

# Gearing up for growth

CBI/Harvey Nash employment  
trends survey 2010



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## Foreword



UK business faces an uncertain and uneven road ahead. On the one hand, economic indicators are starting to look a little more positive as markets gear up for the recovery: stronger than expected GDP growth and rising employment rates combine to lay positive foundations for future growth. Yet business leaders remain cautious, concerned about the sustainability of these emerging trends. As the prospect of deep public sector spending cuts and sensational headlines to match threaten to dampen domestic demand in the short term, businesses are hesitant about investing on the promise of future growth.

Employers are looking to ministers for leadership: creating the right environment for businesses to make a smooth transition from coping with recession to capitalising on recovery must be a priority for our new government. As in previous years, this report – our thirteenth employment trends survey – highlights the importance business places on protecting the UK's flexible labour market. This flexibility has been at the heart of UK competitiveness and it is vital for our future success that businesses are able to take the action they need to respond to new and exciting market opportunities when they come. Making the UK the place to invest must be top of the bill.

It is therefore encouraging to see such a high proportion of employers optimistic about the government's direction and commitment to improving the regulatory environment. Although concerns remain about the impact of removing the default retirement age and the nature of the cap on work permits issues, employers are broadly positive about the future flexibility of the labour market.

Firms value flexibility, seeing it as essential for the recovery. Many battened down the hatches to weather the economic storm – relying on the

flexibility and co-operation of employees to minimise redundancies and retain talent. In our spring survey we saw that these sentiments were driving the changes firms needed to make to prepare for the recovery. The power of effective employee engagement is still being harnessed and employers report that their workforces remain flexible and adaptable. Employers understand they need to work hard to maintain the kind of co-operation they saw through the recession. But with many firms still looking to contain labour costs and target recruitment on areas vital to future growth, this is a tricky balancing act. With pockets of trouble bubbling up in the public sector and unions beginning to flex their muscles, it is vital that employers redouble their efforts to communicate effectively with employees and engage them in reshaping their businesses for sustained success.

Firms understand that flexibility isn't a one-way street: this year, we continue to see innovation and progress in the way employers introduce greater flexibility for employees to balance their work commitments with other demands. This reciprocity has positive repercussions for morale and productivity, helping firms recruit and retain talent. With firms continuing to report concerns about future skills shortages, recruiting and retaining the best people remains of central importance.

**Richard Lambert**  
CBI director-general

## Foreword



The cautiously optimistic approach we see from business leaders in this year's survey – our fourth report with the CBI – is a welcome sign that confidence continues to improve. With the gradual thawing of recruitment and pay freezes, businesses are ready to look forward and position their people to take full advantage of the recovery. The flexibility and co-operation that characterised employee relations and work patterns during the recession is still evident 18 months after our first report, allowing employers more freedom of manoeuvre to meet future demand. The trends show a gradual shift in attitudes – both of employers and employees – that looks likely to stick. We see flexibility in all its forms as an integral part of the modern employment relationship.

Employers continue to put a premium on employee engagement, understanding – as much now as during recession – the importance of courting workforce support for the big changes that need to be made. Business is not out of the woods yet: many employers face a delicate balancing act between containing labour costs and restructuring to position for the recovery. Here, communication is the key – and 95% of employers agree. It is encouraging to see this investment in people paying off: four out of five employers state that their employees recognised the need to continue to contain costs and adjust work patterns. Hopefully this spirit of co-operation will give firms the best foundation on which to build a sustainable recovery.

We welcome a return to recruitment for many firms and note the preference of many for targeted strategies. We see a similar pattern in firms' approach to reward, suggesting that firms are targeting resource on retaining key talent vital for

future success. Recruitment and pay are increasingly aligned with business strategy for growth in the recovery. The survey shows firms are looking to fill professional, technical and highly skilled roles as a priority, giving an indication of where firms are planning to grow their operations. In addition, a third of employers are looking to grow sales and customer service roles, confident in new market opportunities.

Last year, we predicted that 2010 would be the year of talent retention. This year's results indicate that is indeed the case. A world-class skills base is vital for the UK to remain competitive and attract investment – employers understand the competitive edge gained from retaining the best people. For this reason, business has sounded a cautionary note to government on the importance of supporting employers in the development of workforce skills. We need to grow the domestic talent pool, both to meet the needs of existing businesses and as a pull factor for foreign investment.



**Albert Ellis**  
Chief executive officer, Harvey Nash Group plc

# Overview

## This is the thirteenth CBI employment trends survey

- The survey was conducted in July and August 2010
- There were 330 respondents, employing almost two million people between them
- Respondents came from businesses of all sizes and sectors across the UK
- The survey was completed by senior executives. In small and medium-sized companies, this tended to be the managing director, chief executive or chairman. In larger firms, it was the human resources director or equivalent
- The survey was conducted online, with the option for respondents to download a paper copy.

## Priorities for the coming year: engaging employees and less regulation

- Employers regard achieving high levels of employee engagement as their top priority as the recovery gathers pace
- Firms are also looking to fill key vacancies while at the same time containing labour costs
- Two thirds (63%) of employers want to see the new government make reducing the burden of employment regulation a priority
- Nearly half (46%) of businesses are looking for sustained government action to help the unemployed and benefit claimants back into work.

## New optimism about the UK as a place to do business

- Over half of employers (56%) believe that the UK has become a less attractive place to invest and do business over the past five years
- There is, however, a surge in optimism about the UK's future performance under the coalition government – far more employers see the UK growing more attractive in the coming years than believe it will become less attractive
- Four in five employers (81%) see the burden of employment regulation as the greatest current threat to labour market flexibility, but businesses expect the burden will ease over the next five years
- Employers are growing increasingly concerned about their ability to bring in talent from outside the EU, but believe that a cap on non-EU work permits issues can be made workable to give firms the flexibility they need.

## Flexible working: integral to the modern workplace

- Flexible working is part of the fabric of the modern workplace. Nearly all employers (97%) offer at least one form of flexible working and a growing number offer an increasingly diverse package of options
- Employers have made the right to request flexible working a success – acceptance rates continue to run at more than 90% for parents and carers
- Flexible working opportunities continue to have a positive impact in the workplace, with positive effects far outweighing the negative on every measure except costs...
- ...but employers are wary of the potential impact of the government's plans to extend the right to request to all employees, anticipating negative effects on productivity, customer service and costs.

### Working life: balancing choice with business need

- Four out of five (79%) employers operate with the national default retirement age (DRA) of 65 – only 16% of employers currently have no set retirement age
- Three in four employers (75%) believe that the government's plan to remove the default retirement age in 2011 will have an impact on their business
- Increased uncertainty about workforce planning (69%) in the absence of a DRA is the biggest concern for employers
- Employers value the UK's opt-out from the Working Time Directive – three quarters (72%) predict a negative impact on their business if this flexibility were to be lost.

### Recruitment and pay: easing up with caution

- The number of businesses operating a recruitment freeze has fallen dramatically, from a peak of 61% in the spring of 2009 to well under 10% in 2010. Recruitment freezes are now concentrated in the public sector and a handful of other sectors
- Businesses have mixed plans for recruitment in the year ahead – almost a quarter (23%) plan to target recruitment on parts of their business and a fifth (21%) are planning to add staff in some parts of the organisation and reduce recruitment in others
- Recruitment will be focused on professional, management, and sales and customer service staff
- Pay freezes have thawed as business confidence grows
- The minimum wage continues to bite: 41% of affected employers will experience a knock-on impact on differentials from October's rise.

### Engaging employees is essential for achieving change

- Most employers (85%) are confident their employees recognise the need to contain costs and for continuing change in the organisation of work
- And most employers (54%) believe their employees are flexible in responding to change, but there are big variations by sector, organisation size and trade union presence
- Almost all employers (95%) communicate the state of business to employees using diverse forms of communication, especially face-to-face meetings
- But firms are finding it more difficult to maintain high levels of employee engagement and morale – the results show a dip in both areas, indicating the need for employers to intensify their efforts.

### Positive employee relations climate faces potential stresses

- Employers are largely positive about the current employee relations climate in their workplace – two thirds (67%) describe relations as co-operative or better – but growing numbers are concerned relations may be less good in the coming year
- Organisations that negotiate with trade unions view the current employee relations climate as less co-operative than those who do not recognise a trade union and they expect the climate in the coming year to be more difficult
- Employers facing tribunal claims choose to settle over a quarter (29%) of them even when they are likely to win at a hearing
- Nearly half (45%) of employers believe that the number of weak and vexatious claims has increased over the past year
- Three quarters of employers want to see tribunals make better use of existing powers to organise pre-hearing reviews (75%) and to award costs against claimants pushing weak claims (72%), while almost half (44%) want more radical action taken in the form of a cap on discrimination awards to discourage weak and vexatious claims.

# The employment landscape

The 2010 employment trends survey (ETS) – the 13th year it has been run – was conducted during a period of transition for business from recession to recovery. The rising unemployment and decline in business activity that characterised last year's economic background have started to give way to more positive indicators. Over the past couple of months, we have seen economic data and business surveys showing rising employment rates, higher productivity, stronger order books and GDP growth. Yet many businesses remain cautious – it is still too soon to be sure the economy is on the road to a strong, sustained expansion.

## The economy is slowly picking up...

Since the CBI/Harvey Nash *Easing up?* survey in autumn 2009, we have seen GDP grow in three successive quarters. The latest ONS data<sup>1</sup> shows that the UK economy grew by 1.2% in the second quarter of 2010, up from 0.3% in the first quarter and almost double the consensus forecast. This upturn contrasts sharply with the trend from 2008 to the third quarter in 2009, when GDP fell by a total of 6.4%. The recent growth has been driven predominantly by the construction and service sectors, but we have also seen manufacturing output recovering at a brisk pace and retail sales holding up relatively well.

But the pick up in growth has not yet been matched by a rise in business investment. Results for the second quarter of this year show investment levels 23.7% below their pre-recession peak in the last quarter of 2007. CBI business surveys point to the demand outlook and current spare capacity as the main factors behind these low levels of investment.<sup>2</sup> There is persistent uncertainty among business leaders about the course and length of the UK's recovery. The impact of deep public sector spending cuts on business and consumer confidence is yet to be known. Against this backdrop, the CBI's recent economic forecast predicts only moderate growth in business investment – around 7% next year.<sup>3</sup> The interaction of international indicators also plays a part in determining domestic confidence: the momentum of growth in key trading partners has faltered a little over the summer months. In the US, the unemployment rate remains high and the housing market weak. In France, growth forecasts have been revised downwards.<sup>4</sup>

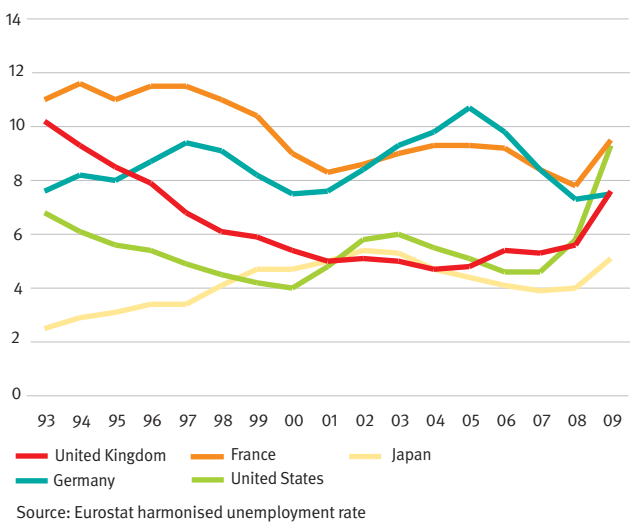


### ...and unemployment levels are falling

The UK has had an impressive track record on unemployment over the recession, with many businesses managing to limit the impact on jobs by measures such as short-time working and pay freezes. As unemployment is a lagging indicator, the impact of the start of economic recovery has not yet been fully felt. Despite this, the UK labour market continues to improve. The unemployment rate for the second quarter this year was 7.8%, down 0.2% on the first quarter. The number of unemployed people fell by 49,000 to reach 2.46 million, with the claimant count also falling by 3,800 between June and July to reach 1.46 million. With many firms starting to move away from recruitment freezes towards targeted recruitment, we can expect these figures to show gradual – albeit uneven – improvement in the coming months. But the pace may well be slow, given the likely staff shake-out in the public sector.

