

Children and Families Act 2014 Committee

Corrected oral evidence: Children and Families Act 2014

Monday 20 June 2022

3.15 pm

Watch the meeting

<https://parliamentlive.tv/event/index/59f257a1-5729-4d07-beed-6ee4a9353e20>

Members present: Baroness Tyler of Enfield (The Chair); Lord Bach; Baroness Bertin; Lord Brownlow of Shurlock Row; Lord Cruddas; Baroness Lawrence of Clarendon; Baroness Massey of Darwen; Baroness Prashar; Baroness Wyld.

Evidence Session No. 13

Heard in Public

Questions 123 - 130

Witnesses

I: Joeli Brearley, Founder, Pregnant Then Screwed; Olga FitzRoy, Founder and Campaigner, Parental Pay Equality.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.
2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.
3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 14 days of receipt.

Examination of witnesses

Joeli Brearley and Olga FitzRoy.

Q123 The Chair: I welcome everyone to the Select Committee on the Children and Families Act 2014. We are taking public evidence today. The session is being broadcast online and a transcript will be taken. Perhaps I can ask both our witnesses very briefly to introduce themselves to the committee, some of whom you will see around the table and some of whom are participating virtually. Joeli, could I begin with you?

Joeli Brearley: Yes. I am the founder and CEO of the charity Pregnant Then Screwed. We exist to end the motherhood penalty. We were set up in 2015 after my own experience of pregnancy discrimination. I was kicked out of my job after I announced I was pregnant. Since then, we have mushroomed into a fully functioning charity. We have services; we have a free legal advice line for women experiencing problems at work. We operate a mentor scheme to support women taking an employer to tribunal. We are about to set up a mental health line for women who experience pregnancy discrimination. We do lots of campaigning on issues that influence the motherhood penalty, including childcare, flexible working and shared parental leave and paternity leave.

The Chair: Thank you very much. Olga?

Olga FitzRoy: I am the founder of Parental Pay Equality. In my day job, I am a self-employed sound engineer. I set up Parental Pay Equality in response to trying to navigate the whole maternity leave and paternity leave system as a self-employed new mum. We founded Parental Pay Equality in 2017. We have contributed research to the Taylor review and we have also worked with cross-party MPs on a 10-minute rule Bill to bring in shared parental leave for the self-employed.

Q124 The Chair: You are both extremely welcome; thank you for coming here today. The purpose of the session today is to give the committee an opportunity to take evidence on the effectiveness, or otherwise, of Parts 7 to 9 of the Act, relating to employment rights. Can I kick off with a general question, which is to get your perspective on why the take-up of shared parental leave and statutory shared parental pay has been pretty low? Olga, would you like to begin?

Olga FitzRoy: Joeli will probably talk a bit more about this. The system is very complicated. It is complicated for employers and for employees to understand. The area I have been working in, self-employed people, is a group of people who our research shows

would welcome the ability to take shared parental leave. Unfortunately, they are not allowed to. In that group, you would find quite high take-up. Our research showed that 56% would have taken it and 74% would take it in future if they were allowed to. Some of the reasons are that self-employed people often work quite flexibly, with unpredictable hours, and they are often project-based. For that group, it would be quite helpful to be able to break the leave into chunks, so that the mother could take one big project and then go back on leave, and then the dad could take a project and they could share things out in that way.

Another factor is that self-employed women have no employment protections, so there is a bit more impetus to keep their career ticking over while they are on mat leave. At the moment, they are not allowed to do that. Among the self-employed community, there is a lot of appetite for it, but among employees the complication and mothers needing to give up some of their entitlement is part of the reason why there has been quite low uptake.

The Chair: If I may pursue the self-employment point for a minute, am I right in thinking that the proportion of the working population that is self-employed is probably now greater than when the Act was passed in 2014?

Olga FitzRoy: That is right, but it has gone down again since Covid. It is too early to tell whether that is a temporary blip or a continuing trend. Yes, it was 5 million at its peak and it is a bit less than that now.

The Chair: That is very helpful. Thank you. Joeli, please.

Joeli Brearley: The current parental leave system discriminates on the basis of sex. If you are a mother, you are entitled to nine months of paid parental leave. If you are a father, you are allowed two weeks of paid parental leave. Some families can access the shared parental leave system, but it requires a mother giving away a portion of her leave in order for fathers to access it. We recently conducted a survey with almost 8,000 dads and non-primary carers. The results were quite astounding.

