

19 June 2014

Ms K Boydens
Scrutiny Office
Morier House
ST HELIER
JE1 1DD

Dear Ms Boydens

Re: Scrutiny Panel Request – Employment (Amendment No8) Law (family friendly policy)

I refer to your letter of 3 June 2014 in relation to above and a request for views/information on two questions posed; I have set out JACS' response below:

1. What is your opinion of the proposed family friendly rights?

Ante-natal & Maternity:

JACS welcomes the introduction of this Amendment as there has long been a shortfall in protection of employment rights for pregnant women, maternity leave and flexible working requests. Whilst the statutory entitlement to a two week paid period (followed by an unpaid period for up to 16 weeks) for women following the date of confinement is minimal when compared to other jurisdictions (including the UK) it would appear to be a starting point. It needs to be borne in mind that the UK provisions were also introduced over a long period of time to reach the level that are currently in place. The other rights afforded in the Amendment are significant and should not be underestimated or side-lined in the debates around payments. The right to paid time off for ante-natal care (from day 1 of employment), and to be able to return to work following maternity give women certainty in areas that have previously been silent, which JACS sees as essential. JACS believes the provision to protect against dismissal which relate to pregnancy/maternity with no qualifying period is also important. Furthermore, 'keeping in touch days' (without loss of maternity allowance), will give comfort to those women who may wish to attend the workplace prior to ending their maternity leave.

The additional amendment to the Social Security Law allowing more flexibility regarding the commencement of the payment of maternity allowance will allow women who to choose to work closer to the expected date of confinement to not then lose some of this benefit.

Parental & Adoption Leave:

Although the rights afforded under these provisions are unpaid, JACS again welcomes the right (and the clarity) these provisions give in such circumstances.

Flexible Working:

The introduction of the right for any employee to request flexible working to look after 'someone' is again well received and the process set out is clear for both employers and employees. The costs of care (not just for children) is expensive and if this cost burden is able to

be reduced by an agreement between the employer and employee to flexible working then this may well keep skilled employees in the workforce rather than them leaving (and giving up work completely) or moving to another employer who is able to match the business needs with that of the caring requirements of the employee. Retaining skills and qualified employees generally in the working population is important, and flexible working may well assist in ensuring this is done.

2. What impact will the proposals, if any, have on businesses and employers in Jersey?

JACS believes there is likely to be an impact on employers who currently do not offer paid maternity at all as these are funds that will need to be found from elsewhere. Smaller employers may also struggle with the right to paid time off for ante-natal care, not just from a financial aspect but the actual time out of the workplace itself, this being due to the limitations of available cover from other colleagues. The period of unpaid leave may cause some employers cause for concern if they are unable to utilize fixed term contracts for the period of maternity/family leave.

Flexible working requests are also likely to cause some concerns to employers, with regards to the completion of the application and formulation of the response process in a timely manner as set out in the legislation, and in relation to covering the workload. Some employers in Jersey already offer flexible working/part-time working and whose processes may not be compatible with the new proposals, whereas there are a number of other employers who historically have only employed full-time employees, therefore again there is likely to be a period of adjustment needed. Another concern is that having extended flexible working to some employees an employer feels they need to offer it to all employees despite the business not being in a position to do so, therefore having to turn down further requests. The concern will be around exposing themselves to the risk of tribunal claims due to a perception that they are treating people differently.

For some businesses a period of adjustment is likely to be required when the legislation is first introduced as the changes proposed are significant, in respect of both process/procedure and also financial terms. The JACS website already has guidance notes available for this Amendment and training will commence from September 2014 in order to assist businesses prepare for the change in the Law.

Yours sincerely

Patricia Rowan
Director