

**Department for Business and Trade**  
**Make Work Pay: Consultation on improving**  
**access to flexible working**

**GENERAL COMMENTS**

1. NASUWT welcomes the opportunity to respond to the Department for Business and Trade (DBT) consultation on improving access to flexible working.
2. NASUWT – The Teachers' Union – represents teachers and headteachers across the United Kingdom.
3. NASUWT recognises the need for good jobs that help hardworking families and create a stronger economy. It is therefore welcome that the Government looks at how it can improve access to flexible working in order to enhance the opportunity for people to find, advance and stay in work, as part of its plan to *Make Work Pay*.<sup>1</sup>
4. Before answering the specific questions in the consultation, NASUWT is concerned that the consultation is quite poorly designed and provides little opportunity for stakeholders other than employers to provide detailed evidence to enable the Government to develop its evidence base on flexible working.<sup>2</sup>
5. For example, trade unions are not provided with the opportunity to input into the first 15 questions of the consultation. As such, the call for evidence is in danger

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<sup>1</sup> [Make Work Pay - GOV.UK](#)

<sup>2</sup> [Make Work Pay: consultation on improving access to flexible working](#)

of being one-sided and skewed, which will do very little to improve the evidence base in order to inform the Government's future flexible working strategy.

## **SPECIFIC COMMENTS**

**Indicate whether you are responding as:**

- An individual
- An academic, or on behalf of an academic or research organisation
- An employer
- A legal representative
- A business representative organisation (specify)
- **A trade union or staff association (specify) – The National Association of Schoolmasters Union of Women Teachers (NASUWT – The Teachers' Union)**
- A charity or interest group
- Other, specify

**Which region are you located in?**

- **North East**
- **North West**
- **Yorkshire and The Humber**
- **East Midlands**
- **West Midlands**
- **East of England**
- **London**
- **South East**
- **South West**
- **Wales**
- **Scotland**
- **Northern Ireland**

**What sector are you based in?**

- Accommodation and food service activities
- Activities of households as employers, undifferentiated goods and services, producing activities of households for own use
- Administrative and support service activities
- Arts, entertainment and recreation
- Agriculture, forestry and fishing

- Construction
- Education
- Electricity, gas, steam and air conditioning supply
- Financial and insurance activities
- Human health and social work activities
- Information and communication
- Manufacturing
- Mining and quarrying
- Production
- Professional, scientific and technical activities
- Public administration and defence, compulsory social security
- Real estate activities
- Services sector
- Transportation and storage
- Water supply, sewerage, waste management and remediation activities
- Wholesale and retail trade, repair of motor vehicles and motorcycles
- Other service activities

**PART ONE: UNDERSTANDING EARLY IMPACTS OF RECENT REFORMS.**

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

- Yes
- No
- Do not know

6. The Union believes that employers have a duty to keep and retain staff, as well as seek to recruit those who wish to return to work after a break in employment.

7. The Union welcomed the changes to the legislative framework for flexible working, including those that came into effect from April 2024.<sup>3</sup> This should have brought about an improvement in women’s engagement with the labour market when they are caring for children by opening up the number of vacancies advertised on a flexible work basis from day one.

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<sup>3</sup> [The Flexible Working \(Amendment\) Regulations 2023](#)

8. The right to request flexible working should be seen as a way for employers to recruit, motivate and retain their employees, as well as enabling them to negotiate work patterns that granted them access to a pool of experienced and skilled staff.
9. The development of flexible working should have enabled greater gender equality in both the workplace and at home, as well as playing a role in promoting greater social mobility, by giving families a greater say in how and when they share their caring responsibilities.
10. There is a significant body of evidence which highlights the benefits of flexible working, including reduced sickness absence, increased productivity, a more motivated workforce, greater employee engagement and greater diversity amongst the workforce.
11. For example, research by the Chartered Institute of Personnel and Development (CIPD) has shown that flexible working is pivotal to the attraction and retention of employees, with many organisations viewing flexible working as a key factor in employee motivation, employee loyalty and commitment to an organisation.<sup>4</sup>
12. It has been suggested that flexibility is central to how people want to work in the future,<sup>5</sup> with employees citing the positive impact on their quality of life. Indeed, flexible working ranks higher than salary as a key benefit in some surveys,<sup>6</sup> with approximately 1.1 million employees indicating that they have left a job in the last year (January 2024 to 2025) due to a lack of flexible working.<sup>7</sup>
13. Furthermore, a survey of UK businesses by HSBC in 2021 reported that flexible working and salary were equally important when attracting and retaining staff.<sup>8</sup>
14. Positive approaches towards flexible working have been shown to reduce the gender pay gap (GPG), as well as supporting more diverse talent pipelines

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<sup>4</sup> [Flexible and hybrid working practices in 2025](#)

<sup>5</sup> [Flexible Working For All](#)

<sup>6</sup> [How flexible working can benefit your team and your business | Acas](#)

<sup>7</sup> Ibid.

<sup>8</sup> [Flexible working as important as salary say UK businesses - About HSBC | HSBC UK](#)

within companies. For example, when Zurich identified a lack of applications from women for senior roles and undertook a flexible working initiative, it found that this led to a 66% increase in applications.<sup>9</sup>

15. Furthermore, research by the CIPD has shown that 41% of organisations believe that an increase in flexible working, specifically home/hybrid working, has led to increased organisation productivity/efficiency in their organisation, while only 16% believe that it had decreased productivity/efficiency in their organisation.<sup>10</sup>

16. This is supported by research undertaken by Stanford University that found that employees who work from home two days a week are just as productive, just as likely to get promoted, and far less prone to quit than their counterparts working physically at an organisation.<sup>11</sup>

17. It is therefore unsurprising that few labour market policies have more widespread support than flexible working. It is strongly supported by employers, employees, trade unions and campaigning bodies,<sup>12</sup> and seen as key driver of workforce participation.

18. Indeed there is a strong, unmet demand for flexible working; 87% of people want to work flexibly, which rises to 92% for young people.<sup>13</sup> The Office for National Statistics (ONS) and Behavioural Insights Team noted that surveys show that flexibility drives job choices and re-entry into the labour market.<sup>14</sup>

19. For example, the ONS has found that flexible working was a significant consideration in deciding whether to return to work for those aged 50 to 65 who had left or lost their job since the Covid-19 pandemic.<sup>15</sup>

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<sup>9</sup> [How flexible working can benefit your team and your business | Acas](#)

<sup>10</sup> [Flexible and hybrid working practices in 2025](#)

<sup>11</sup> [Study finds hybrid work benefits companies and employees | Stanford Report](#)

<sup>12</sup> [flexible-working\\_tcm18-58746.pdf](#)

<sup>13</sup> [Making flexible working the default](#)

<sup>14</sup> [Options assessment template 2023 reforms](#)

<sup>15</sup> [Reasons for workers aged over 50 years leaving employment since the start of the coronavirus pandemic - Office for National Statistics](#)

20. In addition, the Fawcett Society has shown that 40% of women who are currently not working said that if flexible working was available to them, it would enable them to do paid work.<sup>16</sup>
21. It therefore comes as no surprise that flexible working has been identified as one of the key indices of good work based on various organisations, including the Trades Union Congress (TUC), the International Labour Organisation (ILO), the Organisation for Economic Co-operation and Development (OECD), Eurofound and the CIPD.<sup>17</sup>
22. Indeed, the Options Assessment undertaken by the DBT that accompanies the consultation on improving access to flexible working and the requirement to consult states that, *‘Having the ability to vary the time, hours and place of work is key to the functioning of the UK’s flexible labour market. It enables employers to attract and retain a diverse workforce, support career progression, employee wellbeing and productivity, and foster greater inclusivity both within and across organisations by removing barriers to participation for all, including those with caring responsibilities and other commitments.’*<sup>18</sup>
23. However, it is evident that the current arrangements in place regarding flexible working are not working for vast swathes of working people, thereby entrenching gender stereotypes about caring and parental responsibilities that contribute to the ‘motherhood penalty’ and the persistence of the GPG in the UK labour market.
24. Despite the legislative reforms introduced from April 2024, including the fact that employers are not able to refuse a request until they have ‘consulted’ with the employee, the evidence suggests that flexible working is still inaccessible for many workers. A culture of presenteeism and a lack of creative thinking about job design are hampering progress towards flexibility as the norm. Too few employers are considering the benefits of offering jobs on a flexible working basis.

