC: New America Foundation.

<sup>6</sup> Of workers with elderly parents, nearly one-third report having missed work to care for them. Low-income workers are twice as likely as higher income workers to provide 30 hours or more of unpaid elder care each month. "Elder Care" AFL-CIO. <http://www.aflcio.org/issuespolitics/workfamily/eldercare.cfm>

<sup>7</sup> A Confederation of British Industries' statement about the law asserts, "Business has supported flexible working and the new right to request has been a huge success since its introduction in 2003...." *CBI Demands Changes to Notice Periods and Administration as Major Extensions of Family-Friendly Working Are Proposed*. (February 28, 2005). Press release from CBI.

<http://www.cbi.org.uk/ndbs/press.nsf/0/551342ca3414103380256fb60038fcb?OpenDocument>

<sup>8</sup> One analysis found that the likelihood of flexible schedules decreases dramatically the lower the level of education – from about 90 percent to 17 percent for those with advanced degrees compared to those finishing high school. Golden, L. (2005). *The Flexibility Gap: Employee Access to Flexibility in Work Schedules*. The Alfred P. Sloan Foundation.

<sup>9</sup> Burke, M.J., & Collison, J. (November 2004). *2004 U.S. Job Recovery and Retention Poll Findings*. Society for Human Resource Management.

<sup>10</sup> Section 47 of the Employment Act of 2002. The U.K. is not the only nation to address requests for flexible working arrangements. For a comparative analysis between the U.K. and German laws see: Hegewisch, A. (2005). "Individual Working Time Rights in Germany and the UK: How a Little Law Can

---

Go a Long Way.” In *Working Time for Working Families: Europe and the United States*. Friedrich Ebert Foundation. This publication also includes an analysis of the Netherland’s Working Time Adjustment Act. In New Zealand, on March 17, 2005, a bill was introduced in Parliament to provide for a right to request flexible work (<http://www.greens.org.nz/searchdocs/PR8418.html>) modeled on the U.K. provision.

<sup>11</sup> Department of Trade and Industry Employment Relations. (2005). *Employment Legislation Flexible Working – The Right To Request: A basic summary (PL516 Rev 1)*. Available at <http://www.dti.gov.uk/er/individual/flexible-pl516.htm>.

<sup>12</sup> <http://www.dti.gov.uk/er/individual/flexible-pl516.htm>

Department of Trade and Industry Employment Relations. (2005). *Employment Legislation Flexible Working – The Right To Request: A basic summary (PL516 Rev 1)*. Available at <http://www.dti.gov.uk/er/individual/flexible-pl516.htm>.

<sup>13</sup> [http://164.36.164.20/work-lifebalance/press\\_010\\_a.html](http://164.36.164.20/work-lifebalance/press_010_a.html) Prime Minister launches Work-Life Balance Campaign

<sup>14</sup> Department of Trade and Industry. (2001). *About Time: Flexible Working*. Work and Parents Taskforce. P. 10. [http://www.dti.gov.uk/er/individual/flexworking\\_report.pdf](http://www.dti.gov.uk/er/individual/flexworking_report.pdf) .

<sup>15</sup> PriceWaterhouseCoopers (2002). *New Flexible Working Legislation: Are You Prepared?*

<sup>16</sup> <http://www.gnn.gov.uk/environment/detail.asp?ReleaseID=113752&NewsAreaID=2&NavigatedFromDepartment=False> Hewitt, P. (April 5, 2004). “Employers Grant 8 in 10 Flexible Working Requests: British Bosses Back Flexible Working On Anniversary Of New Law.” Government News Network.

<sup>17</sup> Department of Trade and Industry. (undated). *Flexible Working: The Right to Request and the Duty to Consider—A Guide for Employers and Employees*. p 3

<sup>18</sup> In the U.K. there is an existing system of employment tribunals which are judicial bodies that hear claims about matters to do with employment.

<sup>19</sup> Maternity Alliance. (2004). *Happy Anniversary? The Right to Request Flexible Work One Year On*. [http://www.maternityalliance.org.uk/documents/Flexible\\_working2.pdf](http://www.maternityalliance.org.uk/documents/Flexible_working2.pdf).

