

Church of England Board for Social Responsibility

Response to

Work and Parents consultation on draft regulations

Introduction

1. The terms of reference of the Church of England Board for Social Responsibility require it 'to co-ordinate the thought and action of the Church in matters affecting the life of all in society'. The Board reports to the Archbishops' Council and, through it, to the General Synod.
 2. The Board warmly welcomes the Government's decision to issue a Consultation Document on the regulations necessary to implement the right to apply for flexible working. The Board has monitored with interest the progress that the Work and Parents Team within the DTI has made and commends the Team for its commitment to work on the recommendations from the Green paper and the Taskforce. We support the Government's stated commitment to families, in particular to those with caring responsibilities for young children. However we would like to restate our belief that society as a whole shares with families a responsibility to support those with caring responsibilities and that there is an urgent need to address the needs of those caring for members who are not young. We hope that the DTI will continue to encourage businesses to take on the wider work/life balance issues as it is doing at the moment.
 3. As before, we do not feel qualified to comment on all of the regulations, however we offer our observations on some of your questions and wish the Team well in the implementation of the regulations.
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Overview of the right to work flexibly

4. Before we comment specifically on the questions posed in the draft regulations, we would like to draw attention to a few general concerns we have. We recognise that economic considerations make it necessary to provide regulations that are compatible with business efficiency. However we are concerned that the regulations put needs of businesses before those of the employees (as is reflected in the membership of the Advisory Group (p.2)). The onus appears always to be on the employee and we are particularly concerned about the vulnerability of low-paid employees who wish to re-negotiate their hours. It is also not clear if the employer has to provide the employee with similar work and pay conditions or if the employer would be able to agree to the employee's request but offer a

different job. The Government has committed itself to the promotion of the right of parents or carers to work flexibly therefore the regulations must encourage that right.

5. On superficial reading of the regulations, it is not immediately apparent that the regulations would apply to pregnant employees who wish to re-negotiate their working arrangements on returning to work after maternity leave. This situation is not mentioned at all in the explanations. We understand from the Maternity Alliance in their consultations with the Team that it is fully expected that the main group of applicants would be pregnant employees, negotiating while on leave and that the 26 weeks includes maternity leave. We would urge the Team to make sure that this case is included in the wording of the regulations or in the notes attached, so that pregnant employees are aware of their rights to ask.
6. The present law allows for full maternity benefits to be paid provided the employee returns to work after the allowed period. We would seek assurances that the employee's maternity benefit would not be cut if she were granted permission to return to work flexibly.
7. Although National Insurance contributions are not included in the scope of this consultation, we would urge the Team to consider at a later date the inequalities in state pension benefits created by people (particularly women) taking time off to care for young children. We would welcome the Government considering whether to allow people caring for young children who arrange flexible working arrangements continuing to have full NI benefits.
8. Para 22. implies that any changes to work patterns would be permanent. We are concerned that this would mean that the employee, whose situation changes, would not be able to ask to return to full time work.

Flexible Working (Eligibility, Remedies and Complaints) Regulations 2002

9. **Eligibility criteria.** The Board agrees with the criteria as set out in Para.20. However we are aware that adoptive parents are often encouraged to take children who are older than 6 and that, because of the children's particular needs, it would be useful for parents to work flexibly for a period of time.
10. **Form of applications.** In order to protect employees, particularly low paid or less qualified and to provide consistency, we would encourage the application to be made on a statutory application form.
11. **Date of application.** Whilst we recognise the strength of the argument of consistency with other related employment legislation, we are concerned about the situations where the employee is on maternity leave and is not likely to be in day to day contact with her employer. We would suggest that the regulations should encourage the employer to confirm immediately in writing (to the home

address if the employee is on maternity leave) that they have received the application. With that proviso we agree that the date be the date on which the employer receives it.

Flexible Working (Procedural Requirements) Draft Regulations 2002

12. The Board is most concerned that the procedure should not in any way jeopardise the employee's position in the workplace or relationship with the employer and that it should be employee-friendly and not daunting. This is not something that can be legislated. However we would encourage the Team to monitor the implementation of the regulations to assess their effects.
13. **The meeting** The Board thinks the approach taken is appropriate however it would stress the importance of giving the employee time to arrange child care, particularly if it is during maternity leave.
14. **Employees' right to be accompanied.** The Board supports the principle of allowing the employee to take a companion, particularly in cases where the employee feels at a disadvantage. We have sympathy with both arguments, particularly that this procedure should be of a different nature to discipline or grievance hearings. However it is also important that the employee has some sort of protection, which necessitates a certain amount of formality. We agree therefore with the proposals outlined in Para.58. We agree that the role of the companion should be consistent with Section 10 of the ERA 1999.

In conclusion we welcome the very practical suggestions outlined in the draft regulations and we wish the Team all the best in their implementation.

+ Thomas Southwark
Chairman

October 2002