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<sup>16</sup> [Equal Pay Day 2023: Unlocking flexible work](#)

<sup>17</sup> [CBP-10307.pdf](#)

<sup>18</sup> [Options assessment template 2023 reforms](#)

25. This is compounded by the fact that only 11% of jobs are advertised as being flexible,<sup>19</sup> despite the fact that research by the Government Equalities Office found that jobs advertised on a flexible basis attracted 30% more applicants than those that were not.<sup>20</sup>
26. International comparisons suggest that whilst the UK's share of part-time work is high, relative to other OECD countries, it drops when looking at countries where workers have some flexibility in working arrangements, such as Germany, Norway and Finland.<sup>21</sup>
27. Research undertaken by the TUC showed that one in three requests for flexible working were turned down,<sup>22</sup> whereas a survey of over 13,000 working mums found that half said their current employer had rejected or only accepted part of their flexible working request.<sup>23</sup>
28. Disappointingly, the lack of access to flexible working is driving many workers out of jobs. For example, Unison and Maternity Action surveyed 2,300 women members who had a baby or adopted a child since January 2022 and found that of the women who had previously stated that they had left their job after maternity leave, 51% cited a lack of flexibility as their main reason for doing this.<sup>24</sup>
29. Furthermore, the Royal College of Midwives (RCM) reported that a lack of access to flexible working is a huge challenge for the midwifery profession, which is made up of predominantly women.<sup>25</sup> Many midwives returning from a period of maternity leave struggle to access the flexible working they need to manage their return to work, ongoing childcare and breastfeeding support.<sup>26</sup>

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<sup>19</sup> [flexible-working-business-case\\_tcm18-52768.pdf](#)

<sup>20</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/966407/Encouraging\\_employers\\_to\\_advertise\\_jobs\\_as\\_flexible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/966407/Encouraging_employers_to_advertise_jobs_as_flexible.pdf)

<sup>21</sup> [megatrends-report-flexible-working-1\\_tcm18-52769.pdf](#)

<sup>22</sup> [Flexibleworkingreport3.pdf](#)

<sup>23</sup> [Denied and discriminated against | TUC](#)

<sup>24</sup> [UNISON-maternity-rights-survey.pdf](#)

<sup>25</sup> [flexible-working-guidance3.pdf](#)

<sup>26</sup> [Urgently Improve facilities to help midwives and MSWs breastfeed at work, says RCM - Royal College of Midwives](#)

30. The development of flexible working should have enabled greater gender equality in both the workplace and at home, as well as playing a role in promoting greater social mobility, by giving families a greater say in how and when they share their caring responsibilities.
31. Despite facing significant barriers to accessing the flexible working they need, it remains the case that mothers are still more likely than fathers/co-parents to ask for flexible working,<sup>27</sup> with fathers reporting that their workplace was unsupportive.<sup>28</sup>
32. For example, TUC polling found that 53% of new dads and partners entitled to paternity leave who request flexible working did not get the flexibility they asked for, and that this rises to 64% of dads and partners with household incomes under £40,000. Indeed, one in five dads and partners do not even ask for any flexibility for fear of employer response and the impact on their careers.<sup>29</sup>
33. Indeed, it remains the case that mothers are more likely than fathers to request a change to their employment for childcare reasons (56.2% of mothers compared to 22.4% of fathers).
34. Research by the TUC has further found that 31% of working mothers had not asked for any flexible working, and 36% had only asked for some of the flexibility they needed. Of those working mothers who had only requested some of the flexible working they needed, 73% stated that the reason they did not request all of the flexible working needed was because they believed the request would be turned down.<sup>30</sup>
35. In addition, 50% of respondents stated that they were put off making a flexible working request due to worries about the harm this could inflict on their future career prospects.<sup>31</sup>

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<sup>27</sup> [Mothers are twice as likely as fathers to ask for flexible working after parental leave - Pregnant Then Screwed](#)

<sup>28</sup> [Flexible working | Acas](#)

<sup>29</sup> [Half of new dads don't get the flexibility they ask for at work – TUC | TUC](#)

<sup>30</sup> [Denied and discriminated against | TUC](#)

<sup>31</sup> Ibid.

36. The differential uptake of flexible working by men and women has the potential to perpetuate the gender divide, both at home and in the workplace. A workplace stuck in the past, where gender stereotypes are still rife, means that gender divides within the workplace are perpetuated, and women, who are disproportionately more likely to take up flexible working, are likely to be less visible, less well-paid and less likely to be promoted.<sup>32</sup>
37. For example, TUC analysis has found that, on average, women are nearly five times more likely to drop out of the labour market due to caring responsibilities, rising to six times more likely for Black and minority ethnic (BME) women and nine times more likely for disabled women. This can be seen in every age bracket but is particularly high for women aged 25-44, peaking for women aged 25-29, who are 14 times more likely to be out of the labour market due to caring responsibilities.<sup>33</sup>
38. Furthermore, among parents who reported unfair treatment due to pregnancy or becoming a new parent, for women, the rates of unfair treatment related to being pregnant or becoming a new mother were higher in most instances, with 20% reporting that they received unpleasant comments from their employer and/or colleagues, 22% reporting that they were denied access to flexible working, 19% reporting that they were given unsuitable work or workloads, 14% reporting that they failed to get a promotion they felt they deserved, and 15% reporting that they had experienced bullying from a line manager or supervisor.<sup>34</sup>
39. The association between flexible working and women looking to balance work and caring commitments through part-time working is therefore an important factor contributing to the persistence of the GPG.
40. NASUWT believes this has implications for mothers staying in and returning to the workforce, as well as serious consequences for equal pay and the

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<sup>32</sup> [Flexible working | Acas](#)

<sup>33</sup> [It's Gender Pension Gap Day – and we need to talk about Carers Credit | TUC](#)

<sup>34</sup> [TUC: Number of new and expectant parents losing their job or facing unfair treatment at work “alarmingly high” | TUC](#)

representation of mothers at senior levels. It also has implications for fathers who want to be more involved.

### **Flexible working, the gender pay gap and the ‘motherhood penalty’**

41. The current arrangements regarding flexible working do not create an economy that delivers for all working people<sup>35</sup> and supports economic growth by enabling more parents to stay in work to advance their careers, particularly women, particularly when it is still very difficult for fathers/co-parents to afford to take significant amounts of well-paid leave when their child is born.

42. As a consequence, outdated norms persist that reflect and entrench the gendered division of childcare between mothers and fathers/co-parents, specifically promoting the belief/ideology that mothers should bear the responsibility for significantly more childcare compared to men.

43. The unequal distribution of caregiving responsibilities is a key contributor to gender inequality in the labour market. For example, estimates suggest that women provide 450 million hours of unpaid childcare each week compared to 186 million by men.<sup>36</sup>

44. Furthermore, data from the ONS shows that there were almost 1.4 million women who were economically inactive from April to June 2025 because they were looking after their family or home, compared to 229,000 men.<sup>37</sup>

45. Given this, the GPG currently stands at 13.1% and has only been falling on average by 0.9 percentage points over the last five years. It will not close until 2040 at current rates.<sup>38</sup>

46. Indeed, analysis from the Institute for Fiscal Studies (IFS), having accounted for changes to educational attainment, found that there had been very little progress on closing the gender earnings gap over the last 25 years. The same analysis

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<sup>35</sup> [Make Work Pay: consultation on improving access to flexible working](#)

<sup>36</sup> [committees.parliament.uk/writtenevidence/137247/pdf/](#)

<sup>37</sup> [INAC01 SA: Economic inactivity by reason \(seasonally adjusted\) - Office for National Statistics](#)

<sup>38</sup> [TUC: Gender pay gap means women work first 48 days of the year unpaid | TUC](#)

noted that gender gaps in employment and wages substantially increase as soon as parenthood is factored in,<sup>39</sup> which contributes to a gender pensions pay gap of 36.6%.

47. Both the gender pay and pensions gaps are driven significantly by the fact that many women have little option other than to work part time or leave the labour market altogether when they start a family, often due to a lack of access to opportunities for flexible working.

48. It has been argued that the focus on the 'maternal transfer model' and the absence of a substantive individual, non-transferable entitlement to paid parental leave for fathers/co-parents means that mothers spend less time in paid work and more time working part time than fathers. This has had a detrimental impact on women's careers, long-term earnings and drives the persistent and relatively large GPG in the UK economy.<sup>40</sup>

49. For example, the average employment hours worked by men barely change after they become fathers, whereas the employment of women falls sharply from in excess of 90% to below 75% following childbirth. Amongst those women who remain in paid work, the hours of work fall from around 40 to fewer than 30 per week. Furthermore, the wages earned per hour stagnate for working mothers, while continuing to grow uninterrupted for fathers.<sup>41</sup>

50. Given this gap in earnings, women often return to the workplace on a part-time basis following maternity, often in lower paid jobs that lack opportunities for career progression, in order to access the flexibility that enables them to manage childcare responsibilities (the 'motherhood penalty').<sup>42</sup>

51. Of even greater concern is that women are often forced out of work when they seek to return from pregnancy and maternity leave by the imposition of penalties

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<sup>39</sup> [Barely any change to gender earnings gap in last 25 years once you account for increases in women's education | Institute for Fiscal Studies](#)

<sup>40</sup> [CPP Parental-Leave-report\\_June-2023.pdf](#)

<sup>41</sup> [Inequality - The IFS Deaton Review | Institute for Fiscal Studies](#)

<sup>42</sup> [A Question of Time: What's happening with part-time working in the UK? - Timewise](#) and [The real reasons behind the gender pay gap - Timewise](#)

such as diminished career opportunities and the pressure to take on jobs below their level of skill and experience.