<sup>20</sup> HM Treasury and Department of Trade and Industry. (January 2003). *Balancing Work and Family Life: Enhancing Choice And Support For Parents*. p. 13. [http://www.hm-treasury.gov.uk/media/120/3A/worklife\\_balance0103\\_chap1to3.pdf](http://www.hm-treasury.gov.uk/media/120/3A/worklife_balance0103_chap1to3.pdf)

<sup>21</sup> A survey of human resources officials found that the largest class of employee to take advantage of the statutory right is employees engaged in clerical work. <http://www.cipd.co.uk/subjects/wrkgttime/flexwking/prntrighttoask.htm?IsSrchRes=1>. In addition, information about how lower income families fare is both scant and contradictory. One small survey found that lower income parents were refused more often than other parents, while a second such survey found the opposite. In these small surveys, among parents who had made requests for flexible work, twenty-nine percent of low income parents were accepted compared to 83 percent of parents of disabled children and 60 percent of responding parents. Camp, C. (March 2004). *Right to Request Flexible Working: Review of Impact in the First Year of Legislation*.

<sup>22</sup> Chartered Institute of Personnel and Development /Lovells. (October 2003). A Parent’s Right to Ask: A Review of Flexible Working Arrangements. <http://www.cipd.co.uk/subjects/wrkgttime/flexwking/prntrighttoask.htm?IsSrchRes=1>.

<sup>23</sup> Chartered Institute of Personnel and Development. Flexible working brings significant challenges but effective implementation will help organisations reap the benefits. (February 23, 2005). Press release from Chartered Institute of Personnel and Development. [http://www.cipd.co.uk/press/PressRelease/23022005\\_pressrelease3.htm](http://www.cipd.co.uk/press/PressRelease/23022005_pressrelease3.htm)

<sup>24</sup> Woodland et al. (November 2003). *The Second Work-life Balance Study: Results from the Employers’ Survey*. National Centre for Social Research. <http://www.dti.gov.uk/er/emar/errs22MainReport.pdf>.

<sup>25</sup> PriceWaterhouseCoopers (2002). *New Flexible Working Legislation: Are You Prepared?*

<sup>26</sup> Department of Trade and Industry. (February 2005). *Work and Families: Choice and Flexibility: A Consultation*. [http://www.dti.gov.uk/er/choice\\_flexibility\\_consultation.pdf](http://www.dti.gov.uk/er/choice_flexibility_consultation.pdf). Support is widespread. A poll conducted by the Equal Opportunities Commission (EOC) finds more than four out of every five respondents back the idea of extending the right to more workers who are carers, and the unions have added their voice as well. See <http://www.eoc.org.uk/cseng/policyandcampaigns/icm%20poll%20summary.pdf> and [http://www.usdaw.org.uk/equality/news/1109693087\\_3396.html](http://www.usdaw.org.uk/equality/news/1109693087_3396.html). Notably, some employer groups have identified a few concerns with expansion but have not called for retrenching on flexible work. See

---

*Maternity Arrangements Must be Simplified Before New Family Friendly Policies Introduced Say Manufacturers* (February 28, 2005). Press release by EEF.

<sup>27</sup> CIPD. (2005). *Flexible Working: Impact and Implementation—An Employer Survey*. p. 13.

<sup>28</sup> <http://www.cipd.co.uk/subjects/wrkgtime/flexwking/prntrighttoask.htm?IsSrchRes=1>

<sup>29</sup> [http://www.eoc.org.uk/cseng/policyandcampaigns/flexible\\_working\\_interim\\_summary.pdf](http://www.eoc.org.uk/cseng/policyandcampaigns/flexible_working_interim_summary.pdf)

<sup>30</sup> <http://www.cipd.co.uk/subjects/wrkgtime/wrktmewrklfbal/worklifeba.htm?IsSrchRes=1>

<sup>31</sup> Department of Treasury. “Building a Fairer Society” in *Budget 2005: Investing for our future: Fairness and opportunity for Britain's hard-working families*, p. 108. [http://www.hm-treasury.gov.uk/media/AA7/40/bud05\\_chap05\\_209.pdf](http://www.hm-treasury.gov.uk/media/AA7/40/bud05_chap05_209.pdf)

<sup>32</sup> The Tory party also proposed a payment for friends and family who look after children, which would be an alternative to the current tax credit available when a “childminder” or nursery provides care. Patrick Hennessy Howard Offers Cash for Childcare. (March 27, 2005). telegraph.co.uk.

