

October 2009

Report on flexibility in the manufacturing workplace

Executive Summary

- EEF members provide a wide range of flexible working practices for their employees and are willing to consider requests to work flexibly on a case-by-case basis, rather than rigidly following the legislation on this.
- Companies continue to agree to many flexible working requests and now report far fewer problems in managing them, partly as a result of greater familiarity with legislation in this area and partly through greater appreciation of when requests need to be declined.
- There are practical limits to the extent that flexible working practices can be offered in some companies and sectors. The right to request flexible working must not become a right to work flexibly, nor is there a need to extend the legislation to cover all employees. Society must also consider other methods for promoting work/life balance and not just leave it to employers to facilitate and support.
- Agency workers remain an important part of the manufacturing workforce and a key component of the UK's flexible labour market. Companies have reduced their use of agency workers in response to the downturn; in many cases this has helped them to stay in business and maintain employment levels of permanent employees.
- The government was right to delay the implementation of the Agency Workers Directive until October 2011. Earlier implementation would have discouraged companies from using agency workers at the very time when demand for them could have been expanding.
- Few employees are currently working more than the limit of 48-hours per week averaged over 17 weeks prescribed in the Working Time Directive. However, companies still ask their employees to sign the individual opt from these provisions in order to be able to respond quickly to fluctuations in demand without being subject to excessive bureaucracy and record-keeping. The government is right to continue to resist the abolition of the individual opt out.

Introduction:

Earlier this year, EEF undertook a survey of its members' human resources policies and practices as well as their views on some key current employment policy issues. This survey was sponsored by CPH Consulting which provides insourced direct recruitment solutions to both early-stage and established companies in the technology, business services and professional services sectors.

Responses were received from nearly 500 companies of different sizes that reflected EEF's overall membership.

Table 1: Survey respondents by company size

Company size	Number of respondents	Percentage of total respondents
Small (1 to 100 employees)	221	44.3
Medium (101 to 250 employees)	171	34.3
Large (251 or more employees)	107	21.4

Source: EEF/CPH Consulting Employment Survey 2009

The first two reports¹ from the survey looked at union recognition and the employee relations climate and at pension and retirement provision. This report takes a closer look at what our members told us about another key issue – factors affecting the flexibility of work organisation within their workplace.

This term "flexibility" can mean different things to different people. For example, the 'flexible workplace' is often used to describe the right of employees to request flexible working practices such as flexitime, home-working or compressed hours. Following on from an earlier EEF survey in 2007, this report looks at the extent to which flexible working practices have been adopted in the manufacturing sector. This shows evidence that most companies consider all requests for flexible working (and not just those for which there is a legislative requirement) and they have become much better at managing its impact on their business.

At the same time, 'flexibility' is often used as shorthand for flexible labour markets. For most employers, it is about their ability to adjust work arrangements according to fluctuations in demand. The UK's relatively flexible labour market is a key component underpinning the competitiveness of British manufacturing. As this report shows, it has helped companies to cushion the impact of the current economic crisis and it will help them increase their workforce as we move towards recovery.

But in recent years certain aspects of this flexibility have been under threat. Our survey therefore sought views on two other key and topical issues - the use of both agency workers and the individual opt out from the average 48-hour working week contained within the Working Time Directive. In each case, we find that manufacturers are concerned that heavy-handed approaches from policy makers in these areas will increase their costs and reduce their freedom to respond quickly to fluctuations in demand.

¹ *Report on union recognition/membership and the employee relations climate*, EEF/CPH Consulting, September 2009,

1. Flexible working practices

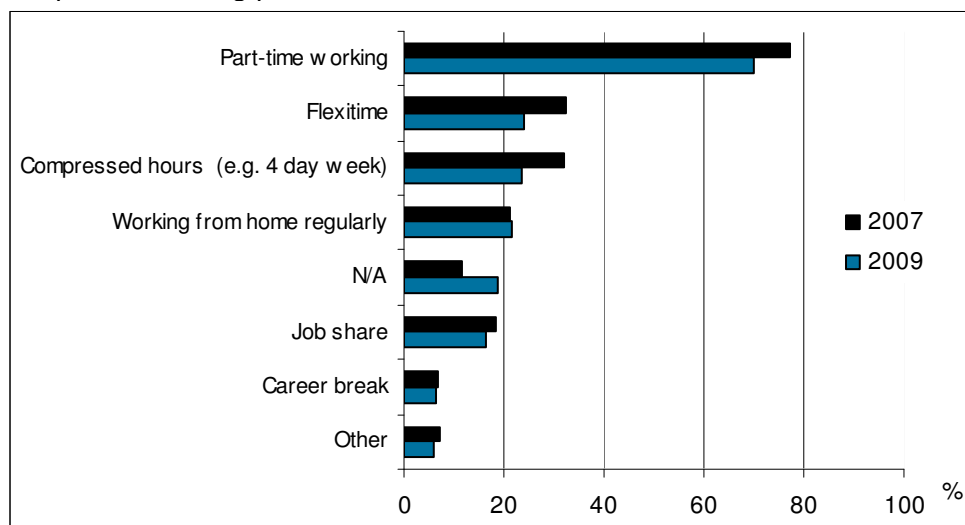
All employees can ask their employer to work flexibly, perhaps by moving to part-time hours or a job-share arrangement or working from home. But those with children up to age 16 or who care for an adult have a more formal right to request changes to their working patterns in order to accommodate their caring responsibilities. Employers have a legal obligation to consider these requests, but they are able to reject them on genuine business grounds.