The key things that came out with shared parental leave are, first, that people do not know it exists; 16% of the dads who responded to our survey did not know it existed. A quarter of dads due to have a baby in the next six months did not know it existed; 25% is a pretty high number. Secondly, it is very complicated. Calls to our helpline often ask whether people are entitled to it, because they read the information online and it is far too complex; they do not understand it. Half of dads say their employer does not understand

it, and of course if the employer does not understand it, they are not going to encourage them to take it. The employee will say, "Please can I take shared parental leave?", and they will be put off taking it because their employer does not understand how it works. Of dads who did not use shared parental leave, 17% said that it was too complicated and that was the reason why they did not use it.

The key thing that came out was affordability. In the majority of heterosexual couples, the dad will earn more than the mother. When you are looking at such a severe drop in your income, you are going to make a financial calculation that works for your family. What tends to work for the family is the mother taking the drop in her income; 53% of people who did not use the shared parental leave system said the reason was that they could not afford it. Another issue, as I mentioned before, is that mums do not want to give their leave away; half the people who could have used the shared parental leave system and did not said that the mother did not want to give away a portion of her leave.

A large percentage of people who take shared parental leave experience discrimination, and a large percentage do not take shared parental leave because they are concerned that they will face discrimination. Obviously, we know that mothers face discrimination for taking maternity leave; 54,000 women a year lose their jobs for getting pregnant or for taking maternity leave. Only 13% say their employer encouraged them to use the shared parental leave system.

Of those who use the shared parental leave system, 14% faced some form of discrimination, and that was a mix of being pushed out of their jobs, careers stagnating, not being offered promotions, and experiencing bullying and harassment. It was more prevalent in what we would consider quite typically male jobs, such as construction; 35% of dads who used the shared parental leave system who worked in construction experienced discrimination. People with disabilities were more likely to experience discrimination.

It is a mixture of affordability, mums giving away their leave and worry about careers. It is so very complicated.

The Chair: Thank you. Can I press you on a couple of points? In your opinion, is what is needed to get greater take-up cultural change among employers and possibly some employees, or is it a different type of scheme?

Joeli Brearley: It is both. It is a bit chicken and egg. If we change the legislative framework to what we suggest, which is at least six weeks' ring-fenced leave for dads on a "use it or lose it" basis paid at 90% of salary, the cultural change will follow. We have seen that from other countries that have changed their parental leave system so that they have a ring-fenced, properly paid system.

The Chair: Do you think that the "use it or lose it" message is important for incentivising people to take it up?

Joeli Brearley: Absolutely, yes. Dads think, "I don't want my child to lose this time with the family". "Use it or lose it" is essential, but remuneration is critical because of the affordability issue—the fact that people cannot afford to take up the system at the moment.

The Chair: I have a final question on take-up. I said "pretty low" at the beginning, but am I right in saying that it is only about 3.5% of those who are eligible, so it is really low?

Joeli Brearley: It is, yes. It is well below the Government's target.

The Chair: I am interested in what you think would be a measure of success, because I am conscious that in 2017 a Minister from the department responsible, the business department, said that they would consider the take-up of the scheme a success if it reached 25%. Obviously, we are a long way off that. Would you consider that a feasible and credible measure of success?

Joeli Brearley: It would certainly be better than it is now. If we look at other countries and what they have managed to achieve, the take-up rates in Sweden and in Quebec are around 80%; they are much higher because they have the "use it or lose it" scheme. Quebec is a really interesting example, because in 2006 they changed their system so that they had a daddy leave quota, as they called it. That is five weeks' leave that cannot be transferred, and it is paid at 70% to 75% of salary. The impact was immediate; overnight, take-up rates among eligible fathers jumped by 250%. Comparing that with the rest of Canada, only 15% of dads take parental leave but it is 86% in Quebec, so you can see the enormous difference. Obviously, by having a system that is "use it or lose it" and remunerating, you get over that bias, that hump.

The Chair: Would you be able to share those Canadian statistics with us?

Joeli Brearley: Absolutely.

The Chair: Olga, do you have any thoughts on measures of success from a self-employed perspective?

Olga FitzRoy: As soon as there was something that people could afford to do that meant dads could take that leave—it would need to be very flexible—I think you would see take-up straightaway. Every time we have seen questions in Parliament about this, the stock answer has been that self-employed people have the flexibility to do what they want. In reality, they do not have that flexibility.