In international terms, the UK's record remains notable. Though the start of the recession saw the UK losing jobs at a faster rate than other more closely regulated countries, we continue to have lower unemployment as a percentage of the workforce than the US and France and remain on a par with Germany (Exhibit 1).<sup>5</sup>

**Exhibit 1 The UK's track record on unemployment (%)**

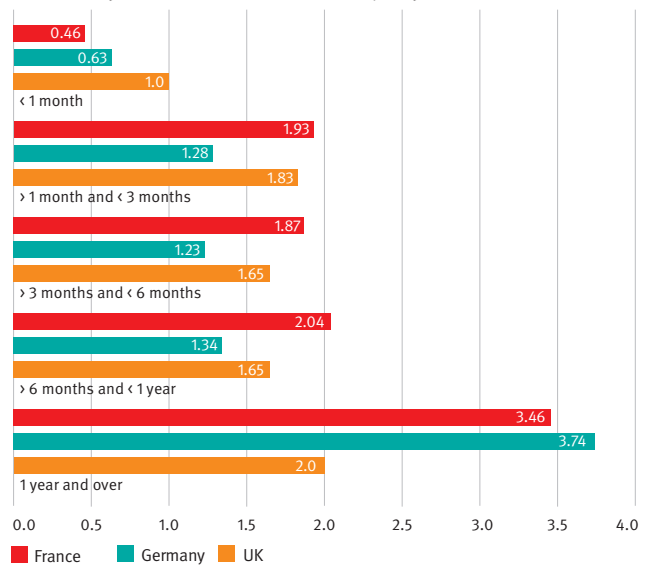


### It is vital to keep people in contact with the jobs market

Businesses have put a premium on retaining people. In this recession, employers looking to cut labour costs have first sought more innovative changes to working patterns and other measures rather than turning to redundancies as the default solution. Nevertheless, some redundancies have been necessary and when this happens, it is essential that the period of unemployment is as short as possible. Long-term unemployment can inflict enduring social and economic damage on individuals, families and communities – the business response to this recession has helped to minimise the damage. The UK's flexible labour market has enabled individuals made redundant to rejoin the labour market quickly in most cases.

The UK's success in minimising long-term unemployment is shown through international comparisons. Although short-term inflows into unemployment are marginally higher in the UK, it's clear from Exhibit 2 that the UK has done well so far to minimise the duration of unemployment compared to France and Germany.<sup>6</sup> The flexibility

**Exhibit 2 Duration of unemployment in the UK, Germany and France (% of employment level)**



of our labour market helps achieve relatively quick outflows from unemployment back into work. Germany, for example, had almost double the proportion of people unemployed for over 12 months compared to the UK, with France also reporting a far higher proportion.

The situation in the UK has, however, deteriorated slightly as a result of the recession. While the proportion of people unemployed for more than 12 months stood at 1.4% of total workforce jobs in 2008, the figure rose to 2.0% in 2009. Recently released figures show little deviation from this trend: the number of people unemployed for more than 12 months increased by 33,000 in the second quarter of 2010, reaching 796,000 – the highest level since the first quarter of 1997. It's little wonder that business leaders rank maintaining the UK's flexible labour market as their number one priority for government (chapter 2), seeing it as an essential aid in bringing the long-term unemployed into work.

### The UK's labour market flexibility has stood the economy in good stead...

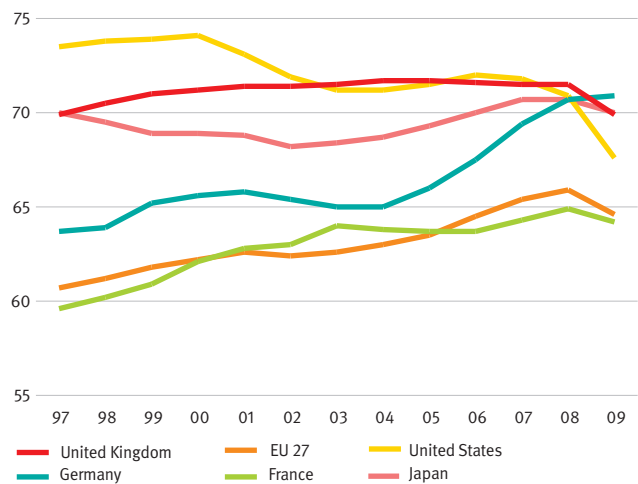
For all the uncertainty, the underlying trend on employment seems to be upwards. The headline employment rate increased from 70.3% in the first quarter to 70.5% in the second. The number of people in employment aged 16 and over increased by 184,000 to reach 29.02 million. ONS analysis shows this rise to be the largest quarterly increase in the number of people in employment since 1989.

This impressive result was driven primarily by expansion in the number of part-time workers, which the ONS regards as “an indicator of labour market flexibility”,<sup>7</sup> with the adjustment of the labour market to falling demand coming through lower hours rather than lower employment levels. It seems the UK is proving itself once again to be a powerful generator of jobs (**Exhibit 3**).<sup>8</sup> Encouragingly for competitiveness, we have also seen a rise in UK productivity (output per worker): the first quarter in 2010 showed an increase of 1.3% compared with the same quarter last year, and an increase of 0.6% compared to the previous quarter. This stands UK businesses in good stead to take advantage of market opportunities in the recovery.

### ...and has helped business gear up for the recovery

Comparing the unemployment rate over the recent recessionary period against previous recessions shows the extent to which UK businesses have managed to limit the impact of the drop in demand on workforce levels (**Exhibit 4**). From the second quarter of 2009 (four quarters into the recession), unemployment levels started to plateau – this contrasts with the reaction of the labour market in the 1980-81 and 1990-91 recessions, both of which saw a continued upward trajectory in unemployment until the 17th and 10th quarters respectively.

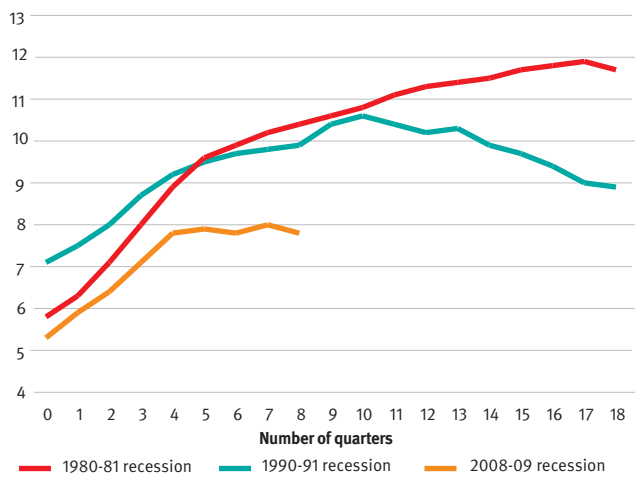
### Exhibit 3 The UK's impressive track record on employment (% of working age adults in employment)



Source: Eurostat

When we take the size of the fall in output in the recent recession into account, employers' actions to limit redundancies become even more striking. In the early 1980s recession, for example, GDP fell by 2% and in the early 1990s, it fell by 1.4% – both dips causing unemployment levels that declined only after several years of strong economic growth. By contrast, GDP fell by 4% in 2009 alone but unemployment levels are already showing signs of improvement. This bodes well for a slow, if still fragile, economic recovery.

**Exhibit 4 Unemployment rate – recessions compared (%)**



Source: ONS

“The UK has had an impressive track record on unemployment over the recession”

# 1 The thirteenth employment trends survey

The CBI employment trends survey was first published in 1998, one year into the Labour government's first term. The background to the first survey – a strong UK economic performance and an ambitious employment policy agenda – presented different challenges for employers compared to today's economic and political environment, but the importance of safeguarding the flexibility of the UK labour market has remained paramount throughout those 13 years.

This report marks the latest instalment of our CBI/Harvey Nash surveys exploring how businesses have coped with the recession and prepared for the economic recovery. The first two<sup>9</sup> in 2009 looked at the immediate impact of the recession on business activity and employment patterns. They showed the lengths firms were going to in order to retain talent. In May this year we published *Picking up the pace*, assessing employer views on the key workforce and employment priorities as the economy began to recover. Six months on, this report looks at the extent to which the early encouraging trends have been maintained.

This survey was conducted in July/August 2010. There were 330 respondents, employing almost two million people between them. Respondents spanned a wide range of business sizes and sectors – including public sector organisations – across the UK. The survey was completed by senior executives. In small and medium-sized companies, this tended to be the managing director, chief executive or chairman. In larger firms, it tended to be the human resources director or equivalent. The survey was conducted online with the option of downloading a paper copy.

## Sectoral analysis

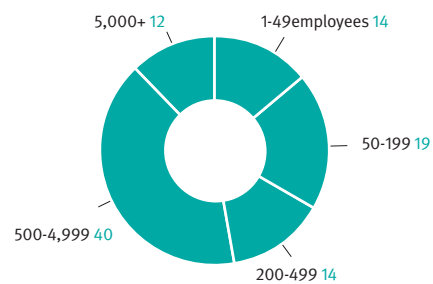
There was a wide spread of responses from all sectors of the economy, as **Exhibit 5** illustrates. This year, manufacturing firms formed the biggest single group at 22%, though firms from different parts of the service sector made up the majority of the respondents. Public sector bodies made up 6% of the sample.



### Respondents by company size

Companies of all sizes participated in the survey – 14% employed fewer than 50 staff and 12% more than 5,000 (**Exhibit 6**). Official data suggests that, as with most surveys, this over-represents medium-sized and larger firms, as the majority of UK businesses employ fewer than 50 people. But with large firms employing nearly half the UK workforce, the survey broadly reflects overall employment attitudes and practices. Measured by the official definition of small and medium firms employing 250 employees or fewer, SMEs made up 38% of participants.

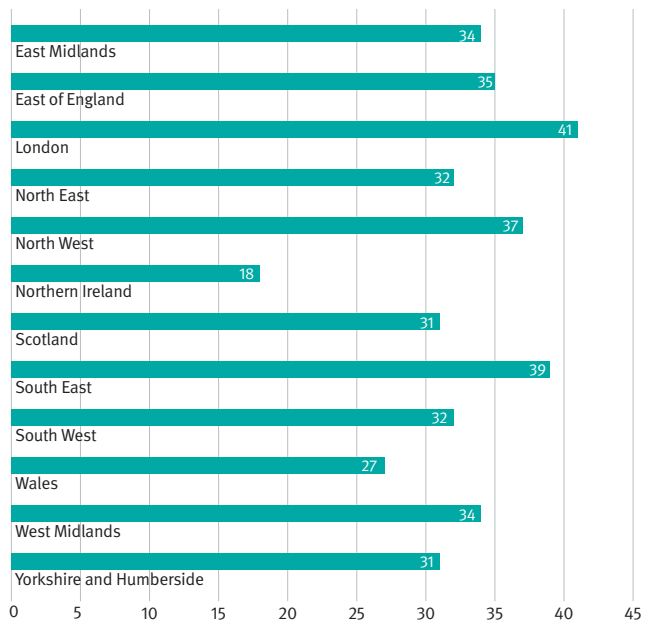
**Exhibit 6 Respondents by company size (%)**



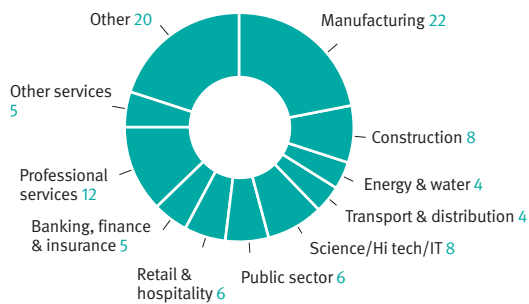
### Respondents by region

Most respondents had employees in more than one region, as **Exhibit 7** shows. Over 40% of respondents had part of their workforce in London, while just under one in five (18%) had employees in Northern Ireland.

**Exhibit 7 Respondents by region (%)**



**Exhibit 5 Respondents by sector (%)**



## 2

## Priorities for the coming year: engaging employees and less regulation

Employers know the road to recovery will not be smooth. As firms move on from the pay and recruitment freezes that characterised 2009 to laying the foundations for future growth, the need to harness workforce commitment remains vital. Employers are also highly conscious of the need to contain costs and secure essential talent. As firms work hard to keep their houses in order, they are looking to the new government to reduce the regulatory burden on business and respond effectively to the continuing challenge of unemployment.

### Key findings

- Employers regard achieving high levels of employee engagement as their top priority as the recovery gathers pace
- Firms are also looking to fill key vacancies while at the same time containing labour costs
- Two thirds (63%) of employers want to see the new government make reducing the burden of employment regulation a priority
- Nearly half (46%) of businesses are looking for sustained government action to help the unemployed and benefit claimants back into work.

### Employers see employee engagement as essential to making the most of the recovery

One of the striking features of the recession was the way in which employers and employees worked together in the short term to safeguard employment levels as far as possible. The pattern was identified in our spring 2009 survey.<sup>10</sup> This showed widespread initiatives developed with employee backing to offset the impact of the downturn through measures such as short-time working, pay freezes and reductions, and greater flexibility in many aspects of working arrangements.

By our spring 2010 survey,<sup>11</sup> it was clear that many firms' strategies were aimed at preparing for the recovery. The value of harnessing employee commitment, so amply demonstrated during the depths of recession, had not been forgotten and employers identified employee engagement as a priority in positioning their organisations for the recovery.

This autumn's survey shows employers attaching great weight to fostering employee engagement as they develop their plans for the future. We asked employers to name their top three workforce priorities for the coming months – **Exhibit 8** shows the results. Achieving high levels of employee engagement is the single most important aim for firms, with nearly two thirds (63%) of respondents counting it as among their top priorities. The importance attached to employee engagement applies across businesses of all sizes: achieving high levels of engagement was prioritised for example by 62% of SMEs with under 250 employees and 66% of the largest employers (5,000+ employees). Its importance emerged strongly in every sector, with the great majority of employers identifying it as a priority in sectors as varied as professional services (77%), energy & water (73%), banking, finance & insurance (73%), manufacturing (63%) and the public sector (62%).