In 2007 we surveyed our members to get a better understanding of how common flexible working was becoming in manufacturing and what impact it was having. Two years later and following the extension of the right to request flexible working to parents of children up to age 16, we asked a number of the same or similar questions in an effort to discern any trends or changes of attitude by employers.

Types of flexible working

The survey showed that around four-fifths of companies operate flexible working practices. Part-time working continues to be the most commonly offered form of flexible working with around 70% of companies operating this practice (chart 1).

Chart 1: Manufacturers offer a wide range of flexible working practices, % of companies offering practice



Source: EEF/CPH Consulting Employment Survey 2009

Company flexible working policies

We also asked companies what their policy was when it came to considering requests to work flexibly. Significantly, the majority of companies (table 2) said that they consider all requests on a case-by-case basis. Only 12% of respondents said that they only consider requests from those covered by statutory requirements. This suggests that companies are taking a more holistic and pragmatic approach to considering requests, rather than being driven by the legislation in this area.

Table 2: Pragmatic approach taken to considering flexible working requests

	Percent
Consider requests from all on case-by-case basis	77.7
Consider requests from those covered by statutory requirements	11.9
Don't have a policy on flexible working requests	9.9
Don't know	0.6
Total	100.0

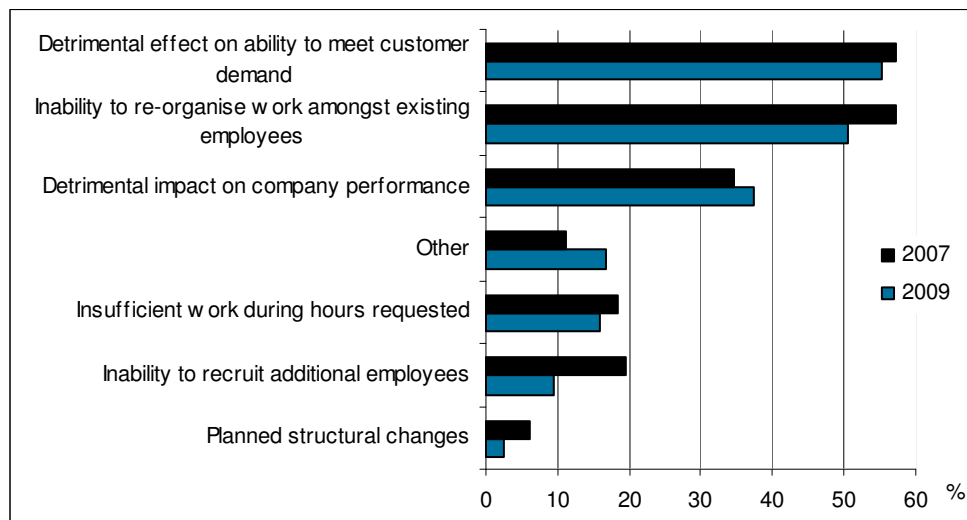
Source: EEF/CPH Consulting Employment Survey 2009

Responses to requests

In 2007 we saw a very high instance of companies accepting flexible working requests with 41% of respondents agreeing to all requests (the figures were higher still for some categories of employee, such as parents of disabled children). This time, nearly a third of all respondents (29%) told us that they had accepted all requests. Nonetheless, the fact that nearly a third of EEF members are accepting all requests still demonstrates that they often respond positively when employees ask for changes to their work patterns.

Where requests were declined, it was largely on organisational grounds. The most often stated reasons for rejecting people's requests were that they would have a 'detrimental effect on the ability to meet customer demands' or that this would result in an 'inability to reorganise work amongst existing staff' (chart 2).