52. There is a wealth of evidence from a number of countries that suggests that the introduction of an individual, non-transferable parental leave entitlement has been associated with a smaller GPG and a smaller labour market participation gap between men and women.<sup>43</sup>
53. Furthermore, other studies have shown that 19% of recent parents who requested flexible working had their request denied, and 26% had their request 'partially met', with the impact of such decisions disproportionately impacting on younger and lower income parents.<sup>44</sup>
54. Whilst it remains the case that mothers (56.2%) are more likely than fathers (22.4%) to change their employment for childcare reasons or ask for flexible working, mothers still face significant barriers to accessing the flexible working they need.<sup>45</sup>
55. The struggle to balance childcare and work for families is also compounded by the lack of availability of affordable and flexible childcare. For example, research from the Women's Budget Group in 2022 found that 1.7 million women were prevented from taking on more hours of paid work due to childcare issues, equating to up to £28.2 billion of lost economic output every year.<sup>46</sup>
56. It cannot go unnoticed that legislation exists in many European countries that entitles parents to reduce their working hours, specifically during the first few months, to combine care and (part-time) employment.
57. For example, Dutch workers have the legal right to request changes to the hours they work (*Wet Aanpassing Arbeidsduur*), as well as the right to request flexible working (*Wet Flexibel Werken*),<sup>47</sup> whereas parents of children up to eight years

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<sup>43</sup> [CPP Parental-Leave-report June-2023.pdf](#)

<sup>44</sup> Ibid.

<sup>45</sup> [Mothers are twice as likely as fathers to ask for flexible working after parental leave - Pregnant Then Screwed](#)

<sup>46</sup> [Childcare-and-gender-PBB-Spring-2022-1.pdf](#)

<sup>47</sup> [Flexible Working Act in practice | KVK](#)

old automatically have the right to work from home, with employers required to cover remote working expenses, such as electricity.<sup>48</sup>

### **Flexible working and the experiences of teachers**

58. The overwhelming majority of the teaching workforce is female (75.6%).<sup>49</sup> Irrespective of this, the Union is aware that on becoming pregnant and returning to work following childbirth, female teachers can face difficulties with their employer.

59. Indeed, women in their 30s are the largest group exiting the teaching profession each year. For example, in 2023, the 30-40 age group accounted for one in four of the teaching workforce.<sup>50</sup>

60. Losing experienced teachers is catastrophic on a number of levels, not least of which is the impact on the stability of the school workforce felt in schools up and down the country.

61. Despite a significant body of evidence demonstrating the benefits of flexible working in schools,<sup>51</sup> such as the retention of experienced staff, promoting wellbeing and improving work-life balance, NASUWT believes that the uptake of flexible working in education remains stubbornly low.

62. Flexible working requests come disproportionately from female teachers, as they make up the vast majority (75%) of the teaching workforce. This represents a key factor in the GPG in teaching, as many women teachers are forced to relinquish Teaching and Learning Responsibilities (TLRs) or even break from their substantive contracts of employment and consider employment elsewhere.

63. This includes taking up posts at a lower grade because there is no guarantee of pay portability, as well as working as supply teachers, who are often subject to the vagaries of intermittent, insecure and precarious employment.

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<sup>48</sup> [Global flexible working laws: UK law extends worker rights | World Economic Forum](#)

<sup>49</sup> [School teacher workforce - GOV.UK Ethnicity facts and figures.](#)

<sup>50</sup> [Missing Mothers](#)

<sup>51</sup> [NASUWT | Supporting Flexible Working Requests and Appeals](#)

64. Where flexible working requests are accepted, teachers report suffering unfair treatment and career setbacks, particularly those teachers in leadership positions, or those with additional responsibilities.
65. Given this, it comes as no surprise that the School Workforce Census (SWC) data for England shows that average salaries are higher for male teachers than they are for female teachers across all grades.<sup>52</sup>
66. The average salary for all teachers, including those in leadership roles in 2024/25, was £49,205. For male teachers, the average salary was £51,727, whereas the average salary for female teachers was £48,391. The pay premium for male teachers in 2024/25 was £3,336, which represents a GPG of 6.45% in the teaching profession across all grades of teacher in 2024/25.<sup>53</sup>
67. For male classroom teachers, the average salary in 2024/25 was £46,279 compared to £45,057 for female classroom teachers. The pay premium for male classroom teachers in 2023/24 was £1,222, which represents a GPG of 2.64% in 2024/25.<sup>54</sup>
68. However, for headteachers, the GPG is at its most extreme. In 2024/25, the average salary for men was £90,133 compared to £81,652 for women. The pay premium for male headteachers is £8,480, which represents a GPG of 9.41% in 2024/25.<sup>55</sup>
69. Whilst acknowledging the intent and desire of the Department for Education (DfE) to increase opportunities for flexible working, including revising its advice and guidance and addressing the negative perceptions of flexible working in schools,<sup>56</sup> it remains the case that there are still a number of teachers and school leaders who believe that flexible working is incompatible with a career in teaching.<sup>57</sup>

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<sup>52</sup> [Release home - School workforce in England - Explore education statistics - GOV.UK](#)

<sup>53</sup> [Evidence Submission to the STRB 36th Report October 2025 \(England\)](#)

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> [Addressing-the-negative-perceptions-of-flexible-working-in-schools.pdf](#)

<sup>57</sup> [Working lives of teachers and leaders: wave 2 summary report - GOV.UK](#)

70. For example, more than six in ten (64%) of those not currently working flexibly, or who only cite flexible working as occasional days off or leaving early, disagreed that they would be confident requesting flexible working arrangements. A further 34% of those considering leaving state education cited lack of flexible working opportunities as a reason for leaving.<sup>58</sup>
71. The evidence available to NASUWT confirms that many schools are highly resistant to recognising teachers who wish to benefit from flexible working, regarding part-time and job-share teachers as 'less committed'.
72. A key factor undermining progress remains the open-ended teachers' contract. The failure to specify the maximum working time of teachers continues to contribute to a perception/expectation that a teacher's time is unlimited. Furthermore, it undermines the benefits a teacher may otherwise accrue from part-time or job-share working.
73. The experiences of being a parent and a teacher suggest that the attitude and approach towards flexible working by schools/colleges is still a cause for concern, as demonstrated by research undertaken by NASUWT of 3,298 teachers who were parents in 2020.<sup>59</sup>
74. Just over two-fifths (42%) of respondents said that they had asked their employers for flexible working because of their parental responsibilities. Disappointingly, three in ten (30%) teachers reported that their request was not granted.
75. This is compounded by the fact that 37% of teachers who responded to the Union's flexible working survey stated that they were forced to consider alternative employment as a result of their flexible request being refused.
76. Of even greater concern is the fact that just over two-thirds (67%) of teachers reported that they were not given the right to appeal the decision by their

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<sup>58</sup> Ibid.

<sup>59</sup> [Evidence Submission to the STRB 36th Report October 2025 \(England\)](#)

employer to reject their request for flexible working, despite this being good practice and recommended in the Advisory, Conciliation and Arbitration Service (Acas) guidance in relation to flexible working.

77. Recent NASUWT survey data of over 2,000 teachers looked at the experiences of being a parent and a teacher five years on from the previous survey of NASUWT members conducted back in 2020 (see above), to see if the realities faced by teachers who are parents have changed or if the attitude and approach towards their needs and demands remains a cause for concern. The survey showed that 70% of teachers said they have 'seriously considered' leaving teaching because of the impact of their work commitments on their children.<sup>60</sup>

78. Despite the legislative reforms to flexible working requests referenced previously, the research shows that of the 49% of respondents that reported asking their employer for flexible working due to parental responsibilities, one in five indicated that they had their request rejected.<sup>61</sup>

79. Furthermore, of those respondents whose flexible working request was accepted, 66% stated that it had a detrimental impact on their career.<sup>62</sup>

80. This resonates with earlier work undertaken by NASUWT which shows that a significant proportion of teachers are being denied the right to flexible working by employers, and that too many schools are still resistant to flexible working. That specifically means part-time working and job-share working, particularly for those teachers in leadership positions or with additional responsibilities.<sup>63</sup> Only 8% of teachers felt that flexible working requests were encouraged in their workplace.<sup>64</sup>

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<sup>60</sup> [Teachers struggle to balance job with being a parent | Tes](#)

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> [Flexible Working Survey Report 2023](#)

<sup>64</sup> <https://www.nasuwt.org.uk/static/uploaded/6fd07ce3-6400-4cb2-a8a87b736dc95b3b.pdf>