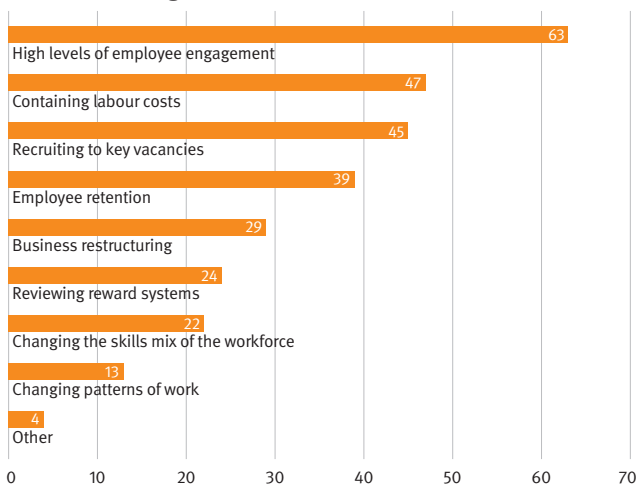


The importance of effective employee engagement is examined further in chapter 7. But while employers place great value on employee engagement, the results reported there suggest their ability to attain high levels has shown some signs of slipping. Arguably, in the midst of a crisis it is easier to secure high levels of commitment, but that becomes harder to maintain as the immediate threat to jobs – and indeed to the very existence of the firm – starts to recede. Boosting employee morale and building sustained high levels of employee engagement are challenges for employers in the coming months.

**Containing labour costs remains vital...**

While the recovery builds momentum in some areas, it remains fragile and uncertain in others. Employers are preparing for the opportunities the upturn will bring, but also recognise they cannot put competitiveness at risk. Our results show that nearly half (47%) of respondents are looking to contain labour costs as a priority. This figure has not changed since our spring survey, suggesting that although the economy has continued to recover, employers remain wary about the months ahead. Raising levels of employee engagement while maintaining a tight grip on labour costs presents firms with a difficult challenge that needs highly effective people management.

**Exhibit 8 Employers' top workforce priorities in the coming months (%)**



Controlling costs is seen as a particular concern for public sector organisations: over two thirds (69%) of public sector respondents put containing labour costs as one of their top three priorities in the coming months – even higher than the proportion prioritising employee engagement. This reflects widespread recognition of the scale of the challenge posed by tackling the deficit in the public finances.

**...but firms are also looking to fill key vacancies**

More than half of organisations (54%) put a recruitment freeze in place in 2009 as part of their response to the recession.<sup>12</sup> By the time of our spring 2010 survey, the proportion of employers still operating a recruitment standstill had fallen to just 5%. The latest survey gives further evidence of the shift in balance as employers prepare for the recovery. Nearly half (45%) of employers will be recruiting to fill key vacancies in the coming months as one of their top three priorities and 39% will be addressing employee retention, while nearly one third (29%) will be looking to restructure business activities.

This combination of recruitment and retention as priorities at the same time as restructuring and tightly controlling labour costs suggests that employers will be undertaking a difficult balancing act as they lay the foundations for growth in the recovery.

The recruitment and retention of key talent is particularly important in the science, hi-tech and IT sector, where 81% of firms stated that recruiting to key vacancies would be a top three priority in the coming months. Employers in this sector see skills shortages as a real threat and go to great lengths to ensure that they have the right skills mix to respond to opportunities. Across respondents as a whole, nearly a quarter (22%) of firms are prioritising changing the skills mix of their workforce as markets and technologies continue to evolve. As the economy recovers, this flexibility to respond to changing conditions is vital.

### The burden of employment regulation remains a threat to recovery

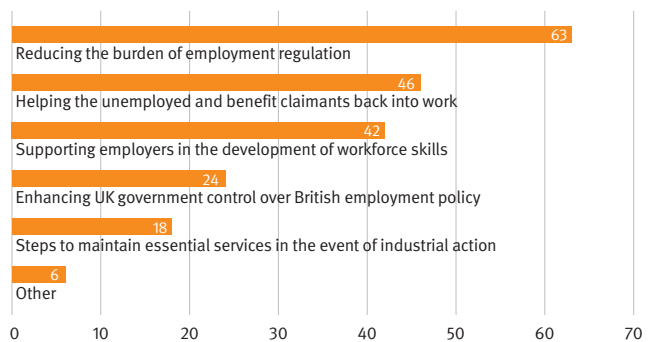
We asked employers to specify their top employment priorities for the new government in its first year. Reducing the burden of employment regulation was by far the most popular choice as **Exhibit 9** shows, with almost two thirds (63%) of respondents identifying it as an important objective for the coalition. This result reflects the fact that four out of five (81%) employers believe the burden is a serious threat to the UK's labour market flexibility – chapter 3 expands on this part of the survey.

The CBI has long called for a better balance in the government's approach to employment regulation, looking at the collective impact rather than each regulation in isolation. Some regulations are evidence-based, targeted and proportionate – indeed employers often welcome such measures. A good example where regulation has worked well is the right to request flexible working, which has helped to boost participation rates and given employers the confidence to go beyond the statutory minimum.

Impact assessments examine the ease with which employers should be able to absorb a new regulation into existing business practices. While this is an important consideration, it neglects to take into account the cumulative impact of existing and future regulation. The problem for employers is generally not one particular regulation but the sum of the legislative burden that grows year on year. In *Jobs for the future*<sup>13</sup> last year, we calculated the cumulative cost of employment regulation on UK firms at over £70bn in the period 1998 to 2009.

While employment rights and protections are vital in creating a level playing field for employers and employees, extra rights for employees and trade unions must be balanced with business need. In *Making Britain the place to work*,<sup>14</sup> we called on the government to introduce a 'sustainable employment test' to govern the overall approach. The test should be applied to all new proposals for employment regulation from the UK government and the EU. It would require an answer to the question: "How will this measure help to create sustainable jobs?"

### Exhibit 9 Business views on employment priorities for the coalition government in its first year (%)



The survey results suggest that employers are more concerned than ever about the burden of regulation on their ability to make the most of the recovery. The government has made a positive start in announcing a review of employment law – employers are hopeful that progress will be made.

### Businesses want to see action to reduce the levels and duration of unemployment

Ensuring employment growth follows economic growth – avoiding the so-called jobless recovery – must be a priority for government in the coming months. Nearly half (46%) of employers cited helping the unemployed and benefit claimants back into work as a priority for the coalition.

While the employment landscape snapshot at the start of this report shows the UK's relative success in limiting the level and duration of unemployment through the recession, more still needs to be done to boost flows back into work. The longer individuals are out of the labour market, the harder it can be to re-enter later due to declining skills levels and confidence, with damaging

consequences for them and society as a whole. There has been strong business support for successive government initiatives in recent decades in attempting to reduce the number of working age individuals claiming long-term benefits. The coalition government has reinvigorated the drive and these results show that employers remain keenly supportive.

Within the broader labour market picture, the situation of young people remains a particular concern for business. Young people have historically been affected disproportionately by economic downturns and the recent recession was no different. In the three months to June 2010, unemployment for 18 to 24 year olds stood at 724,000 – this represents 17.5% of the age group and is far higher than the 7.8% unemployment rate for the general population. CBI members have urged the government to boost labour market participation among young people by retaining the youth rate of the national minimum wage and its differential with the adult rate. Removing this would heighten the risk for young people of prolonged periods of unemployment, leading to poorer economic and social outcomes in later life.

### **Prioritising the development of workforce skills is vital for the UK's international competitiveness**

As employers seek to enhance the skills mix of their workforces to respond to the recovery, they are also looking to government for support in meeting Britain's skills needs. The third most widely identified priority for the new government was supporting employers in the development of workforce skills (42%). Employers in manufacturing (57%), construction (48%) and energy & water (45%) showed particularly strong backing for this priority, reflecting concerns in these sectors about current and potential shortages of employees with the right skills sets.

The need for government action becomes more urgent as economic and technological change drive up the level of skill demands. The CBI's education and skills survey 2010<sup>15</sup> reported around half (51%) of employers are concerned about the prospect of finding sufficient employees with high-level skills in the future. The problem becomes more stark among larger employers, with more than half (56%) not confident of meeting their future needs for highly-skilled staff and 43% not confident of filling intermediate-skilled vacancies.

**“Two thirds of employers want to see the coalition reducing the burden of employment regulation as a priority”**

## 3

## New optimism about the UK as a place to do business

As we enter a period of fragile recovery, the need for the UK to re-affirm itself as a leading place to do business and generate jobs is greater than ever. The UK's flexible labour market continues to attract international investment and boost job creation, but competition from alternative locations is fierce. In recent years the growing burden of employment regulation and the UK's weak skills base have increasingly threatened our future international competitiveness. But employers are optimistic that the tide is finally turning.

### Key findings

- Over half of employers (56%) believe that the UK has become a less attractive place to invest and do business over the past five years
- There is, however, a surge in optimism about the UK's future performance under the coalition government – far more employers see the UK growing more attractive in the coming years than believe it will become less attractive
- Four in five employers (81%) see the burden of employment regulation as the greatest current threat to labour market flexibility, but businesses expect the burden will ease over the next five years
- Employers are growing increasingly concerned about their ability to bring in talent from outside the EU, but believe that a cap on non-EU work permits issues can be made workable to give firms the flexibility they need.

### Employers have seen continued erosion in the flexibility of the UK labour market...

A clear trend in recent years of this survey has been a decline in the number of firms giving a positive assessment of the UK's attractiveness as a place to invest and do business in the light of its employment regulation and labour market. This trend has been particularly worrying given the central role labour market flexibility has played in the UK's competitiveness over the past two decades. The ability to react quickly to opportunities and threats has stood UK firms in good stead. Erosion of this ability is damaging for both firms and their employees.

Back in 2008, 46% of employers thought the UK had become a less attractive place to invest and do business compared with five years earlier, while 15% rated the UK as having become more attractive – a negative balance of -31%.<sup>16</sup> Last year, the balance between negative and positive assessments of developments over the previous five years had widened to -33%. This year's results (**Exhibit 10**) show a further – and much more severe – deterioration in employers' assessments. Over half (56%) believe the UK's attractiveness as a business location has diminished over the past five years, with only one in ten giving a positive verdict. This result pushes up the negative balance to an alarming -46%, representing a significant decline in confidence about UK labour market performance and giving a clear indication to the new government that action to reverse this trend is necessary.

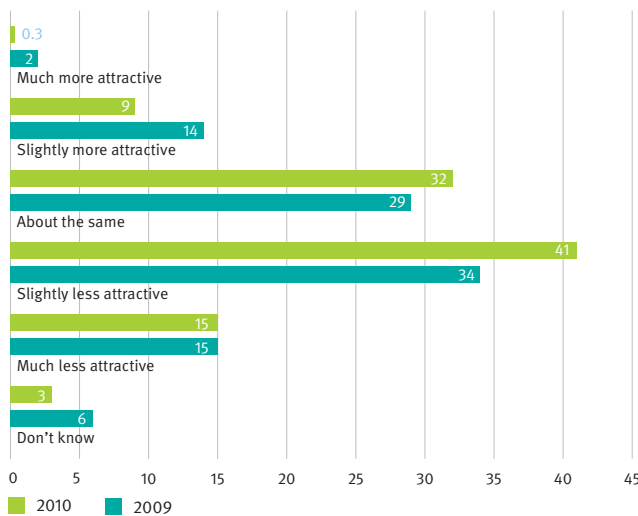


**...but are notably more optimistic about the future**

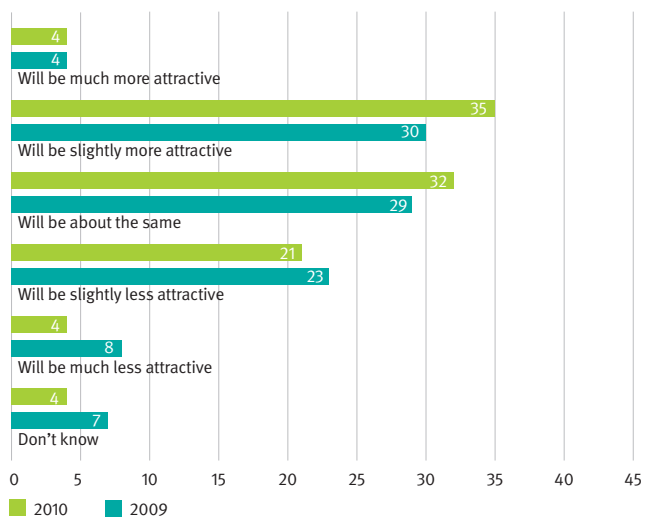
But looking to the future reveals a surge in optimism among business leaders about the UK's prospects. In 2008, 47% of employers reported they felt that in five years' time the UK would be a less attractive location to invest and do business in the light of developments on employment regulation and the labour market.<sup>17</sup> Only 13% expected the UK to be more attractive in five years' time, giving a negative balance of -34%.

Last year, the pendulum began to swing towards a more optimistic outlook: 31% still believed the UK would be less attractive in five years' time, but 34% believed the country would become more attractive as a business location, swinging the balance from a negative one to a positive score of +3%. At this stage, employers had started to anticipate changes in the political and regulatory climate. Now that some of these changes have been confirmed, employers have greater confidence in future performance. As **Exhibit 11** shows, 39% of employers believe that the UK will be more attractive in five years' time and only 25% remain pessimistic about future performance, producing a balance of +14%. Compared to previous surveys, this result represents a huge swing of confidence among business leaders.

