

CONSULTATION ON MODERN WORKPLACES



CMI Submission to the Department for Business, Innovation and Skills

8 August 2011

The Chartered Management Institute (CMI) welcomes the opportunity to respond to the Government's *Modern Workplaces* consultation. Our particular focus is upon the proposals relating to parental leave, flexible working and equal pay. We support the Government's drive to reform and modernise the law in these areas and to increase transparency. We welcome proposals which we believe have the potential to transform attitudes and achieve lasting change, to the benefit of employers and employees alike.

Reforming Parental Leave

CMI welcomes the proposals to reform parental leave, enabling a new balance between parents and introducing new flexibility in how parental leave is taken. We feel this will be to the benefit of employers as well as to individuals.

The Government has identified the need to alter the culture around parental leave (Question 2). While this will include non-legislative measures, reforming the statutory arrangements which govern the use of parental leave is an essential step to challenging the traditional emphasis on maternity leave.

Of course, the reality is that couples are likely to opt for the lower earner to take the greater share of parental leave, and this will mean women while they continue to earn less. The 2010 CMI/Xpert HR National Management Salary Survey¹ shows that women across management levels earn £10,071 less per annum, on average, than their male counterparts – and even in junior roles there is a gap of £1,065. This suggests that the act of changing the rules will not, on its own, be sufficient to change culture: however, we believe it will be a necessary precursor. The fact that part of the pay gap can be attributed to women taking more time off for parental leave, as the consultation notes, only strengthens the case for rebalancing the rules governing how men and women share parental leave.

To achieve cultural change we also believe that Government needs to take an active role to communicate the benefits of change to employers (Question 3), working in partnership where appropriate with relevant business and professional bodies. One CMI member, writing on our online discussion forums, has commented that "Very little 'sell in' seems to get done with employers" of the benefits of proposed reforms. Part of this 'sell in' must be through established professional bodies, who are looked to and trusted by their members and can help promote examples of good practice. As the professional body for management and leadership in the UK CMI recognises its responsibility to its 90,000 members to keep them informed of changes in the law and to encourage good practice, but we would welcome closer liaison with the Department to support future communications aimed at managers, for example through our membership magazine *Professional Manager*, or in developing professional guidance where appropriate.

Extending the right to request flexible working

CMI has consistently supported the right to request flexible working and has argued previously² in favour of extending the right to request flexible working to all, rather than restricting it to certain categories such as parents. In 2008, our membership supported the extension of the right to request, despite the economic

¹ <http://www.managers.org.uk/news/equal-pay-women-still-57-years-away>

² *CMI Response to BERR Consultation on Amending and Extending the Right to Request Flexible Working to Parents of Older Children*, November 2008

downturn. We opposed any delay at that stage, with support for extending the right to request to all employees outweighing opposition by more than 2:1.³

As outlined previously, CMI's support is based on the premise that the right to request remains precisely that: a request, which may be legitimately declined on the basis of business needs. Flexibility works both ways and needs to reflect a dialogue between the employee and employer. The right provides a valuable opportunity to start this dialogue, but Government must continue to make clear that it does not place a new obligation upon employers. Flexible working practices will not be appropriate for particular roles, depending on the business needs of each organisation. We therefore welcome the proposal to maintain the reasons for which requests can be declined.

However, we believe further work is needed to flesh out the proposals for a Code of Practice to replace the statutory process. The current process has the advantage of giving clarity to both employer and employee about what is required and can be expected during the process, which is to be completed within a reasonable time frame. If the Code of Practice simply restates the existing process, it is difficult to see what is gained by the change. Nor will it be satisfactory if removing the statutory process has the effect of creating uncertainty and confusion among the parties involved. CMI members have not highlighted particular difficulties arising from the current process, which is likely to be increasingly well-understood, so change for change's sake may only create confusion. However, if improvements and simplifications are identified then we would welcome the opportunity to comment on them and help ensure that they work for managers.