Chart 2: Requests declined on organisational grounds, % of companies reporting reason



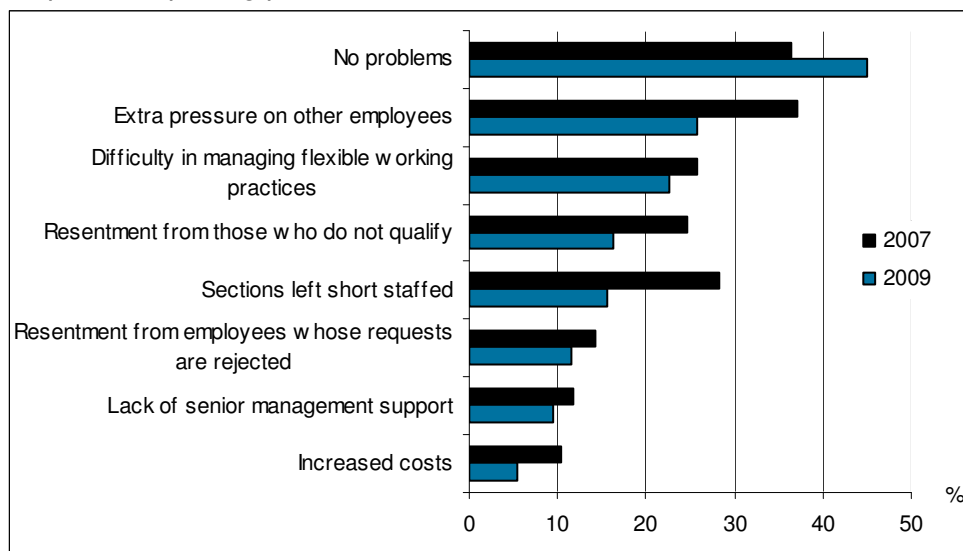
Source: EEF/CPH Consulting Employment Survey 2009

Problems and benefits associated with flexible working

However, while the high number of all accepted requests in 2007 demonstrated that EEF members were often seeing the benefits of offering flexible working, we had some concerns that they reported a number of organisational problems with implementing these changes.

At the time, we had argued that one of the reasons that companies were experiencing these problems were difficulties understanding when and how they could reject requests. This more recent survey shows that far fewer companies now report problems associated with flexible working (chart 3 shows that 45% said they had no problem in 2009 compared to 36% in 2007). Other issues, such as the fact that granting flexible working requests can create pressure on other employees (37% in 2007; 26% in 2009), were also much less likely to be cited as a concern for employers.

Chart 3: Fewer companies reporting problems with flexible working, % of companies reporting problem



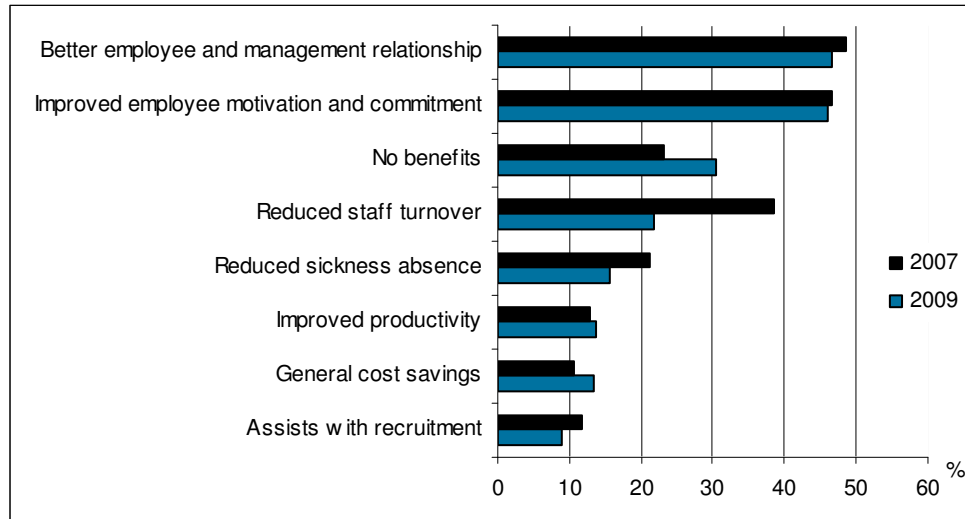
Source: EEF/CPH Consulting Employment Survey 2009

These figures suggest that companies have become more adept at managing flexible working arrangements and have also developed a better appreciation of when to reject requests. This in part will be as a result of their greater familiarity with the legislation on flexible working but is also due to the range of guidance in this area now provided by organisations like EEF. However, it is also likely to be a reflection of the fact that there are practical limits to the extent that flexible working practices can be offered in some companies and sectors.