The first point is that if a solo self-employed person without employees does not work, there is no income. The second point is that often the relationship between the client and the self-employed person is quite similar to that between a client and an employee, so they do not have the flexibility to do what they want. They still need to do work at a certain point. If you had a really flexible, shared parental leave system for self-employed people, rather than a system that does not fit with how self-employment works, couples could share it according to their work needs.

The Chair: Thank you both very much for that. I would like to move on and invite Baroness Wyld to ask her question.

Q125 **Baroness Wyld:** Good afternoon, witnesses. I will try to be very disciplined and not talk about myself and my own experiences of this. I would like you to tell us a bit more about your perspective on people who have managed to take parental leave, with the caveat that it is obviously very low in this country, but you gave some other good examples. What impact has it had on their families and what is your wish for the benefits that the policy, from your point of view, could bring? Olga, do you want to go first?

Olga FitzRoy: Obviously self-employed couples cannot generally access it, but there are couples where the father has taken some unpaid leave in order for the mother to go back to work. We found that a lot of self-employed mothers chose not to take their full allocation of maternity allowance because they needed to go back to get their business running again.

The benefit would be to enable women to retain their businesses. Another point that we have seen quite often in the comments from our petition signers was that having dads at home more would increase their confidence in childcare and set patterns for how labour is divided in the home throughout the child's life. It is getting the dads used to hands-on parenting and allowing the mothers to have more of a career and to get back into their self-employed or other work.

Baroness Wyld: While I may agree with you instinctively and personally, is there any evidence from some of the examples you

gave that if men take more parental leave, they feel more confident as parents and they are more engaged with their children? What proof points are we using for that?

Olga FitzRoy: I do not have any stats on that—Joeli might—but there is definitely evidence on salary levels for women where the dads do solo childcare. I would need to look it up and send it to you after this, but there is definitely evidence that shows that, for a certain amount of solo childcare the dad does, the woman's salary goes up by a certain percentage.

Joeli Brearley: We know that if dads take time out in the early days to care for their children, the unpaid labour is more equally split between a mother and a father. We see from countries that have ring-fenced, properly paid paternity leave, as some have had since the 1970s, that unpaid labour has a more egalitarian split. If you split the unpaid labour more equally in the home, both parents are more willing to do more paid work, so there are knock-on benefits for the economy. We also know from a report published by the Swedish Government that for every month of paternity leave taken by dads, a mother's wages rise by 7%; it is a huge jump.

In addition to the economic benefits—we are talking about families, so we should also consider well-being and welfare—there are enormous benefits for a child's educational attainment, well-being and welfare. Mothers have lower rates of postnatal depression and better physical health. Dads tend to be happier and to have higher rates of well-being.

In the research we did recently, with 8,000 dads, almost half said they had a new mental health issue in the first two years after their child was born. Seven in 10 believed that if they had access to more paternity leave, their mental health would be better. That is in part because they are desperate to support their partner. If they have had a c-section or a difficult birth, many can barely move; they are dealing with sleep deprivation, wrestling with a new baby and how you look after it, and all those things. They want to be there to support their partner but they are also desperate to bond with their baby; 80% of dads said they did not have enough time to bond with their own child. To me, that is absolutely devastating because, in the majority of cases, they can only access two weeks' paternity leave. It is worth noting that one in four dads said to us that they do not even use their statutory entitlement because they cannot afford to lose that amount of income over the two-year period.

It is just not working; it is not working for mothers, it is not working for dads, it is not working for kids and it is not working for our economy. I can provide all that research.

Baroness Wyld: Thank you; that is very helpful. Rather depressingly, your point about a lot of dads not taking their statutory paternity leave does not surprise me at all.

You have been very clear on some policy asks around self-employment and other things. You have also talked about the weak comms and the complications in the system. I am not completely clear exactly about the nature of the reforms you want. I take your specific asks around the ring-fenced leave and self-employment, but is your greater ask a cultural ask or a comms ask? How would you sum it up?

Joeli Brearley: You need to change the legislation for the culture to change around dads taking the leave. The current system does not deal with the deeply entrenched gender stereotypes we have in this country that say that dads should be bringing home the bacon and mums should be cooking it and looking after the kids. It simply gives dads access to two weeks' leave. If you ring-fence it and you pay it properly, dads will feel that they have to take that time out, otherwise their child will lose it. It is not about them wanting to step back from work; it is about the child. We can see from other countries that that works. It really works and suddenly men are taking time out in droves.