81. NASUWT's *Wellbeing at Work Survey 2024* shows that a majority of teachers report a lack of flexible working opportunities, with just under three-fifths (58%) reporting that their school does not provide flexible working opportunities.<sup>65</sup>
82. Furthermore, NASUWT's *Big Question Survey 2025* shows only 38% of respondents reported that they would feel able to request flexible working arrangements at their school,<sup>66</sup> a figure that has only increased by 3% since 2022.<sup>67</sup>
83. This is not surprising, given that 57% of teachers in the omnibus survey – School and College Voice (SCV) (Nov 2024) – were not aware of their statutory right to request flexible working, and only 19% said their school had a flexible working policy that applies to teachers.<sup>68</sup>
84. Research into graduate career aspirations continues to confirm that younger graduates are more likely to enter and remain in professional occupations that offer flexible employment practices and permit inclusive and collaborative decision-making, while eschewing crude 'command and control' management structures.
85. Disappointingly, the Union believes that, in too many instances, schools do not provide working environments of this type. For teaching to compete, it would need to become more attractive in other ways, including higher pay, to compensate for a lack of work flexibility when compared to opportunities in the wider labour market.
86. Detailed economic analysis and calculations show that the financial benefits of flexible working greatly outweigh any initial costs associated with it. For example, the Pragmatix Advisory Flex Model, published as part of the Flexonomics Report in November 2021, calculated the estimated net benefit to

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<sup>65</sup> [Evidence Submission to the STRB 36th Report October 2025 \(England\)](#)

<sup>66</sup> [The Big Question Report 2025](#)

<sup>67</sup> [Big Question Survey Report 2022](#)

<sup>68</sup> [School and college voice: November 2024 - GOV.UK](#)

the economy of increasing flexible working in the education sector by 50% to be £5 billion.<sup>69</sup>

87. The same report calculated that the cost to organisations in the education sector of employees leaving their job earlier than they would have is £300 million. This includes the cost to replace staff who leave, as well as the loss of productivity from losing more experienced staff. This cost is a real risk to schools that routinely reject requests for flexible working.

88. Indeed, research indicates that the proportion of teachers who expect to still be teaching in three years has fallen from around 75% before the pandemic to approximately 60% more recently.<sup>70</sup> This research identifies key factors driving retention problems, including limited flexibility in working arrangements.

89. Indeed, recent research based on 150,000 teachers across a four-year period has shown that mothers returning to teaching from maternity leave are more likely to stay in their jobs if they work part time in comparison to their peers (32% leaving rate for those working part time compared to 45% for those who went back full time).<sup>71</sup>

90. The same study highlighted the importance of the first year back for women returning from maternity leave, with 17% of returning teachers leaving within a year of coming back compared to a leaving rate of 12% for all teachers.<sup>72</sup>

91. Indeed, the first year back is seen as a time when women are ‘particularly vulnerable to leaving’,<sup>73</sup> and, as such, schools and colleges should show greater understanding and flexibility, including in regards to accommodating part-time and flexible working and ad-hoc flexibility.

92. Of even greater concern is the fact that some teachers indicated that the only way to access flexible working arrangements was through dropping out of the

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<sup>69</sup> The categorisation of ‘education’ is from the ONS UK standard industrial classification of economic activities.

<sup>70</sup> [Teacher Recruitment and Retention in 2025](#)

<sup>71</sup> [What happens to teachers after maternity leave? — The Key Group](#)

<sup>72</sup> Ibid.

<sup>73</sup> [Missing Mothers](#)

permanent teacher workforce and entering the intermittent, insecure and precarious world of supply teaching, including through outsourced employment agencies.<sup>74</sup>

93. Where there are pockets of good practice operating in some schools, including the much-publicised nine-day fortnight,<sup>75</sup> these represent the exception rather than the rule, and increases in the proportion of those teachers who can access off-site planning, preparation and assessment (PPA) time and increases in requests for ad-hoc days are often at the discretion of the line manager or Senior Leadership Team.<sup>76</sup>

94. Nevertheless, the examples cited above do show that where schools are open to embracing flexible working as part of open dialogue in consultation and collaboration with staff and recognised trade unions, such as NASUWT, then this can have positive benefits.

95. It may take time and require additional resourcing, but schools that are open to genuinely engaging with teachers in the process and asking what their needs are and how these can be achieved will find a way to realise more opportunities for flexible working.

96. Unfortunately, the pockets of good practice cited above do not represent the cultural shift that the Union believes is fundamental to addressing the unmet demand<sup>77</sup> for flexible working, which could assist in addressing the current recruitment and retention crisis.

97. Given the evidence detailed above, NASUWT believes that serious consideration must be given to both financial and non-financial levers that can be used to address the lack of flexible working in schools.

98. The Union would encourage the Government to be bold in this area and consider looking at how additional staff could be employed in subject areas,

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<sup>74</sup> [NASUWT | Supply Teacher Annual Survey \(England\)](#)

<sup>75</sup> [Dixons Academies Trust | Flexible working](#)

<sup>76</sup> [Working lives of teachers and leaders: wave 2 summary report - GOV.UK](#)

<sup>77</sup> [Part-time Teaching and Flexible Working in Secondary Schools - NFER](#)

including the use of supernumerary teachers to address issues of flexible working, as well as emergency supply and time to cover PPA time.

99. In addition, the DfE should look at strengthening its education Staff Wellbeing Charter,<sup>78</sup> to ensure there is more rigour and accountability in how Ofsted and schools 'champion flexible working', including an action plan and targets. There should be a national deadline set by the DfE for adoption of the Charter by all state-funded schools.
100. The DfE should revisit its guidance and advice on flexible working and consider changing the status of the guidance from optional to mandatory, as well as requiring all schools to have flexible working policies that have been agreed with NASUWT and other recognised trade unions, which provide for a right of appeal if a flexible working request has been declined.
101. This could be complemented by a requirement for schools to publish their flexible working policies, which is in line with the recommendations suggested in *Good Work Plan: Proposals to support families*.<sup>79</sup> This should produce greater transparency and increased detail and clarity, thereby helping teachers make informed choices by allowing them to compare and benchmark schools.
102. Schools should be expected to report annually on the number of requests made and granted, and the number of appeals lodged, much in the same way schools report on the GPG. A comprehensive report, broken down by workforce composition, particularly those groups with protected characteristics, as well as by contract type, could be produced as part of a school's requirement under the SWC.
103. The Union maintains that any such annual report should be shared with and consulted upon by both the workforce and the recognised trade unions, and include details of any action plans to tackle issues, such as how the employer intends to tackle the barriers faced by working parents and those wishing to access flexible working.

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<sup>78</sup> [Education staff wellbeing charter - GOV.UK](#)

<sup>79</sup> [Good Work Plan: Proposals to support families - GOV.UK](#)

## **Employers adherence to legislation from 2024 and the Acas Code of Practice**

104. As stated previously, despite the legislative reforms introduced from April 2024, including the fact that employers are not able to refuse a request until they have ‘consulted’ with the employee, the evidence above suggests that flexible working is still inaccessible for many workers, including teachers.
105. The requirement to consult, along with other legislative changes introduced in 2024, should have broadened access to flexible working by encouraging dialogue between employers and workers prior to decisions being made.<sup>80</sup>
106. However, ambiguity surrounding the process for consultation, including the format, procedural steps and scope of discussions, has resulted in significant variations across, as well as within, organisations and industries.
107. For example, the Management and Wellbeing Practices Survey found that only 23% of workplaces offering flexible working had a formal organisation-wide procedure for decision-making, and 65% indicated that they relied on ad-hoc decisions based on the circumstances of the situation.<sup>81</sup>
108. In addition, evidence from the CIPD found that of those organisations with formal flexible working policies, 51% reported specifying the meeting process, 42% included detail on how consultation meetings should take place, and 48% detailed how the meeting outcomes should be communicated.<sup>82</sup>
109. Furthermore, the CIPD argued that such variability can lead to employers being uncertain about their obligations and employees unsure about their rights.<sup>83</sup> This is supported by research undertaken by the Acas that highlighted how the lack of a standardised approach to consultation and a lack of exploration of

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<sup>80</sup> [Options assessment template 2023 reforms](#)

<sup>81</sup> [Findings-from-the-Management-and-Wellbeing-Practices-Survey-1.pdf](#)

<sup>82</sup> [Flexible and hybrid working practices in 2025](#)

<sup>83</sup> Ibid.

reasonable alternatives creates scope for inconsistent handling of requests and rejections with minimal explanation.<sup>84</sup>

110. NASUWT maintains that the uncertainty faced by employers in respect of the appropriate process results in the under-provision of flexible working, as employees are deterred further and employers do not consider the wider benefits to the economy.
111. The Union contends that the failure to have a well-defined process has the potential to create an imbalance of power between employers and workers, with the uncertainty around the process resulting in employers defaulting to a 'no' position to protect the status quo and minimise the perceived risk.
112. NASUWT maintains that the lack of clarity around the consultation process can contribute to feelings of discomfort among workers when deciding whether or not to make a request for flexible working in the first place.
113. For example, survey evidence from the CIPD found that three in ten respondents would not feel comfortable requesting flexible working through the statutory framework, with those with a disability reporting significantly less likely to feel comfortable compared to those without a disability.<sup>85</sup>

### **The experiences of teachers under legislation from 2024 and the Acas Code of Practice**

114. The aforementioned NASUWT survey of over 2,000 teachers specifically asked questions regarding the legislative changes from April 2024 and found that almost four-fifths (79%) of respondents whose request for flexible working was rejected stated that their employer had not held a 'consultation meeting' to discuss the details of their request with them, including any possible alternative arrangements.