**Exhibit 10 Views of the UK as a place to invest/do business over the past five years (%)**



**Exhibit 11 Views of the UK as a place to invest/do business in five years' time (%)**



**The burden of employment regulation is still the biggest threat...**

The cumulative effect of employment regulations built up over recent years is weighing heavily on employers. The total financial impact of employment regulation introduced over the period 1998-2009 amounted to more than £70bn, the equivalent of supporting over 215,000 full-time jobs paid at average earnings.<sup>18</sup>

Our results in **Exhibit 12** show four out of five (81%) employers see the burden of employment regulation as a serious threat to labour market flexibility, far outstripping other threats. Our survey results have shown a growing discontent over time with the previous government's focus on greater regulation of the labour market. The proportion of employers citing regulation as a threat to labour market flexibility has increased year by year, climbing from 64% back in 2008 to 81% this year. It is unsurprising therefore that employers have called on the new government to make reducing the regulatory burden a priority, as outlined in chapter 2.

The perceived weakness of the UK's skills base is reflected in the second most commonly cited concern: over half of employers (55%) believe low employee skills levels threaten labour market flexibility. Furthermore, 41% of employers see inflexible working practices and 37% cite poor skills utilisation as risks to their ability to capitalise on the recovery. The combination of low skills levels, inflexibility and poor use of skills all inhibit productivity potential, restricting employers' ability to adapt their operations and businesses to meet changing demand.

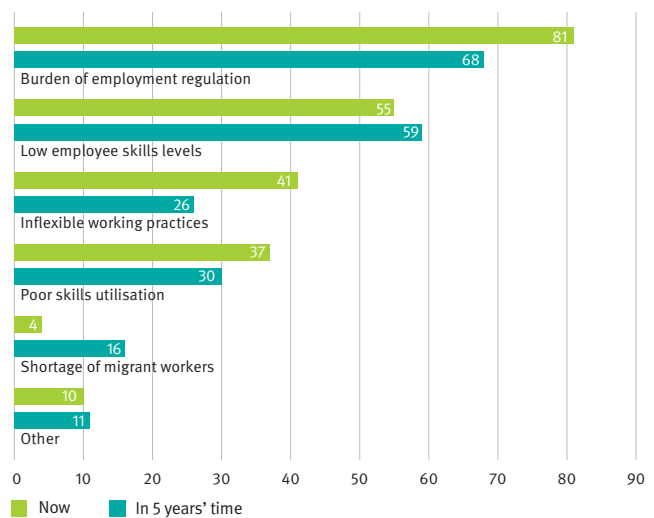
### ...but employers are more confident the damaging trends can be stemmed by the new government

Business leaders' growing optimism on the future state of the UK's labour market is reflected in their assessment of the scale of future threats. Although two thirds of employers (68%) believe the burden of employment regulation will still be the largest threat to labour market flexibility in five years' time, this is a significant drop from the 81% who believe it is the biggest current threat. Similarly, the threat posed by inflexible working practices is not expected to be as severe, with the proportion of employers worried about the potential negative impact dropping from 41% currently to 26% in five years' time.

The new government's plan to review the regulatory framework of employment has been welcomed by employers and it is clear from these results there is optimism in the business community that the burden will start to reduce over time. Giving employers the flexibility they need to take action to respond to market changes will also help to address the threat posed by inflexible working practices.

Worryingly, employers believe the threat of low employee skills levels will actually increase in five years' time. The levels of skills needed by businesses don't stand still – they rise steadily as technology, processes and markets change. At the same time,

**Exhibit 12 Views of threats to labour market flexibility (%)**



competitor nations across the world are rapidly upskilling their working populations. If UK businesses are to capitalise on the recovery, a focus on developing the skills of the UK workforce must remain a priority.

### Changes to the migration system can be made to work...

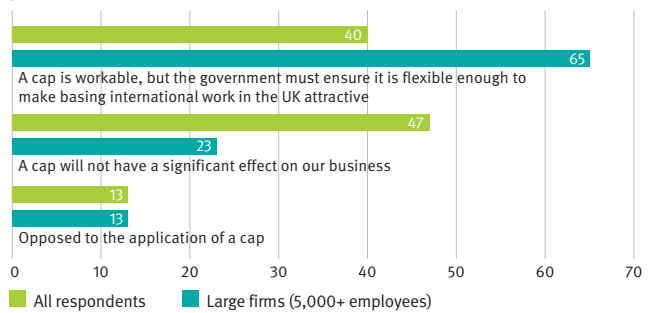
Securing the right skills mix is essential for business success. Given the concerns employers have about skills levels in the domestic labour market and the increasingly global nature of business, international mobility plays an essential role in helping businesses grow. International businesses need to be able to operate internationally and move their people to meet business and operational requirements.

The new government plans to introduce an annual cap on the number of non-EU work permits issues. We asked business leaders how they felt about these plans (Exhibit 13). Across participants as a whole, 40% of respondents felt that a cap could be made workable while only 13% were opposed to the plan. With three quarters of businesses surveyed currently employing some non-EU citizens in the UK, it is clear that business has no particular ideological objection to a cap. What matters is how the system operates in practice. Employers recognise the importance of a work permit system that balances international mobility and access to skilled workers with wider societal and public service impacts of migration. The cap should be implemented in a way that supports economic growth, particularly given the likely fragility of the recovery.

The CBI has recently called for migrants with a job offer, who enter the UK through Tier 2 of the Points-Based System, to be prioritised under the cap. These migrants are relatively few in number, pay taxes and generate significant economic benefits for the UK. Intra-company transfers (ICTs) – where a company transfers an employee from an international office to the UK for a temporary period – are vital to the UK’s attractiveness as a global hub for business and investment. To retain this reputation, ICTs of up to three years should be exempt from the cap.

When the cap comes into force in April 2011, larger companies (5,000+ employees) are inevitably more likely to be affected by the new system: 87% currently employ some non-EU workers in the UK. It is also larger firms that routinely need to be able to transfer their people between countries. Nevertheless, two thirds (65%) remain optimistic that a cap can be made workable.

**Exhibit 13 Views on the government's plans to introduce a cap on the number of non-EU work permits issues (%)**



**...but the government must give employers the flexibility they need to do business and fill key vacancies**

Business acceptance of the government’s plans is conditional on the design of the new system. Employers are clear that any changes must be sufficiently flexible to ensure the continued attractiveness of the UK as a place in which and from which to do business. In an increasingly global economy where businesses can locate their operations across the world, the UK must make conditions in its labour market attractive if we are to be home to high-performing firms. When the skills sets businesses need are not available in the UK, it is vital to UK jobs that any new system protects the ability of businesses to recruit from elsewhere, including outside the EU. And for any successful global business, international mobility is absolutely essential. Employers see flexibility as the key to making the cap work – a ‘hard and fast’ limit should be avoided.

## 4

## Flexible working: integral to the modern workplace

Flexible working remains a success story in the UK. Many employers go beyond their statutory obligations to offer flexible working to other groups of employees. Furthermore, increasingly varied forms of flexible working are gaining traction – flexible working no longer simply means part-time but can embrace a multitude of arrangements. While flexibility for the individual employee must be balanced with the needs of the business, employers understand the benefits that different ways of working can bring. The current system is working well.

### Key findings:

- Flexible working is part of the fabric of the modern workplace. Nearly all employers (97%) offer at least one form of flexible working and a growing number offer an increasingly diverse package of options
- Employers have made the right to request flexible working a success – acceptance rates continue to run at more than 90% for parents and carers
- Flexible working opportunities continue to have a positive impact in the workplace, with positive effects far outweighing the negative on every measure except costs...
- ...but employers are wary of the potential impact of the government's plans to extend the right to request to all employees, anticipating negative effects on productivity, customer service and costs.

### Employers continue to embrace flexibility

Our surveys have plotted the boom in flexible working arrangements over the past decade. When we first asked employers about their family-friendly policies in 1999, part-time working emerged as the most widespread practice at 30%, while many of the categories included in this year's survey did not even register.

Flexible working is now part of the fabric of the modern workplace. The concept has evolved from a family-friendly 'favour' to a reciprocal arrangement intended to meet employer and employee needs. The right to request flexible working has been a significant success because it encourages both parties to take ownership of the work the employer needs done and the balance individuals need between work and other responsibilities.

This year's survey shows another rise in the proportion of employers offering at least one form of flexible working to reach 97% (**Exhibit 14**). Where new progress is being made is in the number of employers offering a range of flexible options: now, almost three in four employers (72%) offer three or more different arrangements to meet the needs of individuals. This trend looks set to continue, with the diversity of options increasing year on year: over a third (34%) of employers currently offer five or more flexible work arrangements, suggesting that employers are becoming ever more innovative and adaptable.

Encouragingly, the flexible working boom can be seen across all sizes of business. Such practices are mainstream in the largest firms (5,000+ employees), with all (100%) respondents reporting they now offer at least one form of flexible working. SMEs are showing that they too are equal to the challenge: 95% now operate flexible working of some type. Although some jobs and professions are restricted in the amount of flexibility that can be provided, even in more traditional sectors such as manufacturing and construction over 95% of firms offer flexibility to at least some employees.

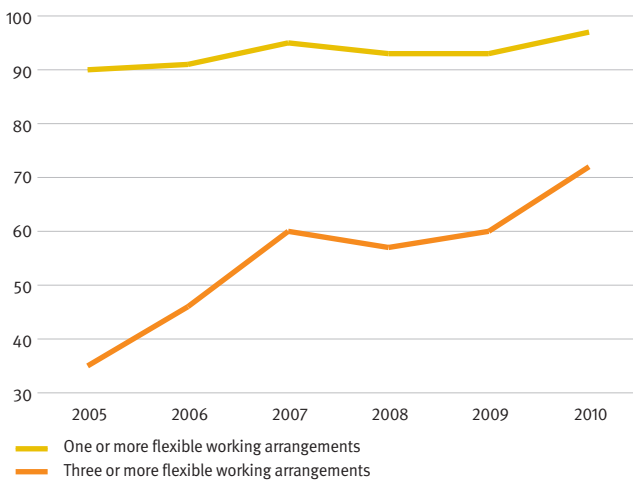


### Technology opens new opportunities for flexibility

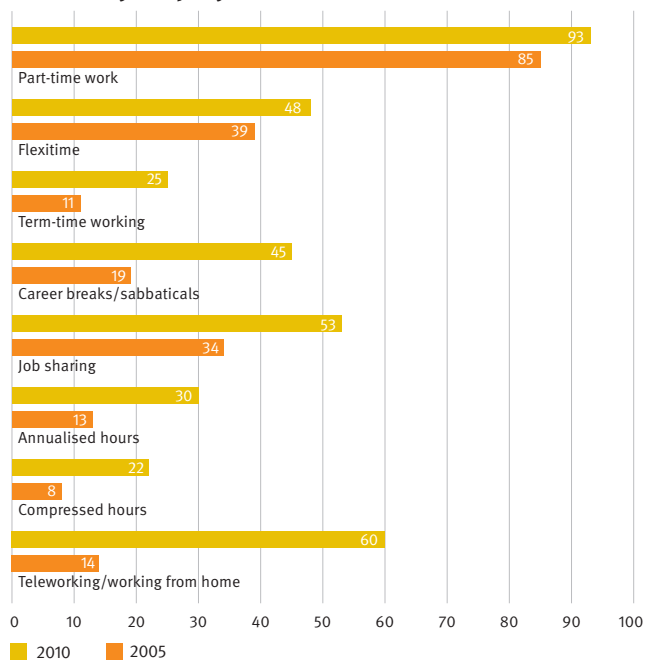
Part-time working remains the most widespread flexible working arrangement among businesses, with 93% of employers operating it (Exhibit 15). The proportion of employers offering opportunities for job sharing has almost doubled in the last five years (34% to 53%), as has the proportion offering term-time working (11% to 25%).<sup>19</sup> Both arrangements are highly valued by parents but have often in the past been restricted to lower skilled or lower paid work. The growth in the availability of these work patterns suggests more employers are seeing the value in offering family-friendly arrangements to attract and retain talent – especially female talent. These kinds of flexibility could diminish the impact of the ‘parenting penalty’ on someone’s career and pay trajectory.

Employers increasingly recognise that employees do not always have to be in the office to be productive – and teleworking offers one way of reducing their carbon footprint and congestion by avoiding an unnecessary commute by their employees. The extent of teleworking has soared in recent years: from just 14% of

### Exhibit 14 Proportion of employers offering flexible working (%)



### Exhibit 15 Change in types of flexible working offered by employers (%)



employers offering it to at least some employees in 2005,<sup>20</sup> the latest survey shows it being operated by almost two thirds of employers (60%). While certain sectors continue to dominate here – science, hi-tech and IT (89%) and professional services (79%) – employers in other sectors are starting to think more creatively about how people do their jobs and the scope technology offers for new work patterns. For example, 41% of companies in manufacturing now offer teleworking to some employees.

### The right to request is working well both for parents and carers...

The right of employees to request flexible working if they have a child under 16, or a child under 18 with disabilities, continues to work well. Last year, the previous government expanded the parameters of the legislation, extending the right to an additional 4.5 million parents.<sup>21</sup> This year's survey shows that employers continue to step up to the challenge and find ways of making flexibility work for both parties. It is the compromise element of the legislation that makes it workable – a 'right to request' facilitates constructive dialogue in a way that a 'right to have' would not.

In line with past experience, as **Exhibit 16** shows, over nine out of ten requests this year by parents have been accepted by employers. The vast majority of requests are accepted immediately, while in some cases it is necessary to agree a compromise where the initial request cannot be accommodated. With employers under pressure to contain costs and ensure work patterns suit business and customer needs, it is remarkable that there has been no significant slip in the acceptance rate.