In the right circumstances, companies can benefit from offering flexible working to their employees. As chart 4 shows, EEF members say that it particularly helps employee morale and motivation. But it is far easier to agree to requests from some employees than it is from others and this is particularly true in some production environments. In our 2007 survey we found that employers were more able to grant requests to non-manual employees (i.e. office-based) than they were to their colleagues in manual roles. (Speaking to our members anecdotally, it is often the case that flexible working in a manual environment

tends to be more characterised by employees asking to swap shifts rather than, for example, working from home or compressing hours.)

Chart 4: Flexible working helps morale and motivation, % of companies reporting benefit



Source: EEF/CPH Consulting Employment Survey 2009

This is an important point. The practical limit to which some employers are able to offer flexible working is recognised in the balance of the legislation in this area. This gives some categories of employees a more formal right to request, to which employers must give serious consideration but can reject providing they can demonstrate genuine business grounds for doing so. We would be extremely concerned if this balance was to swing the other way with, as some have argued, the right to request becoming a more formal right to work flexibly or if the legislation was extended to cover all employees.

Policy makers should also avoid seeing the promotion of flexible working practices as a panacea for addressing work/life balance issues. This is an area where alternatives to legislation, perhaps in the form of incentives for companies, could be explored. There is a need for wider debate on how society addresses work/life balance issues. This should encompass other issues such as care provision for children, the disabled and the elderly, rather than being left as something for employers to facilitate and support.

2. Agency Workers

Agency workers are a key part of the UK's flexible labour market providing manufacturers with valuable competitive benefits in a global marketplace. Agency working is often chosen by individuals as a way of improving their work/life balance or as a route back into permanent employment after a period out of the labour market.

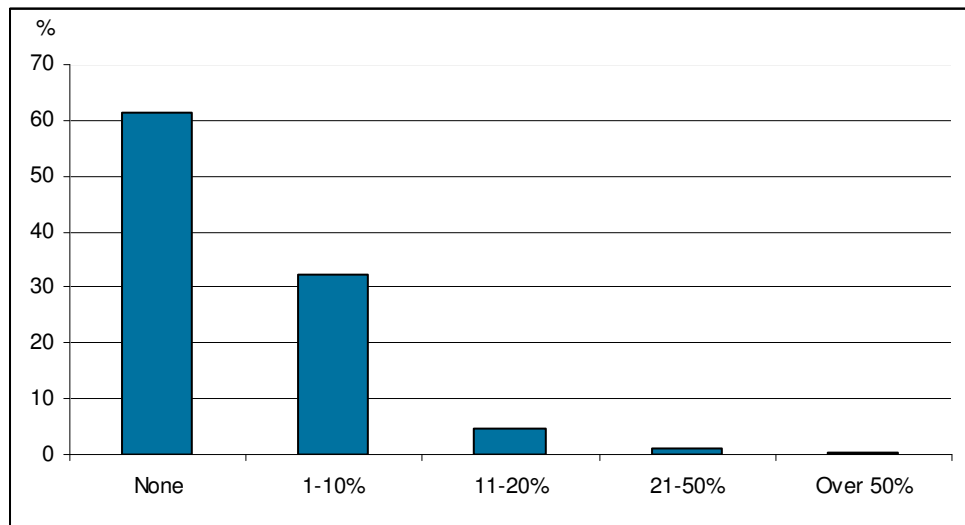
Employers will have to comply with new rules governing the treatment of agency workers in October 2011. This will mean that, after 12 weeks in the same job, an agency worker will have an entitlement to equal treatment (at least the same basic working and employment conditions) with an equivalent employee in the company to which they are assigned. Our survey asked members how often they

use agency workers and how the new legislation will affect them.

Use of agency work

Despite the current economic downturn, agency workers remain an important part of the manufacturing labour force with nearly two-fifths of respondents using them (chart 5). However, full-time employees still tend to make up the largest proportion of manufacturing workforces with a third of companies saying that only between 1% and 10% of their workforce are agency workers.