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<sup>84</sup> [Options assessment template 2023 reforms](#)

<sup>85</sup> [Flexible and hybrid working practices in 2025](#)

115. In addition, even though the Acas Code of Practice on requests for flexible working places an expectation that those holding a ‘consultation meeting’ should have sufficient decision-making powers, almost a quarter (24%) of those whose employers did hold a ‘consultation meeting’ stated that this was not the case, and over a third (36%) stated that they didn’t know whether or not this was held by someone who could agree to their request.
116. Furthermore, despite the fact that the Acas Code of Practice on requests for flexible working provides for the right to be accompanied to a ‘consultation meeting’ by someone, including a trade union representative, just over a quarter (26%) of respondents stated that they were not able to do this, and over half (52%) stated that they didn’t know whether or not they had the right to be accompanied, including by a trade union representative.
117. The survey also found that almost a quarter (24%) of respondents stated that they were not able to have a ‘reasonable’ discussion in the ‘consultation meeting’ that gave their flexible working request ‘serious consideration’, and over two-fifths (43%) stated that they didn’t know whether or not the ‘consultation meeting’ provided for a ‘reasonable discussion’ that gave their flexible working request ‘serious consideration’.
118. It therefore comes as no surprise to the Union that evidence from the CIPD suggests that if the legislation in regards to flexible working is strengthened, 36% of respondents expect their organisation to approve more flexible working requests.<sup>86</sup>

## **PART TWO: A NEW PROCESS FOR CONSULTING EMPLOYEES ON FLEXIBLE WORKING REQUESTS**

### **Suggested process:**

**Where an employer is considering rejecting a statutory flexible working request, we are proposing that the employer must meet with the employee making the request.**

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<sup>86</sup> Ibid.

**The objective of this meeting is:**

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

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

- Yes
- **No**
- Do not know

**18. What do you think should be the objective for this consultation meeting?**

119. NASUWT has serious reservations about the way in which the consultation and the suggested process has been framed against the backdrop of an employer considering refusing a request.

120. The Union believes that the current wording as suggested provides employers with the pre-determined decision to find alternatives rather than seeking to agree the original request.

121. NASUWT contends that the consultation meeting should be an opportunity to engage in genuinely meaningful dialogue that carefully explores the request and any associated evidence provided alongside the request, including why an employee believes their request can work.

122. In addition, engaging in meaningful dialogue to explore the proposal should enable an employee to address any points of concern the employer may have in the hope of reaching an agreement.

123. The Union has long since espoused the importance of planning and preparing for a meeting when teachers are making a request for flexible working, as being

prepared and having a well-planned set of persuasive arguments is essential if a request is going to be successful.<sup>87</sup>

124. However, the current wording above somewhat dismisses this out of hand by determining that any such meeting is only a requirement when considering rejecting a request.
125. Furthermore, NASUWT believes that the current proposal in the consultation runs counter to the intention of *‘introducing changes through the Employment Rights Act to make it more likely that flexible working requests are accepted’*.<sup>88</sup>
126. In addition, the Union contends that holding a consultation meeting to reject a statutory flexible working request will fail to ‘stimulate creative thinking’<sup>89</sup> between employers and employees.
127. Indeed, research by the Department for Business, Innovation and Skill (BIS) and the Equality and Human Rights Commission (EHRC) found that mums reporting employers’ initial reluctance to agree flexible working requests was fairly common, and between 24% and 39% of requests were only approved following discussion.<sup>90</sup>
128. As such, this demonstrates the critical importance of talking about a request before deciding on rejection or an alternative. In addition, if it becomes clear during the meeting that an employer is unable to agree to a request, there should be an obligation placed on employers to consider alternatives put forward by workers rather than the other way around, particularly given that employers are not always best placed to understand what alternatives are available and which one is best suited to the needs of those making such a request.
129. This would ensure that there is genuine negotiation where an informed decision is reached, following discussion between the worker and the employer.

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<sup>87</sup> [NASUWT | Flexible Working Further Advice \(Great Britain\)](#)

<sup>88</sup> [Make Work Pay: consultation on improving access to flexible working](#)

<sup>89</sup> Ibid.

<sup>90</sup> [Pregnancy and maternity discrimination research findings | EHRC](#)

130. The Union maintains that this should be predicated on the basis that any alternatives suggested by the worker can only be refused if the employer can provide substantive evidence as to why all of the alternatives proposed cannot be accommodated.
131. NASUWT therefore maintains that the consultation meeting should be reframed and place an emphasis on finding mutually agreeable resolutions to issues/concerns in order to accept the request. If this is not possible then, as stated above, the consultation meeting should shift to explore what suitable alternative arrangements could be agreed.
132. If flexible working is going to be the catalyst for greater gender equality, then the unfettered ability of employers to refuse requests must be replaced with the presumption that flexible working is the default, unless the employer can provide substantive evidence as to why it cannot be accommodated.
133. Given this, it stands to reason that the Acas Code of Practice on requests for flexible working would need to be amended to reflect this, including the fact that consultation must take place if *any* aspect of the request is being rejected. The current Code states, *'Unless the employer decides to agree to the employee's written **request in full**, they must consult the employee before they make a decision. In such cases, the employer should invite the employee to a consultation meeting to discuss the request.'*<sup>91</sup>
134. Nevertheless, the Union supports the suggestion the consultation meeting is compulsory and that this should take place when an employer intends to agree to a request for flexible working.

### **Setting up the meeting**

- **The meeting must be held without unreasonable delay, and must take place within the two-month period for making a decision. In practice, to allow time for potential follow-up conversations to agree an alternative**

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<sup>91</sup> [Code of Practice on requests for flexible working | Acas](#)

**arrangement before a decision is agreed, the conversation should happen within six weeks of a request being made.**

- **The employee must be informed about the context of the meeting in advance to allow them to prepare for it.**
- **A person with the authority to make a decision about flexible working arrangements must attend the meeting. This could be the employee's line manager, or it may be a different member of staff. They will be referred to as the decision-maker for the purposes of the requirement to consult.**
- **The decision-maker will be required to keep a record of the discussion during the meeting.**

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

- 1 day
- 3 days
- 1 week
- **Other, specify**
  - The requirement should be to give fair notice, accounting for ways of working within the organisation
  - No minimum notice should be required
  - Do not know

135. NASUWT contends that an employee should be given a minimum of **ten** working days' notice of the consultation meeting being held.

136. This represents the standard amount of time that the Union aims to achieve in the overwhelming majority of polices that are consulted or negotiated on with employers, as this provides adequate time for an employee to plan and prepare for the consultation meeting.

137. In addition, a minimum of ten working days' notice leaves sufficient time after the consultation meeting for the outcome of the request to be communicated, including any appeal, to be finalised within the two months as per the legislation.
138. Furthermore, a minimum of ten working days' notice enables the employee to contact their trade union representative and liaise with them about the right to be accompanied to the consultation meeting employee by a union representative, as per the recommendation in the Acas Code of Practice.<sup>92</sup>
139. Without enough notice, NASUWT believes that there is a risk that employees are rushed into a meeting, which might be their only opportunity at meaningful consultation on what is likely to be a significant issue for them.

**20. Do you agree with the proposed requirements for setting up the meeting?**

- Yes
- No – partly agree with the caveats detailed below
- Do not know

**21. What do you think the requirements for setting up the meeting should be?**

140. Whilst unable to agree with the proposed requirements for setting up the consultation meeting, NASUWT maintains that this is because there are important caveats that must be given due consideration.
141. For example, the Union maintains that the consultation meeting and any associated conversation should take place sooner than the six weeks proposed above in order to ensure that the whole process, including any appeal, can take place within the two-month deadline for dealing with flexible working requests.
142. NASUWT is concerned that a consultation meeting/conversation at six weeks leaves very little time before the two-month deadline for any follow-up

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<sup>92</sup> Ibid.

discussion, the final decision to be communicated and for an appeal to take place. Given this, the Union contends that the employee should receive ten days' notice, and the meeting should happen within four weeks of the request being made.