The results for requests from carers show a similar pattern (**Exhibit 17**), with more than nine out of ten requests accepted. The legislation was extended to carers only in 2007, but employers have found ways to accommodate their needs as well as those of almost all parents requesting flexibility. Once again, the vast majority of requests were accepted immediately, perhaps showing as well that employees are becoming more adept at shaping their requests to fit business requirements.

### Firms understand the positive benefits flexible working can have...

Part of the reason employers have embraced flexible working is the demonstrable benefits it can have in the workplace. Many firms currently go beyond their statutory requirements to offer flexible working to non-protected groups or even the entire workforce.

#### Exhibit 16 Employers' responses to requests to flexible working from parents (%)

	2005	2006	2007	2008	2009	2010
<b>Total accepted</b>	<b>90</b>	<b>94</b>	<b>94</b>	<b>95</b>	<b>93</b>	<b>92</b>
Accepted formally	55	62	66	65	71	69
Accepted informally	20	20	19	17	10	8
Discussed and a compromise agreed that was different from the initial request	15	12	10	13	12	15
Declined	10	6	6	5	7	8

#### Exhibit 17 Employers' responses to requests for flexible working from carers (%)

	2007	2008	2009	2010
<b>Total accepted</b>	<b>93</b>	<b>96</b>	<b>94</b>	<b>94</b>
Accepted formally	52	62	55	55
Accepted informally	32	22	20	20
Discussed and a compromise agreed that was different from the initial request	10	11	19	18
Declined	7	4	7	6

We asked employers to assess the impact of flexible working on different aspects of their business. As in previous years, the results in **Exhibit 18** are broadly positive. Employers see the effect on employee relations (68% positive) and recruitment and retention (53% positive) as the major plus points. Firms understand that giving employees more flexibility to achieve a better work-life balance will boost their reputation as an attractive employer and broaden the talent pool from which they can recruit. Despite these advantages, the proportion of employers citing the positive impacts of flexible working on recruitment and retention has dropped since last year – many more now see the effects as neutral (46% in 2010 compared to 35% in 2009). This may be due to the prevalence of flexible working opportunities and employees changing their expectations: people now expect to be able to work flexibly and do not value the benefits as highly as before.

In 2009, the fifth of employers (20%) reporting a negative impact of flexible working requests on labour costs was balanced by the 21% reporting a positive impact.<sup>22</sup> This year, for the first time, more employers are reporting a negative than a positive impact (21% compared to 16%).

**...but there is a limit to what employers can offer without adverse effects**

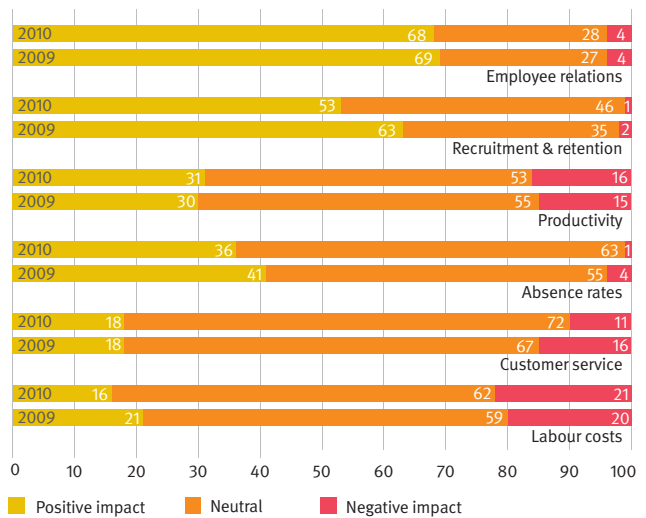
The new government intends to build on the success to date of the right to request flexible working by extending it to all employees. The trend towards offering flexible working to all employees voluntarily is growing and the government wants to raise the bar. Employers are familiar with the legislation and the high acceptance rates show that they are making it work in their organisations. At the same time, employees' growing expectations of flexibility suggest that firms failing to respond positively to flexible working requests are likely lose out on talent.

The government has recognised that the current framework has worked because it is a right to request, not to have. It will keep this element of compromise at the core of the legislation. For these reasons, the CBI supports the plans for extension – as long as the success of the current system is not undermined by the changes.

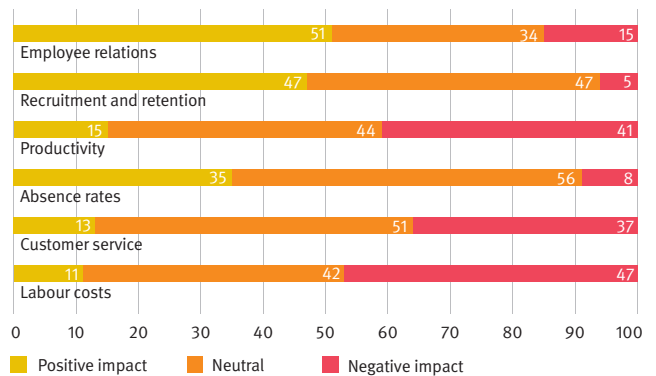
We asked employers about the likely impact of the government's plans to extend the right to request flexible working across the board. It is clear from the results in **Exhibit 19** that extension risks undermining some of the positive impact of the legislation to date.

The biggest current benefit of flexible working is the impact on employee relations, seen as having a positive impact by 68% compared to a negative one by just 4%, a balance of +64%. But when asked about the impact on employee relations of the government's plans, the balance – while remaining positive – almost halves to +36%. Over three times as many employers (15%) expect a negative impact on employee relations. Extending the right to request to all employees will potentially lead to an upsurge in the number of requests and an expectation from employees that the majority should be accommodated.

**Exhibit 18 Impact of the right to request flexible working (%)**



**Exhibit 19 Likely impact on business of the government's plans to extend the right to request to all (%)**



On every other measure too, employers anticipate a diminished positive impact and increased negative effects. Employers predict a large swing to negative balance on three particularly important measures: productivity (from +15% to -26%), customer service (from +7% to -24%) and labour costs (from -5% to -36%).

### **The government must give companies guidance on how to prioritise requests**

Business leaders are concerned that the high acceptance rates we currently see – with the right limited to certain groups – cannot be maintained in the future. The legislation currently ensures that employers can help those most in need – parents and carers – before opening flexible working up to other employees. This voluntary approach allows employers to manage competing requests by prioritising parents and carers before accommodating employees who want an extra hour in bed.

With all employees able to request flexibility – and no hierarchy of motivations for the request – employers are concerned that they will be unable to prioritise requests to accommodate the most vulnerable employees first. Such uncertainty could lead to resentment and frustration in the workplace, causing employee relations to suffer as a result. The government needs to provide employers with clear guidance on how to handle such situations and allow them the scope to continue to prioritise employees as they see fit.

The key to the success of flexible working has been the understanding that it has to work for both parties – employers have gone further than their statutory requirements because of the broadly positive effect this flexibility has had on their business. This suggests that where flexible working can be done, employers are already looking at it. Extending the framework pushes employers to go even further and tips the balance between the needs of the employee and the business. The government must ensure employers are given appropriate guidance on how to deal with these potential problems and how to manage employee expectations. If this is done well, the extension of the right to request can be made successful.

# 97%

**of employers now offer some form of flexible working**

## 5

## Working life: balancing choice with business need

As we have seen in other chapters, flexibility in all its forms is now an integral part of the modern employment relationship in the UK and an important source of competitive advantage. But for flexibility to work to the benefit of employer and employee alike, there has to be a proper balance. It is essential that the regulatory environment should allow firms to plan ahead for necessary changes to their workforce through retirements and to respond to needs that involve some employees choosing to work longer hours.

### Key findings

- Four out of five (79%) employers operate with the national default retirement age (DRA) of 65 – only 16% of employers currently have no set retirement age
- Three in four employers (75%) believe that the government's plan to remove the default retirement age in 2011 will have an impact on their business
- Increased uncertainty about workforce planning (69%) in the absence of a DRA is the biggest concern for employers
- Employers value the UK's opt-out from the Working Time Directive – three quarters (72%) predict a negative impact on their business if this flexibility were to be lost.

### The default retirement age is valued as a workforce planning tool...

The unprecedented increase in life expectancy over recent decades has put pressure on the government and businesses to think about older workers in a different way. In approaching how we cope with longer lifespans, the Turner Commission<sup>23</sup> recommended a combination of working longer and saving more – a response that both the government at the time and the new government accepted.

The DRA was established in 2006 to fit into this framework: the regulations balance the desire of many older employees to continue working with the need for businesses to plan job succession. Our surveys in recent years have shown how well the system is working. In 2008 – only two years after the regulations were implemented – almost a third (31%) of employees approaching retirement had requested to postpone it, with more than four fifths (81%) of these requests granted.<sup>24</sup>

The coalition government intends to abolish the DRA next year, giving employers less than a year to get their house in order in time for the changes. The CBI has called on the government to give employers more time to prepare.

We asked employers whether they operated with a default retirement age. The results show a large majority of 83% currently use a retirement age, 79% at the national default age of 65 (**Exhibit 20**). It is clear that business continues to value the DRA as a workforce planning tool, providing greater certainty in succession planning and a dignified exit for employees. With only 16% of firms currently operating without a retirement age, the results show the scale of the challenge.



### ...and the government's decision to remove it will have a significant impact on business

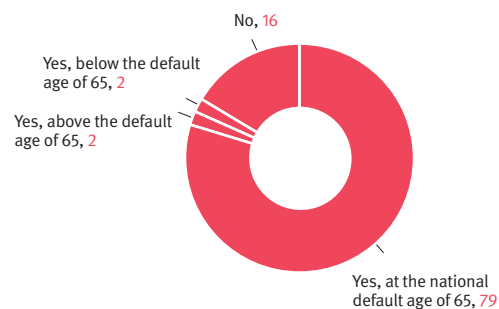
It is not only the timing of the announcement to remove the DRA that has concerned employers. Three quarters of firms (74%) predict that the government's decision will have an impact on their business (**Exhibit 21**) – exactly the same proportion as in last year's survey. Despite the high profile debate over the past year between government, employer organisations and the equality lobby on the suitability of the DRA in the modern workplace, business remains convinced that the current framework is necessary. The arguments of the government and the equality lobby are not striking a chord with employers because they do not address why business values the DRA in the first place. The government must accept the scale of the impact on business and work to mitigate the problems employers will face without a clear framework for retirement.

### Without the DRA, employers' ability to plan workforce succession will be impeded

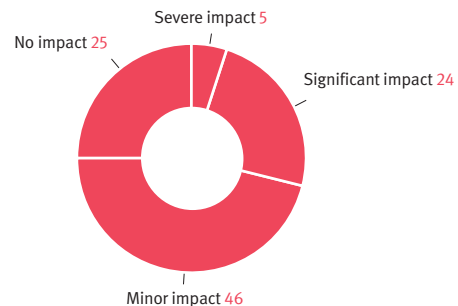
When asked to specify the nature of the impact removing the DRA would have on their business, over two thirds (69%) of respondents pointed to increased uncertainty about workforce and succession planning (**Exhibit 22**). Thorough planning is at the heart of effective HR operations. Having the right people with the right skills in place is an essential part of competitiveness for firms. The DRA allows companies to put a provisional date on retirement for each of their employees and plan for staffing and skills accordingly. Removing the DRA restricts employers' ability to plan for retirement and succession. When businesses are trying to make the most of the recovery by responding quickly to market opportunities, the ability to plan effectively becomes even more crucial to future success.

Increased uncertainty about succession planning has knock-on effects. Three fifths (60%) of respondents cited the negative impact on younger employees and fewer promotion opportunities as a consequence of losing the DRA. Employers are concerned about the impact on their ability to plan recruitment and development activity to bring on fresh talent.

### Exhibit 20 Organisations operating a default retirement age (%)



### Exhibit 21 Views on the impact of removing the default retirement age (%)



Employers also need to think about the age profile of their workforces. They understand the benefits of a diverse workforce and the benefits that older employees can bring to teams in terms of experience and attitude – a quarter (25%) of respondents acknowledged the positive impact on younger employees of exposure to the experience and skills of their older peers. Over half (55%) also saw benefits in retaining skills and knowledge. But allowing older employees to remain in work until they opt to leave could result in an unbalanced demographic within an organisation, hindering its competitiveness.

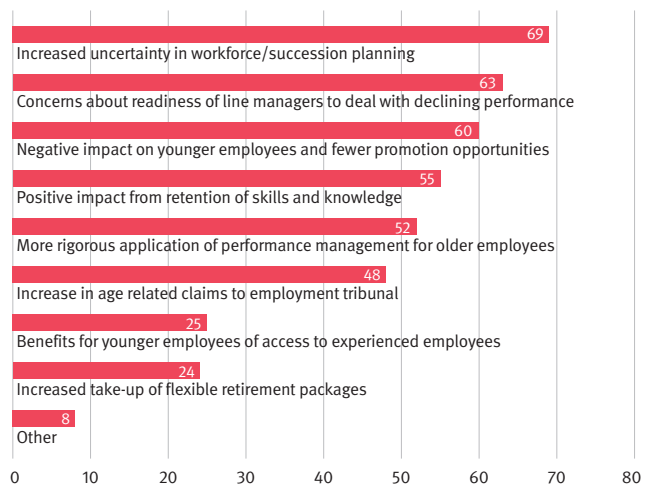
**There is also concern about how to performance manage older workers with declining capability...**

The link between age and job performance is an uncomfortable topic of discussion. Changes in performance brought on by the effects of ageing can often be subtle and gradual – incorporating intangibles such as the employee’s attitude to change or adaptability to new technology or new processes. Such situations do not lend themselves to clearly defined evidence of poor performance and employers have great difficulty using capability reviews to tackle such matters. At present, the DRA framework allows employers to retire these employees with dignity. In its absence, a clear majority of employers are concerned about both the readiness of line managers to deal with declining performance (63%) and the effect on older employees of more rigorous application of performance management (52%).

