



The Pharmacists' Defence Association and the Pharmacists Defence Association Union's Response to the BEIS Flexible Working and family-related leave and pay policies

11th October 2019

About the Pharmacists' Defence Association

The Pharmacists' Defence Association (PDA) is a not-for-profit organisation which aims to act upon and support the needs of individual pharmacists and, when necessary, defend their reputation. It currently has more than 29,000 members. The PDA Union was inaugurated in May 2008 and achieved independent certification in 2011.

The PDA is the largest pharmacist membership organisation and the PDA Union is the only independent Trade Union exclusively for Pharmacists, in the UK.

The primary aims of the PDA are to:

- Support pharmacists in their legal, practice and employment needs
- Represent the individual or collective concerns of pharmacists in the most appropriate manner
- Proactively seek to influence the professional, practice and employment agenda to support members
- Lead and support initiatives designed to improve the knowledge and skills of pharmacists in managing risk and safe practices, so improving patient care
- Work with like-minded organisations to further improve the membership benefits to individual pharmacists
- Arrange insurance cover for individual pharmacists to safeguard and defend their reputation.

Summary

As part of the Taylor Report, the government believes that more needs to be done to improve clarity, certainty and understanding of employers' policies in order to maintain and increase momentum on closing the gender pay gap. They also believe that this is important to enable people to achieve more choice and flexibility to balance their commitments in and outside of the workplace.

There are already in existence a range of employee rights and employer obligations in place which help employees achieve more control and balance in their commitments. Employees with more than 26 weeks' service have the right to request flexible working. An employer can only reject a statutory request when there are solid business reasons to do so. Many employers also offer informal flexible working, where they agree working patterns and hours of work outside the statutory scheme, often temporarily. Despite the existence of the statutory right, prospective employees may not be aware of what the employer's approach to flexible working is.

It is accepted that many employers also go beyond the statutory minima when it comes to family-related leave and pay and provide enhanced contractual entitlements and top up statutory pay at their own expense. Yet, job applicants and existing employees are often unaware of the fact that their employers' offer is more generous than the statutory schemes.

In October 2018, the government made a commitment to consider creating a duty for all employers to assess whether a job can be done flexibly and make that clear when advertising; and to consult on requiring employers with more than 250 employees to publish their parental (family-related) leave and pay policies to align with the overarching approach to gender pay gap reporting.

This consultation seeks ways to encourage employers to be more transparent about their approach to flexible working and to parental leave policies.

The consultation runs until the 11th October 2019

1. Do you agree that large employers (250+ employees) should publish their family-related leave and pay policies on their website?

AGREE

With the pressures of modern life often driven by economic concerns, the work-life balance takes on a more important role in society. However there is still reluctance on the part of many to avail themselves of the benefits of family related leave as they feel that it will adversely impact on the working relationship. If policies were in the public domain then this would reduce any reluctance there may be to utilise the benefits of these policies.

With regard to pay policies there has to be a balance between the provision of information and the requirements of GDPR for the individual. However we support the principle of the publishing the pay policy.

2. Do you agree that large employers (250+ employees) should publish their flexible working policies on their website?

AGREE

For the same reasons highlighted in the answer to question 1

3. Do you agree that transparency of these policies will help employers to recruit and retain staff?

AGREE

With regard to recruitment, potential employees look at the total package and whilst the salary package is a key factor, more and more non financial elements become relevant. In the absence of these policies being available to potential applicants, those individuals may not apply for roles due to assumptions about what flexibility exists.

Even where applicants apply for roles, many will be hesitant to ask about possible flexibility during the selection process for fear of it negatively affecting their application.

The impact on retention is likely to be a less. Partly because such policies may already be available to employees, but principally because if the employment relationship breaks down for whatever reason the fact that the employer has been transparent with regard to their policies is unlikely to retain most members of staff. However, there will be some cases where greater awareness of these policies mean employees opt to change where or when they work instead of leaving.

4. Do you agree that, where the employer has a policy on family-related leave and pay which extends the statutory minima, reworking and publishing an internal policy document on a public-facing website would be simple and inexpensive?

AGREE

We would expect employers with 250+ employees to already have the capacity and process to publish that format of content on their website.

5. Do you agree that, as for family related leave and pay, reworking and publishing a flexible working policy on a public-facing website would be simple and inexpensive?

AGREE

For the same reasons given to the answer to question 4

6. How helpful would the following information be if it was held (and viewable) on a central database – for instance the Gender Pay Gap Reporting Portal:

Job applicants are likely to investigate a prospective employer's website when considering a particular vacancy. For them it will be more important that the information is available on the organisation's website, where they can also review other information about that employer, such as values, company accounts, locations, etc before deciding to apply or how to shape their application.

A database could be of use to a person looking for alternative work which could accommodate their needs, and for researchers and others. However, we are not convinced that a Gender Pay Gap Reporting Portal would be the right vehicle, rather than a separate database, as flexibility at work is not only connected to gender.

Employees seeking greater flexibility at work may also have a host of other potential reasons such as managing the impact on their health, to balance with public service or study, to fit with a portfolio career or their own business start-up and many more. However a link to such a database from the Gender Pay Gap Reporting Portal would be sensible.

- a) Whether flexible working may be available from the start

Quite helpful

- b) Approach to place, hours and times of work

Quite helpful

- c) Approach to informal flexible working (such as later starts to accommodate health and other appointments)

Quite helpful

We have anecdotal evidence of line managers requiring employees to take holiday to accommodate appointments despite the employer having a flexible work policy.