<http://news.telegraph.co.uk/portal/main.jhtml;sessionid=AGHZJ3C51O4UPQFIOMFSM54AVCBO0JVC?menuId=652&menuItemId=-1&view=HELP&grid=P9&targetRule=>

<sup>33</sup> EU directives bind all Member States to an *overall objective* to be achieved but leave the question of *how* to achieve this goal for national authorities to decide.

[http://www.europecounts.org.uk/epandyou/yourguide/legislation\\_made\\_easy](http://www.europecounts.org.uk/epandyou/yourguide/legislation_made_easy)

<sup>34</sup> EU Working Time Directive:

[http://europa.eu.int/comm/employment\\_social/social\\_dialogue/docs/workingtime\\_I\\_en.pdf](http://europa.eu.int/comm/employment_social/social_dialogue/docs/workingtime_I_en.pdf)

<sup>35</sup> For those ineligible for maternity pay through employers, a government allowance of a similar amount is available.

<sup>36</sup> Part-time Work Directive 97/81/EEC and Council Directive 98/23/EC

<sup>37</sup> There are other reasons that U.K. part-time work remains problematic despite the EU directive. While many parents and carers may want to work part-time, the job often results in a demotion in responsibilities, reduced pay but a full workload, and stigmatization. For lower wage workers there can be additional problems when work is part-time. Many part-time workers earn below the income threshold for National Insurance. Such workers can avoid deductions from their paycheck (employers also avoid payments); however, these part timers therefore do not contribute to such benefits as unemployment insurance, maternity allowance, incapacity benefit, and state pension and if they do not contribute they can not access these benefits. In 1998 more than a third of all female part-time employees earned less than the lower earning limit. Many women remain in jobs below the threshold. Home Responsibilities Protection (HRP) is designed to help workers who are carers to take time but not lose State pension rights. However, HRP may not adequately protect enough workers. McKnight, A., Elias, P., & Wilson R. (1998). *Low Pay and the National Insurance System: A Statistical Picture*. Equal Opportunities Commission. U.K.

[http://www.eoc.org.uk/cseng/research/low\\_pay\\_and\\_the\\_ni\\_system\\_findings.pdf](http://www.eoc.org.uk/cseng/research/low_pay_and_the_ni_system_findings.pdf)

<sup>38</sup> Employees who do not have coverage through their own employer may have coverage through their spouse or through government subsidized programs. Wenger, J. (April 2003). *Share of Workers in “Nonstandard” Jobs Declines*. Table 4. Economic Policy Institute.

<http://www.epinet.org/briefingpapers/bp137.pdf>

<sup>39</sup> Fung, A., Graham, M., Weil, D., & Fagotto, E. (April 2005). *From Food to Finance: What Makes Disclosure Policies Effective?* John F. Kennedy School of Government.

<sup>40</sup> In the U.S. almost 22 million workers are caregivers for their parents or loved ones.

<http://www.aarp.org/life/caregiving/Articles/a2003-10-27-caregiving-balancingwork.html>

<sup>41</sup> Osterman, P., Kochan, T.A., Locke, R.M., & Piore, M.J. (2002). *Working in America: A Blueprint for the New Labor Market*. MIT Press. p. 199.

<sup>42</sup> The significant negative effect on mothers’ wages is 7.7 percent. Boushey, H. (April 2005). *Family Friendly Policies: Boosting Mothers Wages..* Center for Economic and Policy Research.

[http://www.cepr.net/publications/labor\\_markets\\_2005\\_04\\_06.pdf](http://www.cepr.net/publications/labor_markets_2005_04_06.pdf)