143. Indeed, the Acas model policy that accompanies the Acas Code of Practice, and other associated Acas guidance, states that, '*Where an employee's request needs further discussion, the organisation will invite the employee to a consultation meeting. If a meeting is arranged it will be held within **[10 working days]** of the organisation receiving the request. This time limit may be extended with the agreement of both the employee and **[HR department/line manager/name of individual]**.*'<sup>93</sup>
144. This is supported by the Union's own advice and guidance, specifically the flexible working application flowchart that state schools/colleges should arrange a meeting as soon as reasonably practicable (usually within ten working days).<sup>94</sup>
145. As such, NASUWT believes that it should be seen as good practice for all employers to set out appropriate timescales for dealing with a request for flexible working, including any appeals process, to ensure that the whole process is concluded within the two-month deadline. An example of this could be included in future revisions of the Acas Code of Practice.
146. The Union believes that sticking to the two-month deadline for the completion of the whole process is essential for teachers, given the strict notice periods for teachers detailed in the Burgundy Book,<sup>95</sup> as some teachers may be faced with the unenviable position of submitting their notice in order to leave, should a request be rejected.
147. Indeed, one in five teachers said they had sought or would seek alternative employment at a school that was more conducive to flexible working or where they were able to work reduced hours.<sup>96</sup>

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<sup>93</sup> [Flexible working policy template | Acas](#)

<sup>94</sup> [NASUWT | Flexible Working Further Advice \(Great Britain\)](#)

<sup>95</sup> [NASUWT | Teachers' Notice Periods and Resigning From Your Job](#)

<sup>96</sup> [NASUWT, Flexible working - The Experiences of Teachers, Birmingham, 2016.](#)

148. In addition, NASUWT contends that the requirements to hold a consultation meeting must be backed up with the statutory right of appeal. It cannot go unnoticed that there is currently no statutory right of appeal when a flexible working request is refused.
149. Indeed, the Acas Code of Practice references the fact that *'there is no statutory right of appeal against a decision about a request for flexible working. However, allowing an employee to appeal is good practice'*.<sup>97</sup>
150. Whilst the overwhelming majority of schools and colleges NASUWT engages with have included an appeals process as part of their flexible working policies, it remains the case that the lack of a statutory right of appeal can result in a situation where employers can unilaterally decide whether or not to hear an appeal.
151. The Union believes that the statutory right of appeal is fundamental to a fair process and is included in the Acas Code of Practice (see above). The lack of a right to an appeal process undermines public confidence in the system, as well as undermining workers who seek to challenge decisions made by employers, and this must be addressed as a matter of urgency.
152. Furthermore, the statutory right of appeal should be undertaken by someone who has not previously been involved in the process. Again, this is something recommended in the Acas Code of Practice: *'The appeal should be dealt with impartially. Wherever possible, it should be handled by a manager who has not previously been involved in considering the request.'*<sup>98</sup>
153. Whilst appreciating that there is recourse to an employment tribunal, it should be noted that this often places significant demands on a worker in terms of the time required and the stress of the situation. As such, a statutory right of appeal reduces the chances of requests reaching dispute and a worker essentially

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<sup>97</sup> [Code of Practice on requests for flexible working | Acas](#)

<sup>98</sup> Ibid.

giving up due to lengthy delays recently reported in the employment tribunal process, specifically in London and the South East.<sup>99</sup>

154. In this respect, the Union contends that the Options Assessment that accompanies the consultation on improving access to flexible working and the requirement to consult is misguided in stating that, '*We do not anticipate any significant impact on the Employment Tribunal (ET) caseload as a result of these reforms.*'<sup>100</sup>
155. It is therefore essential that any reforms ensure that workers can effectively enforce their rights. If workers cannot access the rights and entitlements afforded them, then it is questionable whether these rights truly exist.
156. NASUWT agrees that the employee should be informed of the context of the meeting in advance, as this supports a transparent process and allows them time to plan and prepare for the meeting, including discussing this with their trade union representative, as appropriate.
157. As stated previously, the Union maintains that it is good practice to hold a consultation meeting with employees, even if the employer plans to accept an employee's flexible working request. Holding such a meeting provides for clarity and understanding between those involved, as well as providing the opportunity to discussing a number of logistical issues, such as whether a review process is needed and the impact of the request on an employee's contract of employment (e.g. pay and pensions).
158. For teachers, this could include outlining how they intend to deal with issues resulting from a request for flexible working, such as any arrangements for handover in respect of a request involving a job-share, including the specifics of when they will meet and discuss issues with their job-share partner.
159. In order to alleviate any potential misunderstanding ahead of the meeting, employers should be required to advise employees that their request has been

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<sup>99</sup> [NUG Minutes ET - 12 March 2026](#)

<sup>100</sup> [Options assessment template 2023 reforms](#)

accepted, as well as detail what will be discussed in the meeting to enable both parties to prepare sufficiently.

160. NASUWT strongly agrees that the decision-maker should be present at the meeting in order to avoid unnecessary delays additional layers of bureaucracy associated with the process.
161. Despite this being recognised in the Acas Code of Practice,<sup>101</sup> the Union is aware of a small number of schools and colleges that insist on additional layers of bureaucracy associated with signing-off requests for flexible working involving school leaders who are expected to moderate and approve requests following meetings between teachers and line managers.
162. In addition, having the correct decision-maker in the room ensures that the process is substantive and meaningful, and that there is the opportunity for a *'reasonable discussion and consideration of the request'*, as per the Acas Code of Practice.<sup>102</sup>
163. Whilst NASUWT agrees that the a written record of the discussion in the meeting should be taken – even when requests are accepted – and shared with the employee and all others involved in the meeting, it should be noted that this should be an agreed record of the meeting in order to avoid a situation where there are differing accounts of the meeting.
164. Indeed, current advice and guidance from the Union states that, *'An accurate written record of any such discussion should be retained and circulated to all those involved.'*<sup>103</sup>
165. Furthermore, as stated previously, the Union maintains that any meeting, including subsequent meetings (where appropriate) in regard to a request for flexible working, must include the right to be accompanied by a trade union representative.

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<sup>101</sup> [Code of Practice on requests for flexible working | Acas](#)

<sup>102</sup> Ibid.

<sup>103</sup> [NASUWT | Flexible Working Further Advice \(Great Britain\)](#)

166. It should be noted that this forms part of the Acas Code of Practice which advises that employers should inform employees that they can request to be accompanied by a trade union representative, or an official employed by a trade union, and allow the request if it is reasonable.<sup>104</sup>
167. Indeed, NASUWT contends that an employee making a flexible working request should have the opportunity to meet with their trade union representative beforehand to discuss the details of their request, the issues it raises, and how to respond.<sup>105</sup>
168. It cannot go unnoticed that the failure to provide for the right to trade union representation places the individual making the request at a particular disadvantage when considering the power imbalance that exists between an employee and employer.
169. Indeed, the Post-Implementation Review (PIR) of the impact of the Flexible Working Regulations 2014<sup>106</sup> reported that the take-up of flexible working was greater among workplaces where there was a recognised trade union compared with the economy overall.

### **During the meeting**

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

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

#### **Identifying challenges and problem solving:**

- **The decision-maker must clearly communicate any challenges they identify with the original request. They must explain why they feel that it**

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<sup>104</sup> [Code of Practice on requests for flexible working | Acas](#)

<sup>105</sup> [NASUWT | Flexible Working Further Advice \(Great Britain\)](#)

<sup>106</sup> [https://www.legislation.gov.uk/uksi/2014/1398/pdfs/ukiod\\_20141398\\_en.pdf](https://www.legislation.gov.uk/uksi/2014/1398/pdfs/ukiod_20141398_en.pdf)

would not be feasible to accommodate the request, or why the request is not reasonable, referring to the relevant business reason(s).

- The decision-maker must consider whether there might be ways to navigate these challenges and accommodate the request.
  - For example, if the proposed start date of the flexible working arrangement is incompatible with business needs according to a relevant business reason, the employer must consider whether a different start date may be feasible and discuss this with the employee.
- If the potential impacts of a new arrangement are unclear, an employer and employee could choose to trial it for a fixed period of time.

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

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

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

170. NASUWT maintains that this is because there are important caveats that must be given due consideration.

171. Whilst it is widely acknowledged that flexible working has an important role to play in ensuring disabled workers are able to access and stay in work, it is important to note that disabled workers have a different set of rights, and access changes to hours or location through the reasonable adjustment provisions set out in the Equality Act 2010.<sup>107</sup>
172. As such, employers must make sure they are treating such requests under the correct area of legislation and avoid a situation where employers are using the wrong legislation to make a decision and thereby potentially refusing flexible working requests that should be granted.
173. In addition, asking an employee in the consultation meeting if their request should be considered as a reasonable adjustment is too late and, if discussed in this meeting, it will still be reviewed as part of a flexible working process, not a reasonable adjustment process, thereby conflating the two processes even further.
174. Given this, NASUWT contends that any such discussion should happen before a meeting takes place to ensure that both employee and employer come to the meeting knowing what legislation and workplace policy their request is being discussed under.
175. Furthermore, asking in the meeting undermines the first aim of the consultation process, namely that *'the employee must be informed about the context of the meeting in advance to allow them to prepare for it'*.<sup>108</sup>
176. On the issue of discussing any challenges in accommodating the original request and the wording outlined above, the Union has concerns over the current wording and the fact that it pre-determines the outcome when stating the following: *'The decision-maker must clearly communicate any challenges they identify with the original request. They must explain why they feel that it*