Baroness Wyld: Can I push you on one last thing and then I will give way to my colleagues? You made the point earlier that women often make the decision to take all their leave for economic reasons because they are already behind their husband in pay, so the family makes an economic decision, effectively. Will the legislative change you have suggested do anything to address that structural issue? I see how you will potentially have the cultural impact if you have, for example, a ring-fenced six weeks, but it is not going to address the roots of the economic disparity, or is it?

Joeli Brearley: If you pay it and remunerate it properly, it will address the economic disparity. When we asked dads whether, if there was the opportunity to take six weeks' leave at 90% of salary, they would take it, 97% said they would, compared with the 3% using the shared parental leave system. Of the 3% who said they would not, the reason was that they could not afford to lose the 10% of income. If you paid it at 100%, perhaps you would get 100% of dads taking it, but remuneration is absolutely critical.

Olga FitzRoy: Additionally, for self-employed people, we found that when it was just the woman taking leave, only 20% were up to their pre-baby earnings by the time their child was two, so it has a knock-on effect on their earnings. It is not just the time they are out of the workplace; it has a really long, knock-on effect. Yes, it absolutely needs to be remunerated so that dads can afford to take that time, but I think it will have a lot of uptake because of the knock-on effect on the woman's career.

Baroness Wyld: Thank you. I will hand back to the Chair because of time, but I will probably come back later as I have loads of questions. That is really helpful; thank you.

Q126 **Lord Cruddas:** I find myself grappling with my own personal situation. I am an employer of 1,000 people. We have just employed somebody in the legal department who joined us because of our parental pregnancy scheme. The thing that strikes me is that it is all very well getting to nirvana with all this, but who is going to pay for it? As an employer of 1,000 people, I know that if people leave the company, someone has to pay for that job to be done. Anyway, that is a side issue.

The other thing that strikes me is that these laws were drawn up before the present-day flexible working regimes that we have now. For example, somebody said to me, "I can't come to the board meeting on Friday". It was a small board meeting. "It is my daughter's sports day. Can I work from home?" He came in today and said, "I hardly got any work done; I'm going to book it as holiday". It is interesting and great hearing you guys talk. I have a question for you, believe it or not, and it is hard to get the question out because I want to ask you other things, but only about who pays and stuff like that, which is not for today.

The Women and Equalities Committee recommended replacing shared parental leave with extended paternity leave. What is your view? Joeli, do you want to go first?

Joeli Brearley: I absolutely support that. As I mentioned, 50% of those who did not use the shared parental leave system said it was because it required a mother to give away a portion of her leave and she did not want to do that. If you extend paternity leave so that it is for the dad to take, you will absolutely increase take-up rates.

However, a much higher proportion said there were financial reasons why they did not take it, so you have to remunerate it properly if you genuinely want to increase take-up rates. A high proportion of people did not use the statutory two weeks' paternity

leave because they could not afford the drop in income. It has to be remunerated as well as ring-fenced for dads.

Olga FitzRoy: I am not particularly attached to the current system, but for self-employed people you need a really flexible system that is quick to administer, and where you can quickly share and swap the leave between mums and dads. Having rigid blocks of leave would not be as helpful. I am all for having some extra leave for dads, but we need to keep a flexible system that can be shared.

Lord Cruddas: Does it always come down to money? I drive people who work for me quite hard, and sometimes they fear missing out in their career. If they take time off—a month off to bond with their child—they fear that somebody will come along and take the job from them. It is not always about money and employers; it is about career and opportunity.

Joeli Brearley: The current system forces women to do that; it forces them to step back from their career, and unfortunately they often experience discrimination as a result. It is not really fair that it is reliant on the mother to do that.

Lord Cruddas: I was not just talking about men; we are 45% women in the company outside IT.

Joeli Brearley: Yes.

Olga FitzRoy: Generally, it is the women who take the leave. Certainly among the self-employed, it is only the women who take the leave and we have, according to IPSE, a 43% gender pay gap among self-employed people, so it is really huge.

Lord Cruddas: It affects their opportunities.

Olga FitzRoy: Yes. There might be other reasons for it as well, but I am sure that is a factor.

Joeli Brearley: Again, if we look at other countries that have done this, that have ring-fenced and paid it properly, the take-up rates are massive among men. In those countries, you still have pregnancy and maternity discrimination and the same applies; you could lose out on your career progression. But dads are taking time out in their droves because it is remunerated properly and ring-fenced, and they do not want their child to lose it.