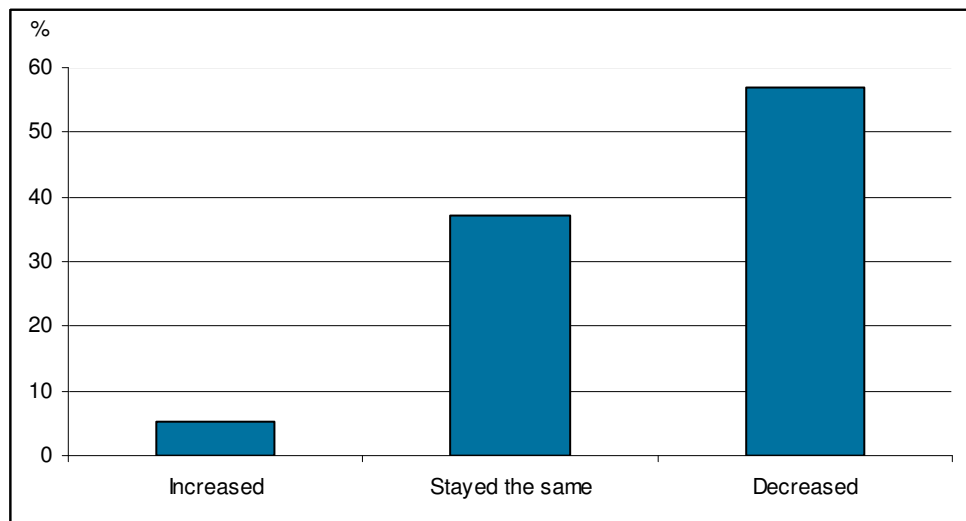
Chart 5: Agency workers important part of manufacturing labour force, agency workers as percentage of workforce (% of companies)



Source: EEF/CPH Consulting Employment Survey 2009

This figure is certainly lower than it previously would have been before the recession, with 57% of companies reporting that their use of agency workers has decreased over the last 12 months as manufacturers have faced reductions in demand (chart 6)

Chart 6: Reduction in demand changes amount of agency workers used, % of companies reporting change



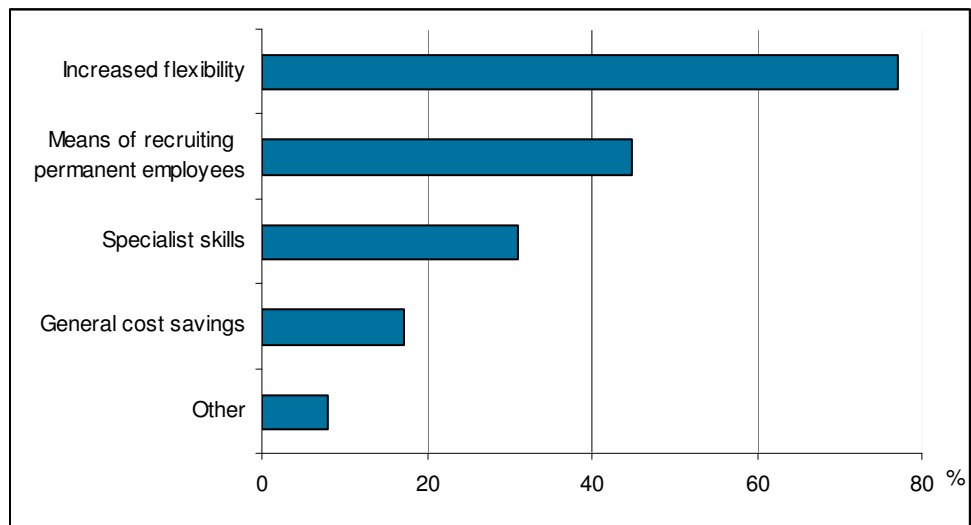
Source: EEF/CPH Consulting Employment Survey 2009

In both talking to EEF members and as demonstrated in this survey, the flexibility inherent in using agency workers has clearly been used as an integral part of company strategies for managing during the recession. In short, this aspect of the UK's labour market flexibility has worked exactly as it should have with companies being more easily able to adjust their workforces quickly in response to changes in demand. In certain cases this is likely to have kept companies in business and preserved permanent jobs. As we move out of the recession the use of agency workers is certain to be used to help companies respond as demand picks up. Indeed, we are already seeing some anecdotal evidence that companies are beginning to rehire agency workers.

Benefits of using agency workers

Importantly, only 17% of respondents who use agency workers saw cost savings as one of the main benefits for using them (chart 7). Instead, the most commonly stated benefit cited for using agency workers was increased flexibility. The other main benefits were, first, as a means of recruiting permanent employees and, second, in order to gain access to specialist skills.