**...and the effect this will have on the number of age-related tribunal claims**

Performance-based dismissal is already the hardest kind to carry out in a way that an employment tribunal is likely to find fair. When the DRA is removed, the risk of age-based litigation will sap the confidence of employers to deal with under-performing older employees and present the Tribunals Service with an increasingly challenging caseload. Almost half of respondents (48%) predicted a rise in the number of age-related claims to employment tribunals – this figure jumped to almost two thirds (63%) among the largest firms (5,000+ employees). Employers are already concerned

**Exhibit 22 Views on the nature of the impact of removing the default retirement age (%)**



about the number of weak and vexatious claims they face – when the DRA is removed, we can expect a rise in the number of ‘chancer’ claims from older employees removed on performance grounds.

To mitigate the effect on employers, the CBI has called on the government to fill the gap that removing the DRA will leave in employment law. More work needs to be done to understand the difficulties employers face in managing poor performance to ensure the number of grievances going all the way to tribunal is minimised. The CBI has proposed a thorough review of performance management practices and performance-related dismissal to develop ways of giving employers more assistance in this difficult area.

**The working time opt-out remains vital for both employer and employee flexibility...**

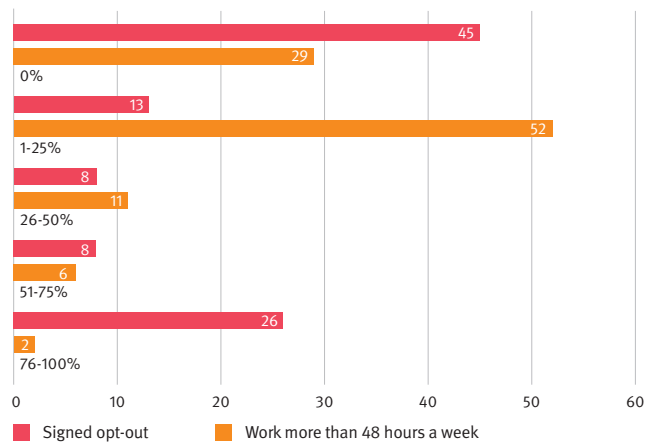
Employers responding to the survey have once again emphasised the importance of retaining the opt-out from the 48-hour maximum working work. The results show that the opt-out is widely used across businesses of all sizes and sectors to enable employees to work longer hours on occasion.

The flexibility to work longer hours when desired brings benefits for employer and employee. From the employee perspective, the right to choose when they want to be available to work – whether to go the extra mile to finish a project or earn overtime to support their family through tough times – should be protected. For businesses, workforce flexibility is essential to long-term sustainability.

The survey results (Exhibit 23) show 55% of firms had some employees who had signed an opt-out – in a quarter (26%) of firms, over three quarters of employees had signed. But while many employees choose to sign the opt-out, by no means all use it in practice. Nearly a third (29%) of firms had no employees who worked longer than 48 hours a week on average over a four-month period, and in over half of firms (52%) less than a quarter of the workforce regularly worked more than 48 hours a week. These results reflect how the opt-out is used in practice by business – to react quickly to meet fluctuations in demand or other pressing needs, not to embed a ‘long hours’ culture.

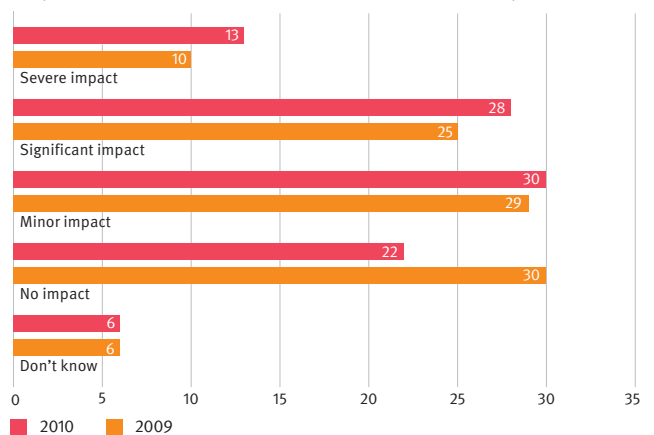
Use of the opt-out applies across businesses of all sizes: 78% of the largest firms (5,000+ employees) and 69% of SMEs (under 250 employees) have at least a small proportion of employees who work more than 48 hours a week routinely. Two thirds (67%) of firms in the manufacturing sector and 72% in construction currently have under 50% of their employees working over 48 hours a week – both are sectors that were hit hard in the recession and are now making use of all available means to recover.

**Exhibit 23 Employees that have signed an individual opt-out from the Working Time Directive, and those working more than 48 hours a week on average (%)**



Note: Percentages on left-hand scale refer to proportion of employees

**Exhibit 24 Employers' perspective on business impact if the UK loses the working time opt-out (%)**



### ...and its loss would have a significant impact on business competitiveness

Nearly three quarters of employers (72%) believe losing the opt-out would have an impact on their business, 41% describing the potential impact as significant or severe (**Exhibit 24**). This year's findings are consistent with previous surveys stretching back to 2005, underlining the importance of the opt-out to UK business. It is an integral part of our labour market flexibility, allowing UK firms and employees to adapt quickly and maintain a competitive edge. Its loss would be a serious blow.

With the European Commission likely to issue a consultation on the future direction of EU legislation on working time in the coming weeks, the CBI will continue to protect the opt-out in any further negotiations.

“The opt-out is an integral part of our labour market flexibility, allowing UK firms and employees to adapt quickly and maintain a competitive edge”

## 6 Recruitment and pay: easing up with caution

2010 has seen the jobs market start to shift back into gear. The widespread recruitment and pay freezes that characterised our 2009 surveys have thawed steadily during this year and employers are looking to 2011 with more optimism. Caution remains the watchword, however, with many firms adopting a targeted approach to recruitment and reward. As business conditions ease, firms are focusing their strategies on making the most of the recovery.

### Key findings

- The number of businesses operating a recruitment freeze has fallen dramatically, from a peak of 61% in the spring of 2009 to well under 10% in 2010. Recruitment freezes are now concentrated in the public sector and a handful of other sectors
- Businesses have mixed plans for recruitment in the year ahead – almost a quarter (23%) plan to target recruitment on parts of their business and a fifth (21%) are planning to add staff in some parts of the organisation and reduce recruitment in others
- Recruitment will be focused on professional, management, and sales and customer service staff
- Pay freezes have thawed as business confidence grows
- The minimum wage continues to bite: 41% of affected employers will experience a knock-on impact on differentials from October's rise.

### The number of firms freezing recruitment has plunged since 2009

The proportion of organisations operating a recruitment freeze has plunged between 2009 and 2010. From a high of 61% of employers planning recruitment freezes in spring 2009, 37% were still operating freezes last autumn (**Exhibit 25**). This year has seen a big shift, with just 5% of employers planning a recruitment freeze for the next six months in the spring of 2010<sup>25</sup> and 7% in the latest autumn survey.

The marginal increase in the number of employers planning to freeze recruitment reflects persisting difficulties in pockets of the economy rather than any wider return to cost cutting. Public sector employers boost the numbers, with 21% planning to operate a recruitment freeze over the next six months. Construction is another sector with a higher than average proportion of employers planning a freeze: 18% of employers here are still not looking to take on any new staff. By contrast, in many other areas – energy and water, science/hi-tech/IT, retail and hospitality, transport and distribution – no respondents were planning a recruitment freeze.

### Recruitment plans for the year ahead show signs of targeted growth

Employers are moving from planning for an economy in recession to one moving towards recovery. This transition will be cautious and many employers are looking to target recruitment drives in particular areas of the business rather than across the organisation. In an uncertain economic climate, firms take a nuanced approach to recruitment, hiring small numbers of people in strategic positions but exercising caution when considering wider recruitment strategies.

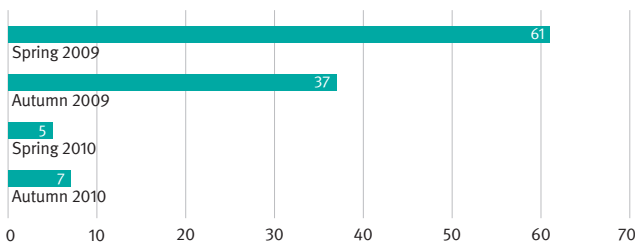


As **Exhibit 26** shows, almost a quarter (23%) of employers are planning higher recruitment in parts of their business in the year ahead, compared with only 7% looking to increase recruitment across the organisation. Another 21% of firms will be looking to raise recruitment in some parts but cut numbers in other areas. These results are broadly similar to responses in our spring survey, but show a marked improvement from our survey in autumn 2009, when only a quarter (27%) of employers said they expected to recruit more people than last year over the next 12 months.<sup>26</sup>

Although many employers are now looking to grow parts of their business, some are still more intent on containing labour costs in response to persisting economic pressures. Almost one fifth (19%) of respondents said they were planning lower recruitment either across the organisation or in parts, in addition to the 7% planning a recruitment freeze. Restraint is most marked in the public sector, with almost three in five (58%) employers looking at lower levels of recruitment either across the organisation or in parts of it in the coming year. The survey was conducted over July and August, when the potential impact of the spending cuts on recruitment levels across the public sector became clearer.

By contrast, recruitment expectations in the professional services and science/hi tech/IT sectors show that business is improving: half of employers in both industries predicted higher recruitment either across the organisation or in parts of it. Even in sectors hit especially hard by the recession we are now starting to see signs of growth: one in four (26%) manufacturing firms is looking at higher recruitment in parts of the organisation.

**Exhibit 25 Organisations planning a recruitment freeze over the next six months (%)**



**Exhibit 26 Employers' plans for recruitment in the next six months, compared to the previous six months (%)**



**Employers are targeting professional roles for future growth**

The intention of many employers to concentrate recruitment in certain parts of the business suggests that firms are aligning recruitment with a targeted business strategy for growth in the recovery. We asked employers about the kinds of people and skills they will need in the next six months and those they have been recruiting in the past six months. The results indicate that employers are looking for highly-skilled, professional and technical employees to fill key roles (**Exhibit 27**).

Almost half of employers (47%) intend to recruit to professional roles in the next six months, up from 40% who have already been recruiting to these roles in the past six months. In both periods, filling professional roles is prioritised by employers ahead of all other categories. Managers are also widely sought, with 28% of firms recruiting senior managers over the past six months and 17% looking to do so in the future, and 30% seeking new managers below senior management level in the coming six months. Sales and customer support will play an important role as firms look to take advantage of new market opportunities in the recovery: a third of employers (33%) have been recruiting to these roles in the past six months and a similar proportion (32%) will be looking to recruit to them in the months ahead.

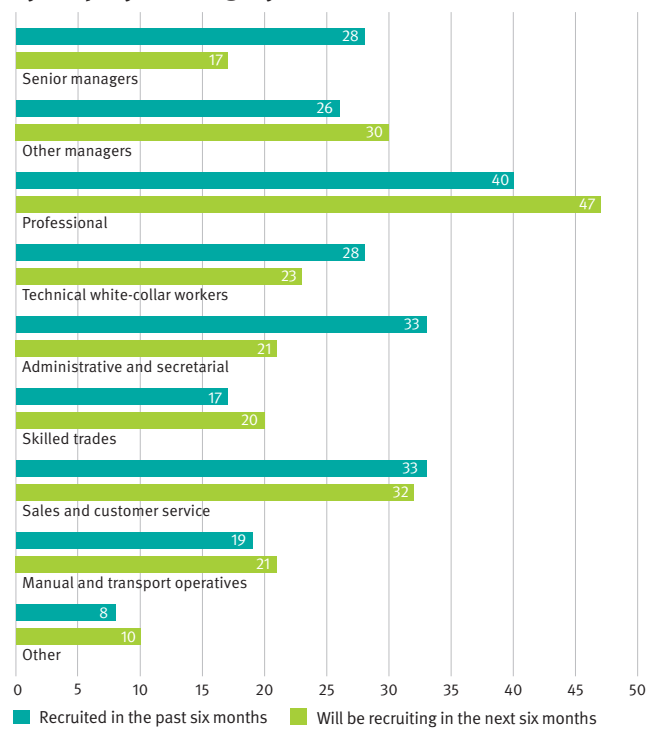
**Pay restraint continues to ease as employers look to retain key talent**

The targeted approach we can see in firms' recruitment strategies is also widely present in their policies towards pay. Nearly a quarter of employers (22%) are planning to implement a targeted increase for some staff only, perhaps reflecting the need to focus available money on areas of the business and high performers essential to future growth (Exhibit 28). Others intend to spread any extra money more widely: half of employers (52%) are looking to award a general increase of some type at the next pay review, the same proportion as in our spring survey and higher than the third of employers (35%) planning a general increase this time last year. Across respondents as a whole, 42% said they are planning a general increase below the rise in the RPI.