Lord Cruddas: Thank you.

The Chair: May I pursue your point, if you do not mind, Peter?

Lord Cruddas: Do not get me started, Chair.

The Chair: I know, I know.

You have given us some very interesting international examples, and we are looking forward to seeing the statistics you talked about. On the issue of who pays, do you know who is actually paying for the more generous parental leave or paternity leave? Is it the Government, the employer or some combination of the two?

Joeli Brearley: In Quebec and Sweden, it is the taxpayer who pays for it. On the point you mentioned earlier, Lord Cruddas, it is probably worth saying that at the moment men are leaving the workforce to go to other companies that have more family-friendly policies; that is happening a lot more than before. We are in the middle of a skills and recruitment crisis, and the companies that have family-friendly policies will benefit from that. In the recent survey we did, eight in 10 dads said their employer was not doing enough for them as a dad, and half said they would leave their job and go to another employer if it had better parental leave policies.

Lord Cruddas: I do not know whether there are tax breaks for an employer whereby if someone is on parental leave they get a reduced salary. I am not sure. I think it is staggered. I do not think you get—

Olga FitzRoy: On statutory, you get most of it back, and if you are a small employer you get 103% of it back.

Lord Cruddas: There are some tax breaks that assist you in this, but it always comes down to who is going to pay for it.

The Chair: Thank you; it is a very important point.

Q127 **Baroness Lawrence of Clarendon:** There have been many difficulties for adoptive parents and kinship carers. Can you tell the committee what rights for adoptive parents and kinship carers need to be strengthened or safeguarded?

Olga FitzRoy: Self-employed adopters currently get zero statutory adoption pay, so the first thing is to have something that is at least equivalent to what we have for maternity allowance for self-employed adopters.

Baroness Lawrence of Clarendon: Not much.

Olga FitzRoy: That is the minimum. Both Joeli and I would probably suggest paying more, for the reasons we have outlined, but currently self-employed adopters get absolutely nothing. Some of the answers from Ministers—there was a debate in the Commons

a little while back on self-employed adoption leave—are about going to local authorities, but that is very hit and miss; it is not consistent and it is difficult to find. I had a quick look on my local authority's website and could not find anything on self-employed adoption leave. I had a look on Adopt London and could not find anything on self-employment, so you are already creating a barrier to potential self-employed adopters.

Joeli Brearley: I do not have anything to add. Olga is much more expert than I am in this area.

Baroness Lawrence of Clarendon: Basically, self-employed people have nothing at all as a parent to take time out; there is nothing at all. The Government do not provide anything.

Olga FitzRoy: There is maternity allowance, but that is it; there is nothing for dads; there is nothing for adopters.

Baroness Lawrence of Clarendon: It is quite saddening that there is nothing. At the end of the day, what is important is the right of the child, and there is nothing there.

Olga FitzRoy: Yes, and it is also quite different across European systems. All the systems are very different; some are more generous in money and time and some are a bit less generous. In general, they tend to treat self-employed people as workers, as if they are an employee; they do not have the huge differentiation that we have here.

Baroness Lawrence of Clarendon: As a committee looking at the 2014 Act, if we are making any recommendation to the Government around the self-employed, what would you recommend that we try to put forward?

Olga FitzRoy: Bring it up to the equivalent that employees have. There are obviously big holes in what employees get and there is a lot of work to be done on that, but if it was linked and treated the same, I think you would be getting somewhere.

Baroness Lawrence of Clarendon: Thank you.

Q128 **Lord Bach:** Thank you for your answers so far. We are moving on to flexible working, which is linked to what we have been talking about, and the future of flexible working—I was going to say particularly in the post-Covid world, but it is a world that has been absolutely changed by Covid. How well has the right in the Act to request flexible working arrangements worked, first, for employees and, secondly, for employers? The obvious question is: what have been or what will be the lasting effects of the pandemic on take-up

of general flexibility in work? These are big questions, but your views will be very interesting. Would you like to start, Joeli?

Joeli Brearley: The right to request is a failed policy, in my opinion. The right to request is the right to decline. I strongly believe that the proposals for moving this to a day-one right to request will do very little to change the culture around flexible working. It is very unlikely that we will see more people working flexibly as a result.