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<sup>107</sup> [Equality Act 2010](#)

<sup>108</sup> [Make Work Pay: consultation on improving access to flexible working](#)

*would not be feasible to accommodate the request, or why the request is not reasonable, referring to the relevant business reason(s).*<sup>109</sup>

177. As stated previously, the current wording somewhat dismisses out of hand the requirement to discuss and find resolutions to challenges to accept the original request in the first instance.
178. Recent NASUWT survey data of over 2,000 teachers found that of those teachers whose request for flexible working was rejected, just under two-fifths (38%) stated 'other' reasons, whereas 13% of respondents stated that they were not given a reason why their employer rejected their request to work flexibly.
179. NASUWT contends that the consultation meeting should be an opportunity to engage in genuinely meaningful dialogue that carefully explores the request and any associated evidence provided alongside the request, including why an employee believes their request can work.
180. The Union maintains that this should be predicated on the basis that any alternatives suggested by the worker can only be refused if the employer can provide substantive evidence as to why the alternatives cannot be accommodated. Having to provide an explanation along with substantive evidence makes it harder for employers to simply cite a business reason as a challenge.
181. NASUWT has always recognised that consideration of a different start date can enhance the chances of a request for flexible working being granted, as it demonstrates a willingness to compromise.
182. However, it is important to recognise that some employees may have a specific date in mind that relates to an event occurring, such as childcare. As such, the Union believes that employers should be obliged to work with employees and their trade union representative to navigate this appropriately.

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<sup>109</sup> Ibid.

183. As stated previously, any consideration of alternative arrangements that could be accommodated should only be considered after all options have been explored to accept the original request.

184. As necessary, the Union believes that a discussion around an agreed trial period can be useful as part of the consultation process, especially if it is likely to enhance the chances of an employee's flexible working request being granted.

### **Communicating Outcomes in Writing**

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

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

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

- **Yes**
- No
- Do not know

185. NASUWT maintains that it represents good practice if there is an expectation on the employer to provide in writing an explanation, as well as any evidence it has relied on in order to fully demonstrate that any decision to reject an

employee's request for flexible working is reasonable. Evidence will no doubt be fundamental in assessing and scrutinising whether a decision was reasonable.

186. In addition, written outcomes should be communicated in a timely manner to all those concerned, particularly when considering the two-month period by which the whole process must be concluded.

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

187. As detailed above, NASUWT believes that the following must be given due consideration when looking at the process for the requirement to consult, including both the right to be accompanied and the statutory right to appeal.

188. Furthermore, the Union contends that the further consideration should be given to the vital role that trade unions play in ensuring that workers are better informed and empowered in respect of their employment rights, including those relating to flexible working.

189. NASUWT believes that measures should be introduced to promote and support collective bargaining/collective agreements that ensure a positive culture towards flexible working, both informal and formal requests, as well as policies such as paid carer's leave, parental leave and remote working policies.

190. Evidence suggests that the involvement of trade unions is crucial in negotiating improved terms and conditions, and putting in place mechanisms to remedy breaches of these terms and conditions.<sup>110</sup>

191. The evidence presented above has demonstrated that a lack of flexible working when returning from maternity leave is having a detrimental impact on new mothers, especially teachers, with many being forced to leave the workforce.

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<sup>110</sup> [Parental Rights Survey 2019.pdf](#)

192. As such, NASUWT maintains that the best way to address this is by providing new mothers with the right to flexible working rather than the right to request, coupled with an obligation for employers to publish the flexible working options that are possible when advertising jobs and give workers the right to take up the advertised flexibility from day one.
193. In addition, any advice and guidance, including revisions to the Acas Code of Practice, should highlight how flexible working can be considered as an important mitigation for managing risks to pregnant women and new mums.
194. As such, employers should be encouraged to have proactive and positive conversations on Keeping in Touch (KIT) days around the option to request flexible working.
195. As stated previously, a number of European countries have legislation that entitles parents to reduce their working hours, specifically during the first few months, to combine care and (part-time) employment.

### **Part three: Training, resources and support**

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

- Guidance on handling specific types of requests; for example, on compressed hours or remote working
- Guidance for specific sectors, such as hospitality or logistics
- Guidance for specific ways of working; for example, people working shift patterns
- Case study examples
- Visual aids, such as flowcharts, setting out steps to follow in handling requests
- Additional written guidance
- Video clips with short explainers
- Webinars
- I do not think additional guidance is needed
- Other formats, specify

196. Given the evidence presented above, NASUWT believes that the Government must consider a concerted campaign – using all options available in order to address concerns over the uptake of flexible working and the impact this is having on the UK economy and the plan to *Make Work Pay*.<sup>111</sup>
197. The Union maintains that any resources should have gone through a rigorous process, including consultation with trade unions, in order to ensure they are fit for purpose. This is particularly pertinent, given that NASUWT was not able to endorse the DfE’s flexible working toolkit<sup>112</sup> because it does not go far enough in its efforts to address the culture in schools which sees teachers routinely being denied access to flexible working.
198. In addition, the current Acas Code of Practice should be revised to include more depth and detail for employers, including in relation to the steps to consult and the process for responding to flexible working requests, as detailed in NASUWT’s consultation response.

**33. If you would like to see additional guidance for employees on flexible working, what topics do you think it should cover? Select all that apply.**

- Guidance on making specific types of requests; for example, on compressed hours or remote working
  - Guidance for specific sectors, such as hospitality or logistics
  - Guidance for specific ways of working; for example, people working shift patterns
  - I do not think additional guidance is needed
  - Other topics, specify
199. As stated above, given the evidence presented above, NASUWT believes that the Government must consider as much additional guidance for employees on flexible working topics in order to address concerns over the uptake of flexible working and the impact this is having on the UK economy and the plan to *Make*

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<sup>111</sup> [Make Work Pay - GOV.UK](#)

<sup>112</sup> [NASUWT | DfE Flexible Working Toolkit \(England\)](#)

*Work Pay*, provided that any such resources have gone through a rigorous process, including consultation with trade unions, in order to ensure they are fit for purpose.

**34. If you would like to see additional guidance for employees on flexible working, what format do you think this should take? Select all that apply.**

- Case study examples
- Visual aids, such as flowcharts, setting out steps to follow in making requests
- Additional written guidance
- Video clips with short explainers
- Webinars
- I do not think additional guidance is needed
- Other formats, specify

200. NASUWT believes that the Government must consider as much additional guidance for employees on flexible working in order to address concerns over the uptake of flexible working and the impact this is having on the UK economy and the plan to *Make Work Pay*, provided that any such resources have gone through a rigorous process, including consultation with trade unions, in order to ensure they are fit for purpose.

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

- Encouraging organisations to communicate their approaches to flexible working with candidates
- Improving enforcement of the right to request flexible working
- Improving employee awareness about different arrangements
- Improving employer awareness about different arrangements
- Something else, specify

201. NASUWT believes that the Government must consider looking at as many ways as possible to address barriers to flexible to address over the years ahead and

the impact this is having on the UK economy and the plan to *Make Work Pay*,<sup>113</sup> provided that any such resources have gone through a rigorous process, including consultation with trade unions, in order to ensure they are fit for purpose.

202. This would include the aforementioned duty on employers to advertise all jobs on a flexible basis as a day one right, or provide substantive evidence to justify why a job cannot be done flexibly.
203. All roles should be deemed suitable for flexible working unless it can be shown that the unavailability of flexible working is a proportionate means of achieving a legitimate aim. Flexible working legislation would reflect objective justification as set out in the Equality Act 2010.
204. Furthermore, where there is a recognised trade union, any review of what flexible working options are available for each job should be done with trade union representatives.
205. Advertising jobs at all levels on a flexible basis could increase access to employment for a significant number of workers, including those looking to return to work, the majority of which are women.
206. Such a move would demonstrate the seriousness of the role that flexible working has to play in the inclusion and diversity plans and workforce strategy of the Government going forwards, particularly if this was enforced by organisations like the EHRC, that already has the responsibility for dealing with the enforcement of pre-employment health question and publication of discriminatory adverts.<sup>114</sup>
207. However, the Government must ensure that the EHRC is adequately funded in order to have sufficient resources and capacity to enforce any new duties and carry out this function meaningfully.