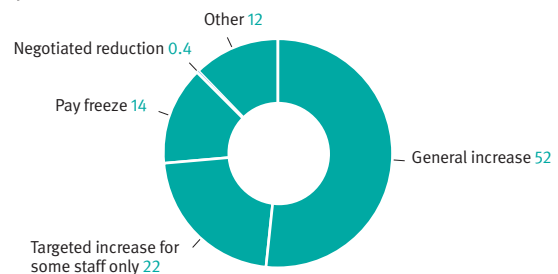
Only 14% of employers are planning a pay freeze – the decline in pay freezes over the past 18 months is shown in Exhibit 29. In spring 2009, 55% of employers had frozen pay, with 47% still opting for this course of action in autumn that year. Spring 2010, by contrast, saw a huge drop in the number of businesses freezing pay and these relatively low levels have continued into the autumn.

Pay restraint, like recruitment plans, varies greatly between sectors. Reflecting the new coalition government's policy, we are now seeing the trend for pay restraint finally cross over into the public sector, with 58% of organisations there planning a pay freeze at their next pay review.

**Exhibit 27 Employers' past and future recruitment by employee category (%)**



**Exhibit 28 Employers' approach to the next pay review (%)**



### Rises in the national minimum wage continue to bite as uprating hits differentials

In March, the government accepted the Low Pay Commission (LPC) recommendation that the national minimum wage (NMW) should rise from £5.80 to £5.93 – a rise of 2.2% – in October 2010. This year’s survey shows that a quarter (24%) of employers are affected by this uprating, a slight increase on last year and up from the 16% of companies affected in 2000. The results show that the effect of two moderate rises in the NMW in 2008 and 2009 has been to maintain, not reduce, the bite of the minimum wage.

Since 2007, the most common impact of a rise in NMW has been a basic pay rise to ensure compliance with no knock-on impact on differentials: two thirds (66%) of respondents in 2007<sup>27</sup> predicted this impact, compared with 48% in 2008 and 53% in 2009. But in 2010, that result has dropped to 36% as more firms begin to feel the cumulative effects of successive NMW rises (Exhibit 30). Of the 24% of firms affected, 41% said the rise will have an impact on differentials within their organisation – a significant increase on 27% last year and a departure from past trends. When rates of pay are compressed, career progression and skill development are disincentivised, so the NMW rates typically have a much wider effect than simply raising the pay of the very lowest paid.

This year’s survey highlights the fact that the LPC must exercise great caution when considering any uprating of the wage for 2011/12. There is a fine balance to find between ensuring that the NMW remains at an appropriate level and not damaging the economic recovery of firms in lower-paying sectors.

The 2010 rise will have some negative impact on employment and working hours. One in eight (12%) employers affected will take steps to reduce their staff levels to offset the cost of the uprating, while 6% will reduce working hours to have the same effect. This impact will be felt more in certain sectors: for example, the proportion of employers in the retail sector planning to reduce working hours is three times higher (18%). Encouragingly though, one in ten employers (11%) will be looking to increase training to offset the cost through improvements in performance. This shows employers are willing to invest in their staff to improve quality and reflects a desire to make the most of existing resources while gearing up for the recovery.

Exhibit 29 The decline in pay freezes (%)

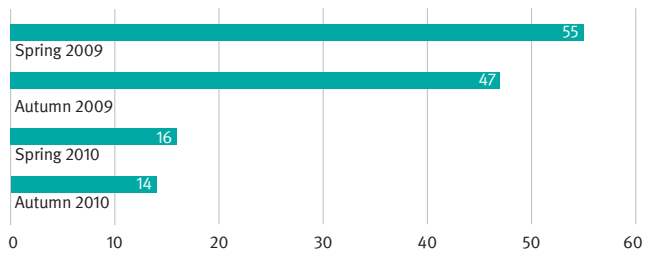
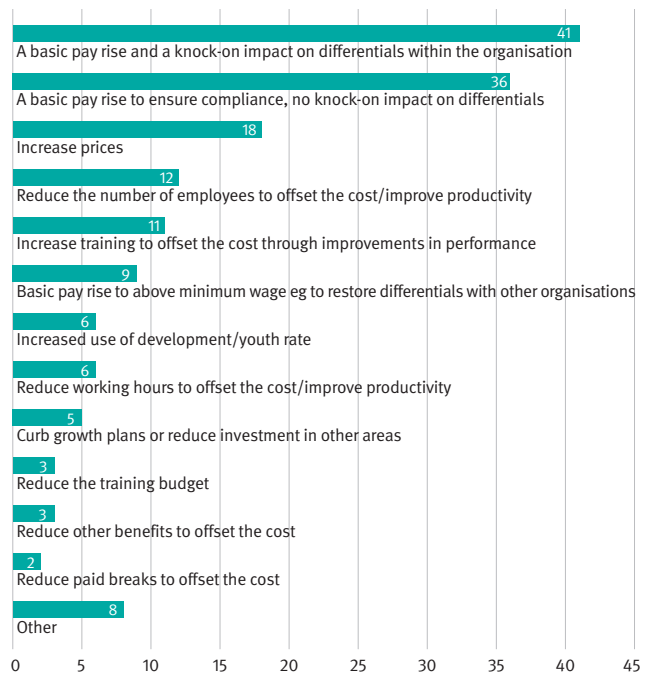


Exhibit 30 Impact of the £5.93 NMW on affected organisations (%)



## 7 Engaging employees is essential for achieving change

Our spring survey<sup>28</sup> highlighted the critical role effective employee engagement played in enabling employers to reduce labour costs and – wherever possible – save jobs during the recession. Firms worked hard at communicating the impact of the recession on their business to employees and engaging the workforce on how to react. Businesses appreciate employees are more likely to accept the need for tough strategic decisions if they are consulted and understand the changes being made. High levels of engagement remain important as business looks forward to the recovery. But there are signs that levels of engagement are starting to slip now that the immediate crisis of the downturn has passed.

### Key findings

- Most employers (85%) are confident their employees recognise the need to contain costs and for continuing change in the organisation of work
- And most employers (54%) believe their employees are flexible in responding to change, but there are big variations by sector, organisation size and trade union presence

- Almost all employers (95%) communicate the state of business to employees using diverse forms of communication, especially face-to-face meetings
- But firms are finding it more difficult to maintain high levels of employee engagement and morale – the results show a dip in both areas, indicating the need for employers to intensify their efforts.

### Most employers believe their employees understand the need to confront tough economic conditions

The recession saw an unprecedented level of co-operation between employers and employees to limit the number of job losses in the private sector. Short-time working, pay freezes and other measures were widely accepted by employees. Now recovery is on the horizon, businesses are aiming to retain and develop this spirit of engagement, as we saw in chapter 2.

We asked business leaders if they felt employees in their organisation recognised the need to contain costs and adapt working patterns to meet changing circumstances as we enter recovery. The results (**Exhibit 31**) were broadly positive, with 85% of respondents agreeing – at least to some extent – that their employees understood these pressures. This is only marginally lower than the 87% in our spring survey who said their employees recognised the need to cut costs and change work patterns during the recession.

### Openness to change is increasingly a part of workplace culture...

Earlier chapters set out the increasingly important role that flexible practices play both in meeting employers' need to adapt their operations and employees' need for work patterns that fit with their personal circumstances. But how ready are employees in practice to respond flexibly to changes in the organisation of work?



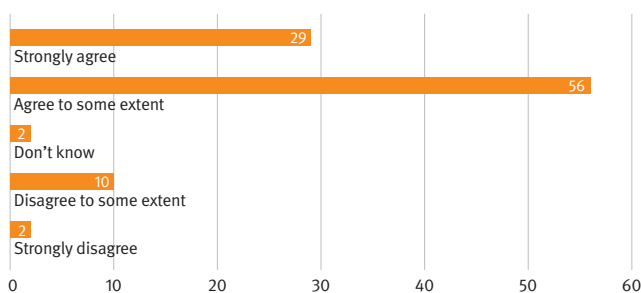
As **Exhibit 32** shows, a majority of employers are generally confident about the attitude of their workforces, with 54% believing that most or nearly all of their employees are flexible towards changes in the organisation of work. Encouragingly, only 5% felt that not many of their employees were flexible. The single largest response, however – at 40% – was the view that while some employees are flexible, others are not, pointing to the need for employers to intensify their drive for effective engagement.

**...but there are big variations between organisations**

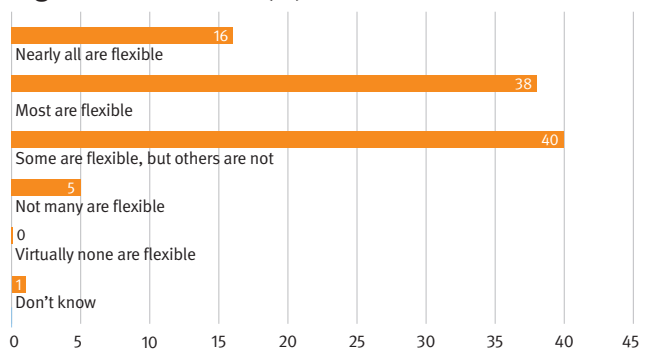
The question provoked a split in responses by business size, with smaller firms reporting greater flexibility among staff than larger firms. Almost a third (31%) of employers with under 50 employees believed that nearly all their staff were flexible in their attitude to change, whereas no large employer (5,000+ employees) held this view. Instead, nearly half of large firms (48%) took the view that some of their employees were flexible and others were not.

Sectoral differences also emerged: only 8% of public sector organisations described their employees as nearly all or mostly flexible, compared to 77% of construction businesses, 68% of manufacturing firms and 62% of science, hi-tech and IT companies.

**Exhibit 31 Do employees recognise the need to contain costs and adapt work patterns? (%)**



**Exhibit 32 Employee attitudes to change in the organisation of work (%)**



The employee relations environment in an organisation seems to be an influential factor in the attitudes of employees towards changes in the organisation of work. The results show a marked difference in the attitude of employees in workplaces where collective bargaining takes place compared to non-unionised workplaces.

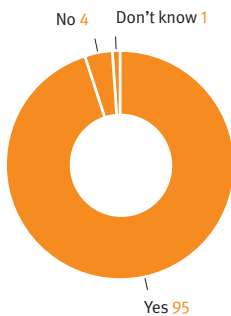
Almost a quarter of firms (22%) where trade unions are not recognised for pay bargaining purposes reported that almost all their employees had a flexible attitude to change, rising to 59% when the ‘most are flexible’ category is included. By contrast, in firms that recognise trade unions for collective bargaining, only 8% believed that nearly all their employees were flexible, while 10% felt that not many employees were flexible. Overall, a positive balance of +56% of employers not recognising unions for bargaining felt most or all employees were flexible, as compared to a much lower positive balance of +37% where trade unions were recognised.

### Nearly all employers communicate the current state of business to employees...

In our spring survey, we found that nine out of ten (91%) employers communicated the impact of the recession on their business to employees.<sup>29</sup> Firms upped their game during the downturn, recognising the importance of effective communication in ensuring employees understood the need to take difficult decisions and involving them in the process.

As the economy moves into recovery, this trend is being maintained. We asked employers whether they regularly communicate the current state of business to employees: as **Exhibit 33** shows, 95% responded positively. The pattern was replicated across businesses of all sizes, with 90% of the smallest and 97% of the largest firms taking steps to ensure employees are kept up to date with business developments.

**Exhibit 33 Proportion of employers regularly communicating the current state of business to employees (%)**

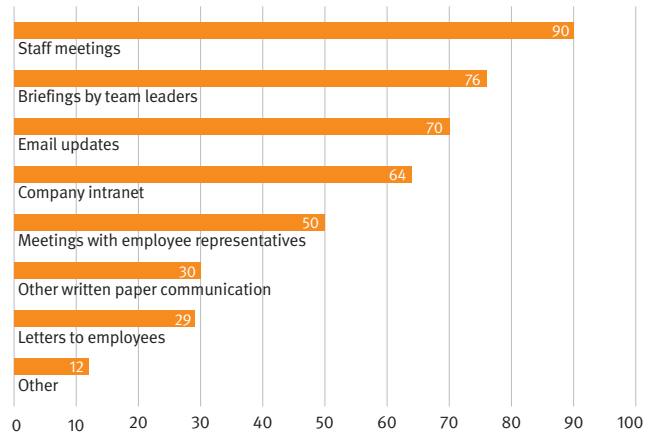


### ...and are using diverse methods of communication

Employers recognise their employees are diverse and respond to different methods of engagement. The key to effective communication is to use a variety of means tailored to the profile of the workforce – this is reflected in the diversity of methods used by employers.

Direct face-to-face communication with staff about the state of business is widespread. Nine out of ten employers (90%) report using staff meetings (**Exhibit 34**) and three quarters (76%) communicate with employees through briefings by team leaders. The preference for face-to-face communication reflects the importance employers place on communication being a two-way process. Not only do they want to keep staff informed of changes, but through face-to-face communication they can gather employee feedback and ideas directly.

**Exhibit 34 Types of communication used (%)**



Written communication too is important, with email updates used by 70% of employers and corporate intranets by two thirds (64%). Paper-based communications are still fairly common – and important for those in jobs without easy computer access – but now rank behind electronic communications. Around a third of employers reported using paper-based communications (29% sent letters about the state of the business to employees and 30% used other paper methods).