Chart 7: Using agency workers allows increased flexibility, % of companies reporting benefit

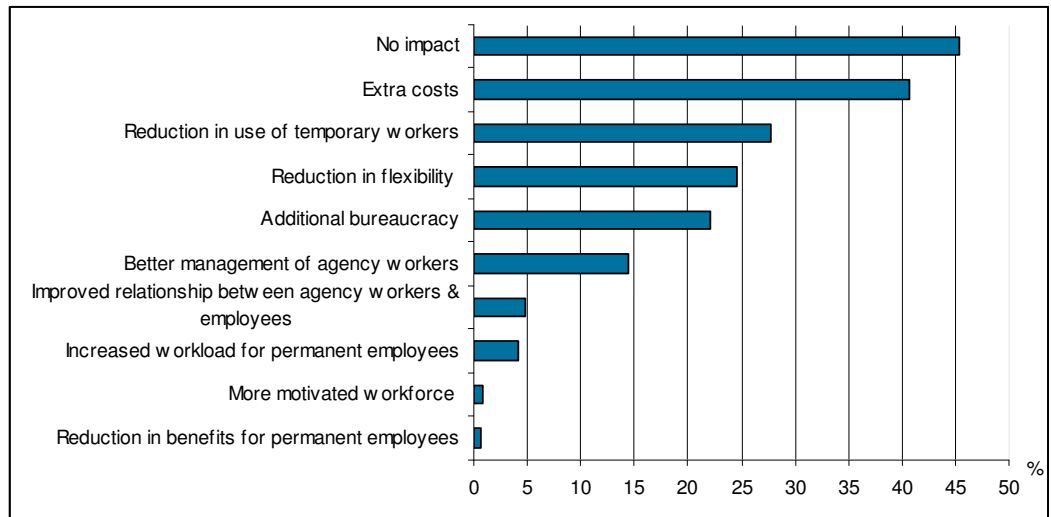


Source: EEF/CPH Consulting Employment Survey 2009

Impact of Agency Workers Directive

When asked about the potential impact of the implementation of the Agency Workers Directive, respondents who use agency workers expressed various concerns including the possibility of extra costs, additional bureaucracy and reductions in flexibility (chart 8). As a result, just over a third of respondents stated that the implementation of this Directive might lead to them reducing their use of agency workers.

Chart 8: Various concerns about implementation of Agency Workers Directive, % of companies reporting impact



Source: EEF/CPH Consulting Employment Survey 2009

EEF has always had concerns about the adverse impact that the Agency Workers Directive will have on the UK's flexible labour market. We had originally argued that equal treatment should not apply for the first 12 months of an agency worker's assignment. However, we reluctantly accepted the compromise reached between the CBI, the TUC and the government, which led to the introduction of the 12-week qualifying period. However, we have been pressing the government to implement the Directive in a way that retains this important part of the UK's flexible labour market and minimises the administrative burdens and costs imposed on employers and agencies.

As part of this, we argued that the government should delay introducing the legislation for as long as legally possible in order to avoid hitting manufacturers with extra costs during the recession. As a result of EEF lobbying, the government has recently agreed to delay the implementation of the legislation until the last moment.

The fact that companies often use agency workers as a means of recruiting permanent employees also had implications for the timing of the legislation. Earlier implementation during 2010 could have coincided with the first signs that the economy is starting to recover and when employers might be thinking about expanding their workforce. They would understandably be very cautious about the future and would probably want – at least initially – to use agency workers rather than recruit permanent employees. However, early implementation might have discouraged them from using agency workers in this way if, at that time, they felt the costs and administrative burdens associated with using agency workers were going to increase, as they inevitably will following implementation of the Directive. It is encouraging that the government responded positively to our argument that implementing the legislation too soon could have resulted in employers postponing plans to increase their workforce and therefore potentially slowed down the pace of the economic recovery, particularly any reduction in the level of unemployment.

3. Working hours

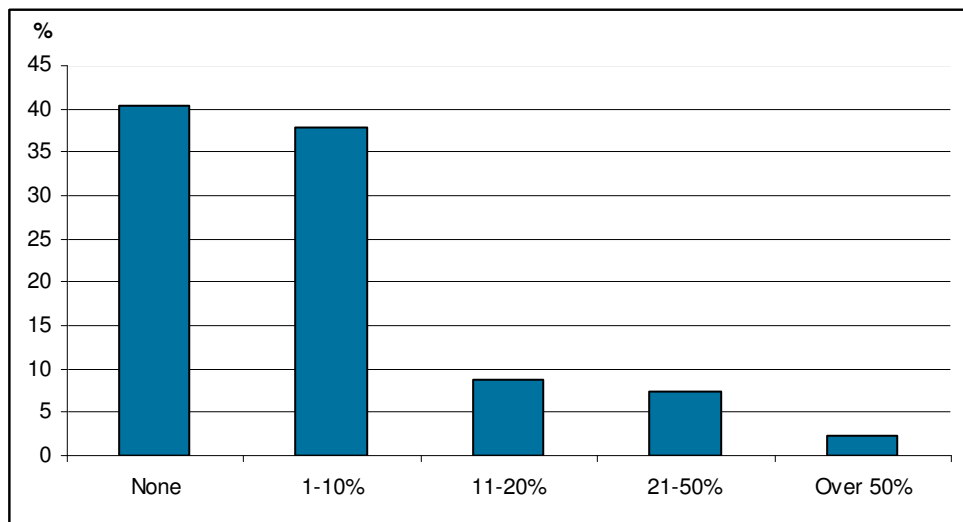
The Working Time Directive aims to ensure that employees do not work excessively long hours and have adequate rest and holiday provisions. The Directive sets a maximum 48-hour working week averaged over a reference period of 17 weeks which can, under certain circumstances, be extended to up to 26 or 52 weeks. Member States also have the option of allowing individual workers to 'opt out' from this average 48-hour working week. This individual opt out is most commonly used in the UK, although an increasing number of other EU Member States have begun to make use of it or are considering doing so.