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<sup>113</sup> [Make Work Pay - GOV.UK](#)

<sup>114</sup> [329785\\_CH3\\_2006](#)

208. NASUWT maintains that the Government needs to take a much stronger approach in regards to the right to request, opting instead for a ‘right to have’, particularly if it is intent on increasing access to flexible working as part of its plan to *Make Work Pay*.
209. The Union advocates that this should be a day one right for all workers, based on the presumption that everyone has access to such rights by default. In doing so, *all* working parents would have access to the same suite of family-related leave and flexible working rights and entitlements.
210. Indeed, the House of Commons Women and Equalities Committee recommended that all jobs should be available to work on a flexible basis unless an employer can demonstrate an immediate and continuing business case against doing so.<sup>115</sup>
211. A day one right for all workers would replace the current eight business reasons that represent a significant barrier to flexible working because it is too easy for the employer to refuse a request due to any one or more of the eight business reasons.
212. Coupled with this is the fact that there is no compunction on the employer to provide any further details or to have the business reason independently scrutinised.
213. The TUC and Flex for All partners asked members of the public to send in consultation responses to the previous government consultation on flexible working in 2021, and they found that 87% of respondents felt that the business reasons meant employers could turn down requests too easily.<sup>116</sup>
214. Furthermore, NASUWT would want to see no restrictions on the number of flexible working requests that can be made to reflect the possibility that a worker’s circumstance could change, with something unforeseen occurring such

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<sup>115</sup> [https://www.cipd.co.uk/Images/flexible-working\\_tcm18-58746.pdf](https://www.cipd.co.uk/Images/flexible-working_tcm18-58746.pdf)

<sup>116</sup> [Making flexible working the default | TUC](#)

as a relative becoming disabled, existing childcare arrangements being disrupted, or the need for working arrangements to manage an illness.

215. This could include seeking a temporary contractual change, rather than just a permanent one, to reflect the dynamic and fluid situation many workers find themselves in.
216. The Union also contends that the power of employment tribunals should be strengthened in order to ensure that there is an effective enforcement regime that acts as a deterrent to employers when looking to refuse requests unreasonably or for failing to follow the procedure. The current capping at eight weeks' pay, at a maximum of £700 per week, is simply not enough of a deterrent.
217. In addition, NASUWT believes that employers should be obliged to publish flexible working policies on their websites in order to drive up transparency and assist workers to make informed choices by allowing them to compare and benchmark employers.
218. In doing so, potential job applicants and existing workers would be better placed to make informed decisions about job opportunities and access the range of family-related leave and flexible working rights and entitlements which enable them to enter and remain in the labour market.
219. The Union is clear that this should be supplemented with an obligation on employers to monitor and evaluate the effectiveness of its family-related and flexible working policies.
220. Such systems should annually report on the take-up of family-related and flexible working policies, together with the number of appeals and outcomes, and produce a comprehensive report broken down by workforce composition, particularly those groups with protected characteristics under the Equality Act 2010,<sup>117</sup> as well as contract type.

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<sup>117</sup> [Equality Act 2010](#)

221. The Union maintains that any such annual report should be shared with and consulted upon by both the workforce and the recognised trade unions, and include details of any action plans to tackle issues, such as how the employer intends to tackle the barriers faced by working parents and those wishing to access flexible working.

### **ADDITIONAL COMMENTS**

- **‘Family-friendly’ policies and statutory levels of pay**

222. It is important not to see the proposals in this consultation in isolation to other ‘family-friendly’ policies. The Union believes that the UK parental leave system has not kept pace with changes in society.

223. As such, NASUWT acknowledges the intent of the Government to reset the approach and understanding of parental leave and pay, and what it wants the system to achieve,<sup>118</sup> although the Union would countenance against any tinkering around the edges of a broken system and urges the Government to use this opportunity to address the flaws in the system.

224. For example, whilst welcoming the intent behind the introduction of shared parental leave, NASUWT contends that the extremely low take-up of 1% of employee mothers and 5% of employee fathers<sup>119</sup> suggests that it has failed to provide fathers/co-parents with the ability to take extended leave and support mothers while recovering from childbirth.

225. The extremely low take-up of shared parental leave suggests that the impact it has had on achieving the aforementioned objectives and addressing gender imbalance in the labour market is limited, with the Institute for Policy Research

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<sup>118</sup> <https://questions-statements.parliament.uk/written-statements/detail/2025-07-01/hcws757>

<sup>119</sup> [https://www.employment-studies.co.uk/system/files/resources/files/Parental\\_Rights\\_Survey%202019.pdf](https://www.employment-studies.co.uk/system/files/resources/files/Parental_Rights_Survey%202019.pdf)

stating that *'the policy has not, on average, led to a greater take-up or longer leave by fathers'*.<sup>120</sup>

226. Furthermore, the current rates of statutory pay are woefully inadequate and unfit for purpose. Indeed, the Sixth Report of session 2024/25 of the Women and Equalities Committee, *Equality at Work: Paternity and Shared Parental Leave*, noted that the low rates of statutory pay was *'perhaps the most damaging problem across the board'*,<sup>121</sup> representing considerably less than half of the National Living Wage (NLW) and out of kilter with the cost of living.<sup>122</sup>

227. Indeed, all statutory entitlements are remunerated at the rate of either £187.18 a week or 90% of an employee's average weekly earnings, whichever is lower, with the exception of Statutory Maternity Pay (SMP) for the first six weeks.

228. This equates to just 44% of the NLW for a 35-hour working week and represents a steady decrease in the relative value of 19% since 2012 – when SMP was worth 63% of the adult rate of the then National Minimum Wage.<sup>123</sup> This compares with average weekly earnings of £682, based on the ONS as of March 2024, and is equivalent to just 35% of median weekly pay for female employee jobs in the UK in 2024.<sup>124</sup>

229. The situation is compounded when considering that SMP is only paid for the first 33 of the 52 weeks of maternity leave that mothers or the primary adopter are entitled to, meaning that the remaining 13 weeks are unpaid, unless the employer has an enhanced occupational maternity scheme in place.

230. The 39 weeks' duration of paid maternity, parental and home care in the UK falls way short of the OECD average of 51 weeks.<sup>125</sup> It therefore comes as no surprise that payment rates for maternity leave in the UK are among the worst

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<sup>120</sup> [https://www.bath.ac.uk/publications/shared-parental-leave-did-it-work/attachments/shared-parental-leave-did-it-work-policy-brief\(2\).pdf](https://www.bath.ac.uk/publications/shared-parental-leave-did-it-work/attachments/shared-parental-leave-did-it-work-policy-brief(2).pdf)

<sup>121</sup> <https://committees.parliament.uk/publications/48254/documents/252625/default/>

<sup>122</sup> Ibid.

<sup>123</sup> <https://maternityaction.org.uk/wp-content/uploads/Pushed-into-Poverty-2025-FINAL.pdf>

<sup>124</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyindustry2digitsicashetable5>

<sup>125</sup> [https://www.oecd.org/content/dam/oecd/en/data/datasets/family-database/pf2\\_1\\_parental\\_leave\\_systems.pdf](https://www.oecd.org/content/dam/oecd/en/data/datasets/family-database/pf2_1_parental_leave_systems.pdf)

in the OECD, with UK mothers only being entitled to 11.7 weeks of full pay during their maternity leave.<sup>126</sup>

231. Despite the description of SMP as ‘a measure of earnings replacement’,<sup>127</sup> the evidence suggests that the current rate of SMP is failing to provide mothers on maternity leave with the ability to maintain a suitable standard of living for themselves and their children, with the recent cost-of-living crisis exacerbating the situation.

232. Research by Maternity Action shows that new mothers are pushed into poverty and debt by the critically low levels of maternity pay. This has a detrimental impact on both their physical and mental maternal health.

233. For example, 65% of respondents stated they were worried ‘a lot’ about money when pregnant or on maternity leave, and 55% stated that they relied on their credit card or borrowed money while they were pregnant or on maternity leave.<sup>128</sup>

234. Even more concerning is evidence that mothers are sometimes forced to return to work before they have physically recovered from having a baby (i.e. injuries sustained during labour), with 40% reporting that they had taken 12 weeks or fewer of maternity leave ‘because the pay is so poor’.<sup>129</sup>

- **Childcare**

235. In addition, the provision of good-quality childcare is critical following a period of leave to enable mothers and fathers/co-parents to return to work and re-enter the labour market. Childcare costs for many families are significant, so it is important to consider what action can be taken to ensure that there is access to affordable and good-quality childcare for *all* mothers and fathers/co-parents, irrespective of income or employment status.

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<sup>126</sup> Ibid.

<sup>127</sup> <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim76360>

<sup>128</sup> <https://maternityaction.org.uk/wp-content/uploads/Pushed-into-Poverty-2025-FINAL.pdf>

<sup>129</sup> <https://committees.parliament.uk/publications/48254/documents/252625/default/>

236. Evidence from the OECD suggests that good-quality and affordable childcare is a key driver in achieving better female labour market participation. There was a positive correlation between the provision of childcare services for parents of children under three years old and female participation in the labour market.<sup>130</sup>

237. Indeed, the United Nations Children’s Fund (UNICEF) report, *Where Do Rich Countries Stand on Childcare?*, analysing access to childcare across 41 high- and middle-income countries, ranked the UK 35 out of 41 countries.<sup>131</sup>

Matt Wrack

**General Secretary**

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<sup>130</sup> [http://praha.vupsy.cz/fulltext/ul\\_1594.pdf](http://praha.vupsy.cz/fulltext/ul_1594.pdf)

<sup>131</sup> <https://www.unicef.org/innocenti/reports/where-do-rich-countries-stand-childcare>