Since the pandemic started, the number of flexible working requests that have been rejected has increased by quite some way. We run a helpline and people call the helpline if they are making a flexible working request to their employer. The number of calls we have had from people saying their flexible working request has been rejected has increased; it was almost double in 2021 and we are seeing another increase in 2022. My understanding is that similar trends are being seen by ACAS and by Working Families.

Our theory is that because so many more employees are working from home as a result of the pandemic—it went from 5% to almost half of employees at one point—employers feel that they are doing enough. They have gone through the complex process of allowing people to work from home and think that should suffice. Why would you need other types of flexible working? “We’ve done our job. No, you can’t have part-time working or flexi-hours.” For many parents, other types of flexibility are more important than home working because you have to pick your child up from school or drop them off in the morning, or your reliance on childcare will increase.

What we are noticing now is that, because more people are going back to the office, the benefit of being able to work from home is being withdrawn from many employees, leaving them in a really precarious position because for the last two years many of them have had a much simpler system where they can go and collect their child from school. Now, they are trying to find after-school clubs or breakfast clubs, or other types of childcare.

Childcare in this country is very inaccessible and completely unaffordable for many families. Our phone lines have been ringing off the hook at the moment, from mothers being told they have to go back to work, but they cannot find the childcare and are having to resign from their jobs. That is deeply concerning.

What we have at the moment is a system in which it tends to be mothers, or perhaps employees with a disability, who go to their employer with a begging bowl and say, “Please, sir. Can I have a bit of flexibility so that I can pick my child up from school?”, or

whatever they need to do. We need to change the culture so that the onus is back on employers; they should design jobs as flexible by default. We want to see all employers having to advertise their jobs as flexible and describing the type of flexibility that is available to an employee before they apply for the job. That would mean that jobs are designed as flexible rather than every job being designed as 9 to 5, full-time, and then you have to shoehorn the flexibility in afterwards.

Companies that have done this have reaped the benefits. Zurich Insurance did it and saw a 20% increase in the number of women applying for senior roles, because they know what they are going to get. They go to an interview knowing that they can do that job because it is part-time, flexi-hours or whatever they need. What happens at the moment is that jobs are advertised as full-time and women think, "I can't do that. I need to work three days so that I don't have to use the childcare system, or so that I can do all the unpaid labour I have to do".

In our opinion, the only way to really change the culture is to advertise all jobs as flexible from the outset. There is lots of data to show that it really would not be difficult to do. The Government often think they do not want to put too much red tape on employers and tell them what they have to do. From speaking to employers, we find that they want to modernise and they know how important flexible working is. They have seen all the research that shows that it increases productivity and staff well-being; they just need a bit more guidance to facilitate it. We have lots of data to show that employers, we believe, would be willing and happy to accept this legislative change if it were to be implemented.

Lord Bach: Thank you for that. Olga?

Olga FitzRoy: I do not have anything to add specifically to the right to flexible working because it obviously does not apply to the self-employed. To continue the point I made earlier, often the gaps in the parental benefits for self-employed people get papered over by Ministers saying, "Self-employed people have all this flexibility", which they do not. Often, their client will be the one determining the deadlines and might well be determining the hours they need to work. If they are not able to work them, they do not get paid. In reality, a lot of self-employed people have very little flexibility.

Lord Bach: The Act gives the right, as I understand it, to request flexible working arrangements. Employers, on the other side, have eight business-related reasons to deny employees' requests. Is that a fair balance or do you think, as I suspect you do, that it is a pretty unfair balance? If it is, does it require legislative change?

Joeli Brearley: It is very easy to reject a flexible working request. If you look at the eight reasons for rejecting it—it could be business reasons—they are pretty nebulous and it is very easy to reject it. Those reasons for rejecting it need strengthening, but the big issue for the mothers we work with is not having the right to request, because that still means you have to apply for the job, leave your previous job, be in the job and then request the flexibility you need in order to do that job.

What they need to know is, “Can I do this job before I apply for it and before I leave my job?”. Women are not willing to go for interviews and ask in the interview whether they can do the job flexibly, because they know that the likelihood is that they will not get the job. The TUC has some data on this and found that 42% of working mothers believe there is no point in asking for flexible working because they will be rejected. The same number would not ask for it in an interview. That is almost half of all working mothers.