A long campaign, resisted by the UK government and organisations like EEF, has been fought by the trade unions, European Parliament and some EU countries to abolish the individual opt out. This battle has ebbed and flowed and has now gone somewhat quiet but the debate is likely to reignite in the coming months. In anticipation of this, our survey asked how much use is made of the individual opt out and what would happen if it was phased out.

Employee hours

Around three-fifths of companies told us that they have employees who work more than 48 hours a week over a 17 week period. However, the percentage of employees doing so is still relatively low – only 10% of companies have more than 20% of their workforce working more than an average of 48-hours a week (chart 9). Clearly the recession will have played a part in keeping this figure low but it also challenges the accusation that there is a widespread long hours culture in the UK.

Chart 9: Percentage of employees working more than 48 hours a week still relatively low, percentage of workforce working more than 48 hours over 17 week period (% of companies)

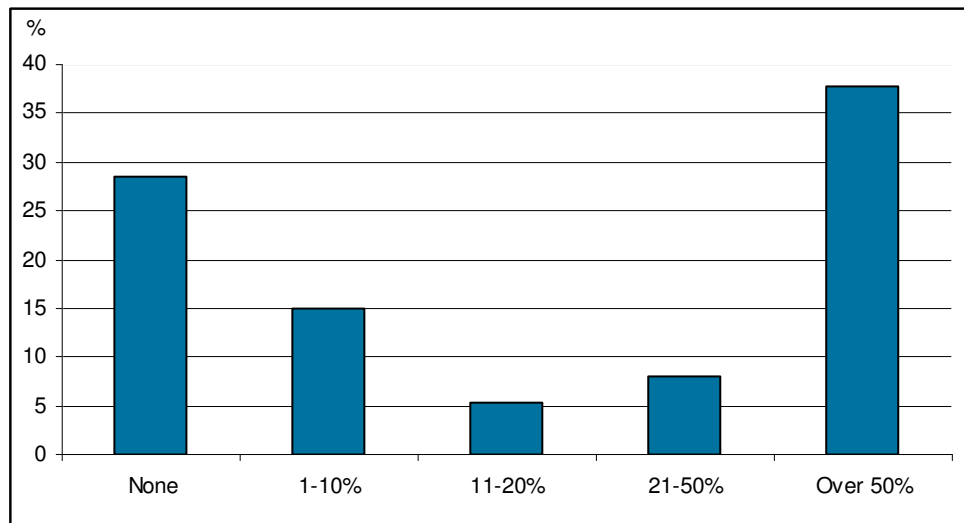


Source: EEF/CPH Consulting Employment Survey 2009

Use of the opt-out

Despite the relatively low number of employees working more than an average 48-hours per week, companies still have a large number of employees who have signed the individual opt out (chart 10). Two-thirds have some employees who have signed the individual opt out; and the highest number of respondents (38%) said that over half of their employees had opted out.

Chart 10: Large number have signed individual opt out, percentage of employees that have signed the opt out (% of companies)