The role of management in supporting flexible working

Previous CMI research on managers' motivation has concluded that it is not possible to address issues such as flexible working "without addressing issues of management style and organisational culture. Since work flexibility and trust go hand in hand it is difficult to see how new forms of work will be developed without parallel and supporting changes in the way employees are managed and in the cultural setting in which work is embedded."⁴

Extending the right to request flexible working therefore places a premium on good management. A common concern among employers regarding flexible working is the difficulty of maintaining levels of employee performance. However, good managers will assess outputs rather than inputs, and some resistance to flexible working may reflect an absence of proper performance management. Regular appraisals and assessment against clear key performance indicators are important to enabling the successful implementation of flexible working.

We recommend that any guidance provided by Government to employers about handling requests for flexible working – whether directly or through agencies such as Acas – be updated to include links to further resources and good practice guides to help employers improve how they manage flexible workers.

Equal Pay

We welcome the principle of increasing transparency regarding pay as a means to closing the gender pay gap (Question 46). As highlighted above, figures published in the CMI/XpertHR National Management Salary Survey have demonstrated the persistence of the gender pay gap across all levels of management. This survey, which is now in its 38th year, includes data on 35,000 individual employees. We would be happy to share the latest figures with the Government on an annual basis; and indeed we will be publishing figures relating to the gender pay gap from the 2011 Survey in the next few weeks.

CMI has challenged employers to act to remedy continued pay gaps. By letting a pay gap persist they risk losing or demoralising talented female staff, not to mention the threat of legal sanctions. Transparency is a

³ In a survey of 1,142 CMI members in September 2008, 57 per cent agreed that all employees should enjoy the right to request flexible working – more than double the number that opposed such a move (26 per cent, with 18 per cent offering no view either way)

⁴ *The Business Energy Survey*, CMI, 2004

key tool to challenge unfair practice, and earlier this year we launched a Salary Checker tool to help employees check their salary against the national average for their role. However, we also recognise the role of Government in driving change more quickly where employers are found to be in breach of the law. We have previously supported the potential role of pay audits⁵ and we support the Government's current proposals. Through the focus on employers who have been found to have acted unfairly on pay, this offers an opportunity to effectively target measures to help close the pay gap, without adding to the regulatory burden facing good employers.

Conclusion

We recognise the argument that changes in the law can be disruptive to employers, especially smaller organisations which lack dedicated HR expertise, and policy in these fields has certainly been evolving and changing over recent years. However, the stronger argument must surely be that the focus should be on getting the right policy in place – not simply on preserving the status quo with disregard to the quality of the policy.

We support the Government's drive to reform and modernise the law relating to parental leave, flexible working and equal pay. We believe that increasing flexibility is to the benefit of employees and employers alike and we welcome the commitment to simplifying and improving existing processes where possible. We hope the Government will actively seek to communicate with the managers tasked with implementing these policies about how they will work and the benefits they will bring, working in partnership with bodies such as CMI where appropriate.

We believe these proposals have the potential to transform attitudes and achieve lasting change, to the benefit of employers and employees alike. We would be pleased to discuss our response with BIS and look forward to contributing to development of policy in this area.

For further information please contact Petra Wilton, CMI Director of Policy and Research, or Patrick Woodman, CMI Policy and Research Manager, via policy.development@managers.org.uk or on 020 7421 2704.

About CMI

The Chartered Management Institute is the only chartered professional body in the UK dedicated to promoting the highest standards of management and leadership excellence. CMI sets the standard that others follow.

As a membership organisation, CMI has been providing forward-thinking advice and support to individuals and businesses for more than 50 years, and continues to give managers and leaders, and the organisations they work in, the tools they need to improve their performance and make an impact. As well as equipping individuals with the skills, knowledge and experience to be excellent managers and leaders, CMI's products and services support the development of management and leadership excellence across both public and private sector organisations.

Through in-depth research and policy surveys of its 90,000 individual and 450 corporate members, CMI maintains its position as the premier authority on key management and leadership issues.

⁵ Evidence from CMI to the Treasury Select Committee's 'Women in the City' Inquiry, September 2009: <http://www.managers.org.uk/research-analysis/research/influencing-public-policy/policy-submissions/women-city>