It is rare for people to work flexibly. In 2020, 70% of workers did not work flexibly; it is not the usual way of working. Those who work flexibly experience bias, discrimination and harassment in the workplace. The TUC found that 86% of working mothers have faced some form of discrimination because they work flexibly. There is also data showing that if you work part-time, you are half as likely to be promoted as if you work full-time. Only 10% of jobs are advertised as part-time and most of those are not high-quality, good jobs. We really need to get a grasp of this and change the culture. We have so many brilliant working mothers particularly who we are not utilising properly in the workforce because we have a lack of flexible working in this country.

Lord Bach: Thank you very much.

Lord Cruddas: I hear what you are saying. Putting my employer’s hat on, one of the things I noticed during Covid was that the Government gave the right to employees—forget the self-employed for a second; they got some furlough and I think they were treated equally during the big lockdown—and the problem we had as an employer was that control was taken from us over our employees when the Government said, “You have to work from home”.

If you shift the law that says you have to give employees the flexibility to work from home—not on a request basis, but as law—you have a subtle shift from employer to employee in their work terms and when they can work. Obviously, you will say, “They’ve got to agree it with their employer”, but the employer’s hands are tied. If the employee knows that they can work two or three days a

week from home, you have shifted the control and power from the employer to the employee. In my opinion, as an employer, that is not always a good thing. If you give too much power to employees, it leads to abuse.

Joeli Brearley: Yes. What we—

Lord Cruddas: It is a subtle point. We saw it during the Covid lockdown.

Joeli Brearley: What we are asking for is that jobs specify the type of flexible working that is available to the employee unless the business has a good business reason not to do so. It flips the onus from the employee on to the employer. Rather than the employee, as I said, going with their begging bowl and saying, "Please, sir. Can I work flexibly?", it means that jobs are designed as flexible from the outset. If you have a good business reason as to why that is not possible, that is okay; you do not have to advertise the types of flexibility that are available.

Lord Cruddas: There are some jobs that cannot be flexible. Then you get conflict where some people can work from home and other people cannot. I am just trying to give you a little bit of perspective from an employer's point of view.

Joeli Brearley: We absolutely appreciate that not all jobs can be done from home or flexibly, which is why we are saying—

Lord Cruddas: The point is that one size does not fit all. The Government are trying to encourage entrepreneurial-type businesses to start up, and you are shifting control slightly from employer to employee. Maybe I am overemphasising it, but I hear what you are saying.

Joeli Brearley: There has been some research done on this by the TUC; 64% of HR managers said it would be easy to include specific information about the types of flexible working that were available at their organisation, and 59% said the same for hours-based flexible working. Some employers say that it would be relatively easy to implement. As long as the legislation is written so that the company can say that it is not possible if it genuinely is not possible to do, it gives the employer flexibility as well. I can see that you disagree with me.

Lord Cruddas: Thank you, Chair. We will move on.

The Chair: It is a very interesting debate. Thank you very much.

Lord Cruddas: I will invite you to my office one day.

The Chair: I invite Lord Brownlow to ask his question.

Q129 **Lord Brownlow of Shurlock Row:** I declare my interest as employing several thousand colleagues.

Having discussed flexible working rights, do either of our witnesses feel they should be extended and, if so, how? Olga?

Olga FitzRoy: I have mainly been working with the self-employed, so I will let Joeli take this one.

Joeli Brearley: Yes, I obviously think they should be extended. At the moment, you have to have worked somewhere for approximately six months before you have a legal right to ask for flexible working. The current proposals are to move that to a day-one right.

We genuinely, strongly believe that that will make no difference whatever. The right to request is a failed policy anyway. We saw in 2012 that 74% of employees were not working flexibly. In 2020, 70% were not working flexibly. It shifted by four percentage points in seven years. If that is not a failed policy, I do not know what is.

Q130 **Baroness Prashar:** You have already touched on the example of Quebec and some other international examples. It would be very useful to hear whether there are other examples that would be relevant to us where statutory rights and other policies would support parents in the workplace. Maybe you can pull out those you think are relevant to us, and if there are others you can probably write to us because I am sure, from hearing you, that you probably have a lot of knowledge about that.

Joeli Brearley: If we look at our paternity leave system, pretty much every developed nation does better than we do. Spain, Sweden, Iceland, Mexico, South Korea, Japan, Canada, Finland, Norway, France, Germany, Portugal, Croatia, Poland and Australia all have a better paternity leave system than we do on a full-time equivalent basis. While the best approach, in my opinion, looking at international examples, is to ring-fence it and pay it at a decent percentage of salary, there are some other approaches that are quite interesting to look at. Not expecting dads to take their paternity leave consecutively has been shown to have lots of merit, particularly in reducing postnatal depression and physical health issues for mothers.