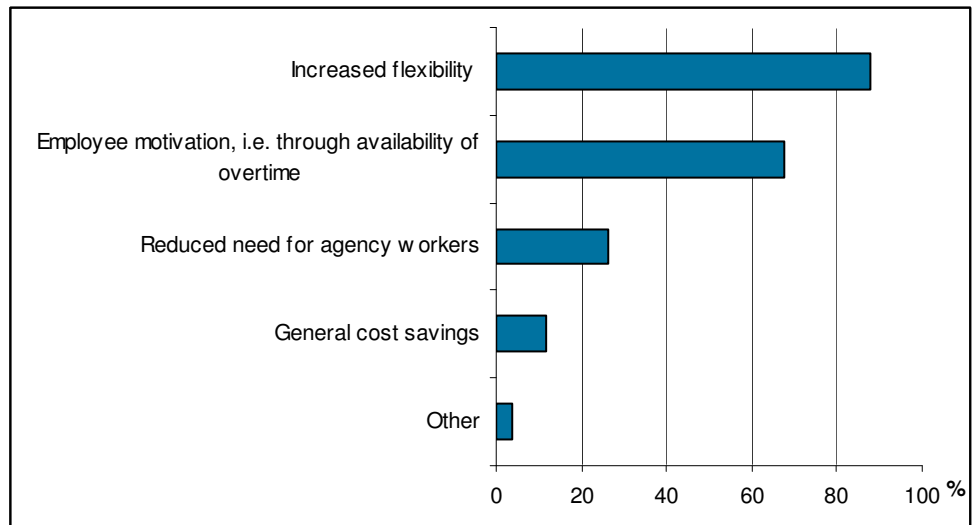


Source: EEF/CPH Consulting Employment Survey 2009

Benefits of the working time opt out

Companies overwhelmingly see the individual opt out as a tool for managing changes in demand, with nearly nine in ten of those that use the individual opt out saying that it increases their flexibility (chart 11). Significantly, just over two-thirds said that it also improved employee motivation through the availability of overtime.

Chart 11: Working time opt out increases flexibility, % of companies reporting benefit

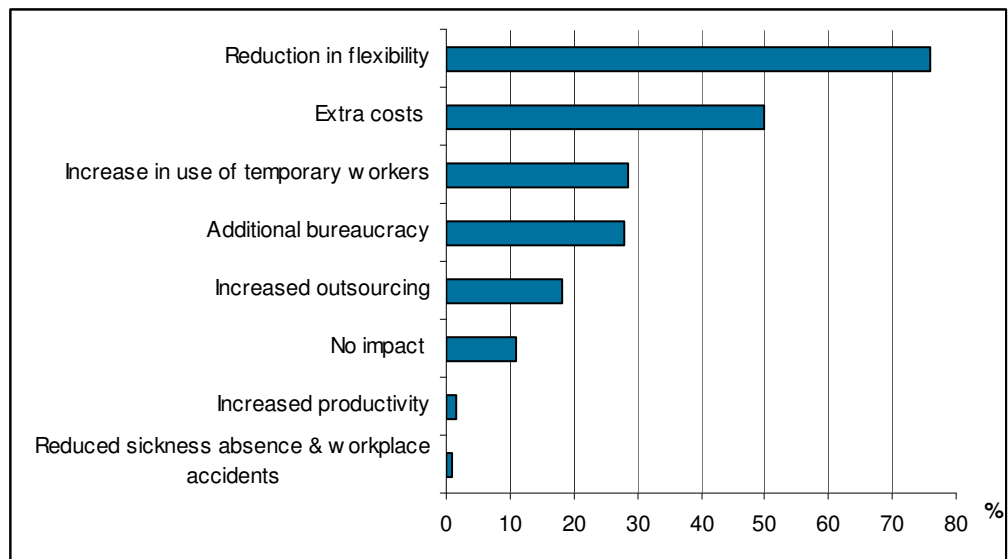


Source: EEF/CPH Consulting Employment Survey 2009

Removing the opt out

Retaining flexibility is again key when we asked companies their views on the possibility of the opt out being abolished. Of those companies that make use of the individual opt out, three-quarters thought it would damage their flexibility and half thought it would increase their costs (chart 12). Just over a quarter (28% in both cases) thought that it would lead to additional bureaucracy and felt that they would have to use more agency workers to offset the removal of the individual opt out.

Chart 12: Loss of flexibility if working time opt out abolished, % of companies reporting impact



Source: EEF/CPH Consulting Employment Survey 2009

The message for policy makers is clear. Companies see the individual opt out in the Working Time Directive as a key tool in their ability to manage their workforce. In the current economic climate, few employees are working more than an average of 48-hours per week averaged over 17 weeks. But companies see the opt out as, in effect, an insurance policy which allows them to be able to

respond to peaks in demand without being forced into excessive bureaucracy and record keeping. It is also significant, but not unsurprising, that companies think that removing the individual opt out is likely to result in employees becoming disgruntled at the lack of overtime opportunities. In our view, the government has been right to fight to retain the individual opt out and must continue to do so in the future.

For further information contact:

David Yeandle
Head of Employment Policy
020 7654 1523
dyeandle@eef.org.uk

Steve Coventry
Senior External Affairs Advisers
0207 654 1512
scoventry@eef.org.uk

October 2009