- d) Enhancements to different types of family-related leave and pay, for example: Maternity Leave and Pay; Paternity Leave and Pay; Adoption Leave and Pay; Shared Parental Leave and Pay; parental leave taken in respect of older children; or, any other contractual enhancements to family-related leave and pay.

Very helpful

We consider it important for employees to have un-fettered access to such family friendly policies. In the absence of such access, and especially at employers without a recognised trade union, not having access to these types of policies often mean that employees are reliant on the understanding of a local manager. Our experience is that often local managers are not adequately trained in employment law or company policies and this can lead to misinformation about what flexibility is possible.

In the absence of the policy document being available, individuals are often reluctant to even request the flexibility, in case it is not available and asking could somehow imply they want something the employer will not provide and this could have a detrimental impact on their working relationship. Similarly even asking to see a policy may be avoided by employees because the fact that the policy is not readily available, suggests the flexibility may not be available and the simple act of requesting a document could have a detrimental impact on their working relationship. This is more prevalent when the request has to be made to a line manager and even more so during a probation period.

7. To what extent do you believe that a job applicant's decision on whether to apply for a job would depend on the publication of the information mentioned above?

Somewhat

More and more the work life balance is an important concern for employees. The more an employer has transparent policies available the more a potential applicant will prefer that employer to one that does not show the same or any degree of transparency.

Employers may currently be missing out on great candidates because they are not explaining the flexibility they could provide.

8. How effective do you believe a voluntary approach to encourage greater transparency about an organisation's approach to flexible working and family-related leave and pay (e.g. through the Gender Pay Gap Reporting Portal) might be in providing information about employers' policies?

Not very effective

The definition of a large business is one that has more than 250 employees and as such they have to abide to a mandatory reporting in respect of gender pay gap reporting. There is no requirement for any other reporting. So if they have a mandatory reporting regime for gender, why don't they voluntarily do it for other policies? The BEIS own statistics say circa 50% of large employers do provide additional information on a voluntary basis, which means that circa 50% do not. You could deduce that at best a voluntary basis is not working, despite the obvious benefit to employers of having a more effective recruitment process.

In previous responses we have highlighted the reluctance of employees, for the fear of affecting the working relationship or discrimination, in requesting these policies at the time of seeking a new role, even within their existing employer. The requirement for all large employers to commence a mandatory reporting regime rather than a voluntary one would help to overcome this.

9. How effective do you believe creating a facility on the Gender Pay Gap Reporting Portal on GOV.UK to record details about an organisation's policies on flexible working and family related leave and pay would be:

- a) To provide a central point of information for employees or prospective employees?
- b) To let employers record the information as a part of the annual cycle of Gender Pay Gap Reporting?

Fairly Effective to both

The concept of having one central, unbiased, point of information updated on at least an annual basis is an attractive one. However, as stated in our answer to Question 6, it should not be assumed that the need for flexibility is only related to gender.

The "Gender Pay Gap Reporting Portal" does not have the most "attractive" title and does not immediately make this the natural first port of call for any prospective employee or for an employer seeking to benchmark their approach.

Employees seeking greater flexibility at work may also have a host of other potential reasons such as managing the impact on their health, to balance with public service or study, to fit with a portfolio career or their own business start-up and many more.

We are not convinced that a Gender Pay Gap Reporting Portal would be the right vehicle, rather than a separate database, as flexibility at work is not only connected to gender. However a link to such a database from the Gender Pay Gap Reporting Portal would be sensible.

10. How effective do you believe it might be to encourage employers to set out how they are using greater transparency about their employment policies as part of their gender pay gap action plans?

Very Effective

The response to this question is natural extension of our response to question 9.

It is possible the requirement to have greater transparency would provide an incentive to employers to up their game. It would encourage those employers who have minimal or poor policies to review them – those in competition with each other may feel the need to review their policies to retain a competitive edge. But most importantly it will lead to a more effective recruitment process that will have long term benefits for those organisations and the economy in general.

11. Do you agree that it would make sense to enforce a reporting requirement of this kind in the same way as gender pay gap reporting (i.e. a requirement to provide this information as part of the gender pay gap reporting process)?

AGREE

The reason for our agreement to this question is well described in our responses to Q8 – Q10.

12. Thinking about the balance between what it is practical to provide in a short job advert and what is useful to a candidate, which of the following is the best option (please select one)?

The option we chose is –

A short statement covering the organisation’s approach to place, hours and times of work and a link to a published policy

Apart from the response “A simple statement and a link to a published policy”, the other responses are not sufficiently prescriptive – i.e. the “Happy to Talk” and a “Short Statement.....”

Whilst there is a balance between the information to be supplied and what a candidate would find helpful, by providing a short statement and links to policies allows the candidate to decide what is helpful.

13. If a requirement was introduced to state in job adverts whether flexible working may be available or not:

- a) Who might the enforcement power sit with? (*)

With regard to an external advertisement - BEIS

With regard to internal advertising – ACAS/BEIS

- b) What should be the process for reporting a breach?

An individual or trade union using a standardised process

(*) Perhaps a role for a Single Enforcement Body?

- c) What should be the penalty for a breach?

A twofold response. Initially a notice to rectify the situation within a given period of time, together with help and guidance to meet requirements. Failure to comply or repeated breaches, a fine.

14. If a requirement to provide a link to your flexible working policy on the gender pay gap reporting portal was introduced, do you agree that it would be helpful also to ask employers to record whether they had advertised jobs as open to flexible working?

AGREE

This would provide a greater picture as to the extent employers are embracing the concept of flexible working.