That is something that Portugal does. You can access 10 days of paternity leave, and then you have 30 days that do not have to be used consecutively; you can decide when you use them within the first two years of the child's life, as I did when I had my baby.

There were times when I was really struggling and needed some help. Also, if dads feel they are exhausted because they are not getting any sleep, they can have a day to spend with their child.

Sweden remodelled its parental leave in 2012 to do just that—to allow that flexibility in the system. Researchers were able to make a direct comparison of what happened before and after that policy. They discovered that after 2012 mothers were 14% less likely to be hospitalised for childbirth-related complications, 11% less likely to require antibiotic prescriptions and 26% less likely to need anti-anxiety medication, so we can see that it is really good for the mental and physical health of mothers.

On flexible working legislation, we in the UK work some of the longest hours in Europe. In 2019 we were crowned the underpaid overtime capital of Europe, an accolade that I do not think any of us really wants. That is pushing mothers out of the workforce because, with our very expensive childcare system, which women are reliant on, and because women do the majority of the unpaid labour—they do almost three times as much unpaid labour as men—it is impossible for many women to work full-time and to do all that unpaid labour on top. Women cannot compete in a labour market that values presenteeism over productivity, and our labour market does just that.

Other countries work far fewer hours than us. In Denmark only 2% of workers work long hours, whereas in the UK 12% of workers work long hours. Their productivity is much higher than ours. In fact, full-time working staff in Denmark are 23.5% more productive than staff in the UK. When the Danish consul was asked why the Danes are so happy, his response was, “Because Danes think people who work all the time are boring”. We have a culture in the UK where we just value presenteeism and it is really not working, so it is also important for us to look at policies that deal with presenteeism. There is the right to disconnect, which exists in France, Belgium, Italy, Spain, Slovakia and Greece, and there are legislative proposals to implement such a scheme in the Netherlands and Portugal. Then there is the four-day working week, which I am sure you are a fan of.

Lord Cruddas: I was just thinking that they have Heineken in Denmark. That would explain it.

Joeli Brearley: Yes, that would explain it.

Four-day working week trials are happening in Iceland, Japan, Spain and Scotland. At the moment it is being trialled by 3,000 workers from 70 different companies in England. The research so

far shows that staff are much more productive because they are happier and they have higher rates of well-being.

Baroness Prashar: It has nothing to do with whisky.

Joeli Brearley: It has nothing to do with whisky. We do not know. We have not yet tested for that, or the Heineken.

Baroness Prashar: I was referring to that.

Joeli Brearley: It seems that staff are much more productive if they work fewer hours. There is a direct correlation between the countries that work fewer hours and higher levels of productivity. In 1996 Finland passed the Working Hours Act, which gives most staff the right to adjust the typical daily hours of their workplace by starting or finishing up to three hours earlier or later. It was working so well that in January 2020 it extended it to four hours. That is a really interesting policy we could look at. It also introduced the working hours bank for every workplace, where employees can work overtime up to a maximum of 180 hours per year, and can then bank those hours and take them back as and when they wish, either as holiday or as flexitime. It is probably worth commenting that Finland is often ranked as the happiest country in the UN's world happiness index.

The Chair: Thank you so much for that very comprehensive answer.

Baroness Prashar: There is such a wealth of information. Would you mind writing it down for us?

The Chair: That is exactly what I was going to ask. Obviously, you have gone to a lot of effort and done a lot of research. It would be really helpful for us to have it. I can see that Baroness Massey would like to come in with a supplementary.

Baroness Massey of Darwen: Yes; thank you. Do you have any evidence from the United States on adoption policies and what happens? The Americans seem to work fanatically hard and long hours; I have two children there, so I know. I wonder how that impinges on the work ethic and on happiness. Do they have policies for adoption?

Olga FitzRoy: I do not know. I know that they have higher maternal mortality and higher infant mortality than we do, and it has been going up. It is not good news from the States, I am afraid.

Baroness Massey of Darwen: Okay. I will try to find out more.

Thank you.

The Chair: Thank you so much. It has been a very interesting session. Thank you for all the work you have done in preparing for it. It is a very important topic, and clearly there will always be differing perspectives on such an issue. It has been very helpful to have your evidence. Thank you very much indeed for coming in. I now draw this part of the meeting to a close.