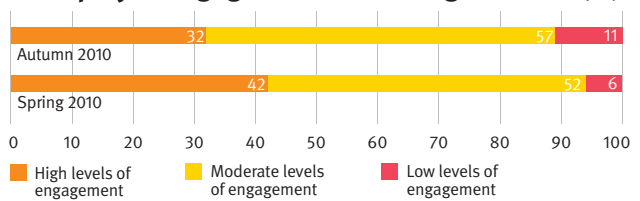
Employers continue to engage with employee representatives on the state of business where appropriate mechanisms exist. Half of respondents (50%) reported using such meetings to discuss the state of business.

### Business is committed to high levels of employee engagement, but there are some signs of decline

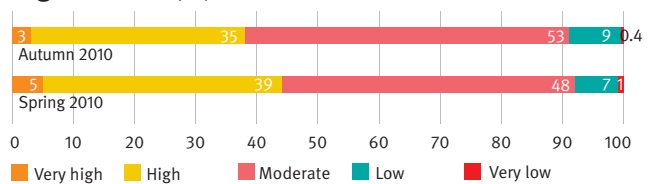
Fostering high levels of employee engagement was reported in chapter 2 as the most important priority for employers over the coming year. Our spring survey described the premium that employers place on high levels of engagement, with four out of five (78%) seeing it as crucial to business success in the recovery. These results add weight to the findings of the MacLeod report on employee engagement, which linked effective engagement with an improvement in workplace performance.<sup>30</sup> It is clear employers see employee engagement as vital to fostering the environment of flexibility and adaptability necessary to take advantage of opportunities in the recovery.

It is concerning, therefore, to find employers reporting a fall in perceived levels of engagement (**Exhibit 35**). While nearly a third (32%) of employers still report high levels of employee engagement in their workplaces, this figure has slipped from 42% in our spring survey. At the other end of the scale, more than one in ten (11%) employers now reports low levels of engagement – doubling in six months since the spring. Given the importance placed on fostering high levels of employee engagement, this slip represents a threat to firms’ ability to capitalise on changes in market demand.

**Exhibit 35 Employers' views of the current level of employee engagement in their organisation (%)**



**Exhibit 36 Employers' views of morale in their organisation (%)**



### Maintaining high levels of morale is a challenge

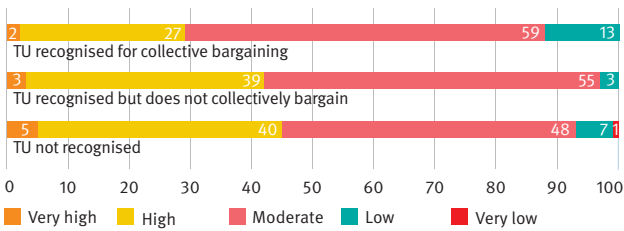
A similar pattern is also starting to show in levels of employee morale (**Exhibit 36**). Through the recession, employee morale remained surprisingly resilient. In our spring survey, nearly half (45%) of employers reported high or very high levels of employee morale – similar to the proportion reporting high levels of employee engagement. But our latest survey shows the proportion of firms believing morale levels to be high or very high has dropped to 38%. While there is still an overall positive balance of those employers perceiving morale as high or very high, a rise in the number reporting low levels has caused the balance to shift from +37% in the spring to a current balance of +28%.

In the face of the need for action to tackle the deficit in public finances, public sector employers recorded the lowest levels of employee morale of all sectors, with nearly a quarter (23%) believing employee morale was currently low. As with our results on attitudes of the workforce to changes in the organisation of work, there were also differences between levels of employee morale in organisations that recognise trade unions for collective bargaining and those without union representation (**Exhibit 37**). The overall balance between high and low levels of morale in non-unionised firms is +37%, whereas this drops to a positive balance of +16% in firms engaging in collective bargaining.

The results emphasise the importance of effective engagement between management and the workforce. Businesses face a major challenge in maintaining employee morale in the face of continuing competitive and financial pressures on every organisation. The findings emphasise the point that securing employee engagement and high levels of employee morale is not a one-off exercise. Instead, it's an essential and continuing process that must become part of the fabric of an organisation.

**95%**  
of employers regularly communicate the state of business to employees

**Exhibit 37 Employers' view of morale in their organisation by trade union recognition (%)**



8

# Positive employee relations climate faces potential stresses

Difficult economic conditions inevitably put a greater strain on employee relations. Effective employee engagement can ease the situation, but tough decisions on staffing levels and pay are never popular. While the employee relations climate is generally co-operative, predictions for the coming year suggest it could become more adversarial in organisations where trade unions are recognised. The employee relations challenge for employers is compounded by growing concern about the number of weak and vexatious tribunal claims they face. Increased volume and complexity of regulation, coupled with stories about multi-million pound settlements, have made the route to tribunal more attractive for claimants. Action must be taken to curb the trend.

### Key findings

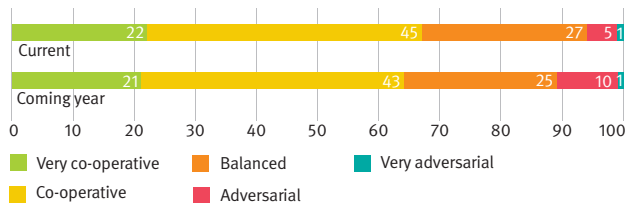
- Employers are largely positive about the current employee relations climate in their workplace – two thirds (67%) describe relations as co-operative or better – but growing numbers are concerned relations may be less good in the coming year
- Organisations that negotiate with trade unions view the current employee relations climate as less co-operative than those who do not recognise a trade union and expect the climate in the coming year to be more difficult

- Employers facing tribunal claims choose to settle over a quarter (29%) of them even when they are likely to win at a hearing
- Nearly half (45%) of employers believe that the number of weak and vexatious claims has increased over the past year
- Three quarters of employers want to see tribunals make better use of existing powers to organise pre-hearing reviews (75%) and to award costs against claimants pushing weak claims (72%), while almost half (44%) want more radical action taken in the form of a cap on discrimination awards to discourage weak and vexatious claims.

### The employee relations climate is largely co-operative...

The recession was characterised by positive relations between employers and employees, working together in ways that have helped keep the unemployment rate much lower than expected. We asked business leaders whether this spirit of co-operation was continuing into the recovery. As **Exhibit 38** shows, two thirds of employers (67%) reported that the current employee relations climate in their organisation was either co-operative or very co-operative, with a further quarter (27%) describing it as balanced. Just 6% classified the climate as adversarial or very adversarial.

**Exhibit 38 Employers' views of employee relations climate in their workplace (%)**



The overall balance between co-operative and adversarial relations currently shows a positive balance of +61%. This result reflects the emphasis that employers have been putting on high levels of engagement with their employees, using varied methods of communication to keep the workforce informed and involve them in shaping plans for the future.

### ... but employers predict a more difficult climate in the coming year

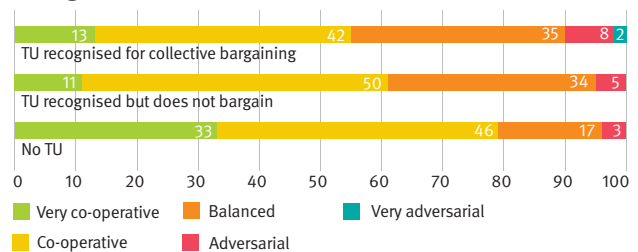
The future employee relations climate looks somewhat less encouraging. Business leaders were asked for their expectation on the employee relations climate in their organisations in the coming year. In all, one in ten employers predicted an adversarial climate – twice the current percentage. In terms of the overall balance between co-operative and adversarial relations, employers predict a dip from the current +61% to +53% in the next 12 months. While this is still a positive result, it suggests that the sense of common purpose forged in the depths of recession is showing early signs of weakening.

### Businesses that recognise trade unions for collective bargaining are concerned about future relations

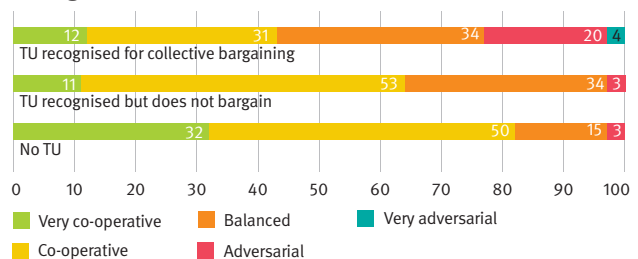
Employers' assessments of the current and future employee relations climate within their organisation are influenced by the nature of the relationship between the firm and its workforce. Where trade unions are recognised, employers' views on the current climate and their expectations for the coming year are generally less optimistic than among those who engage directly with their workforces without union recognition.

Four out of five (79%) non-unionised businesses described their current employee relations climate as co-operative or very co-operative (**Exhibit 39**). By contrast, only just over half (55%) took that view among employers who recognise unions for collective bargaining and one in ten (10%) described the climate as adversarial or very adversarial. In terms of overall balance between co-operative and adversarial, non-unionised businesses reported a highly positive balance of +76%, compared to +45% in organisations with collective agreements. These results suggest

### Exhibit 39 Employers' view of current employee relations climate in their workplace by trade union recognition (%)



### Exhibit 40 Employers' view of future employee relations climate in their workplace by trade union recognition (%)



that while many companies are having a great deal of success in engaging their workforces directly, more work still needs to be done to improve employer-union relations to ensure that both sides are working towards a sustainable future for the business.

Asked about the year ahead, the great majority (82%) of non-unionised businesses expect the co-operative spirit to continue, producing an overall balance of +79% (**Exhibit 40**). Employers who engage in collective bargaining, though, are less optimistic about future relations. Less than half (43%) of these employers expect a co-operative or very co-operative relationship over the coming year, with a quarter (24%) predicting an adversarial or very adversarial employee relations climate in their organisations. These results give an overall balance of just +19% – a starkly lower figure.

### Business confidence could be helped by reforming strike rules

The concerns emerging about the future employee relations climate in unionised organisations show why there is a strong case for reforming the rules on industrial action. People naturally want to have a say in how their workplace is run. But for the vast majority of employees in the private sector – where union density is only 15.1%<sup>31</sup> – having a say no longer means turning to a union representative. As chapter 7 showed, increased levels of direct engagement through staff meetings, employee opinion surveys and other mechanisms are now a common feature of the workplace. For those who still opt to join a union, the reasons for doing so are also changing. For some, union membership is no longer primarily about the opportunity to be covered by collective bargaining – many unions now offer various other services and benefits for members. All these factors point to the need to ensure that where unions are present in workplaces, they have the support of employees.

There have been a number of high profile strikes over the past 12 months which have caused significant disruption to the general public and businesses. With economic recovery still fragile, it is vital that industrial action only takes place where there is a clear, positive decision by the workforce concerned. This is especially true in strike ballots, where unions expect all members to be bound by the result. Too often we see strike ballots that back action causing major disruption on small turnouts among the affected employees. As the employee relations climate looks likely to heat up in the coming year, employers are concerned that they and the public may be held to ransom by a minority of employees to the detriment of the wider workforce.

For this reason, the CBI has proposed that the test for a legitimate strike should mirror the statutory union recognition rule, requiring 40% of balloted members to support it as well as a simple majority of those voting.<sup>32</sup> This would help ensure it is the voice of all union members that is heard, and that major disruption cannot be triggered by a relatively small but active group.

### Employers are losing faith in the tribunal system – many settle even when advised they will win

The caseload of employment tribunals has escalated in recent years – the product of both a surge in redundancy-related claims and the increased volume and complexity of regulation. With the employee relations climate likely to worsen over the coming year, the trend shows no signs of abating. In 2009/10, employment tribunals received 236,100 claims, an increase of 56% on 2008/09 (Exhibit 41).<sup>33</sup> The Tribunals Service cites the explosion in the number of multiple claims as a major factor – such claims increased by nearly 90% on 2008/09.

Exhibit 41 Number of accepted ET claims 2004/05 to 2009/10



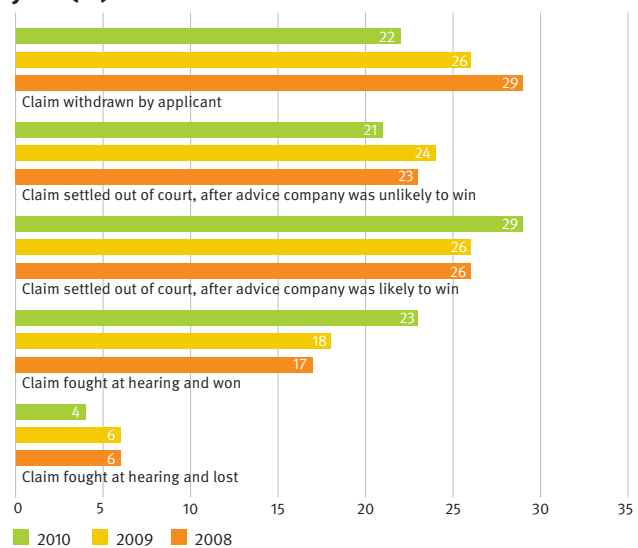
We asked business leaders about their experiences of facing claims and the tribunal system. A staggering 54% of respondents had faced at least one tribunal claim in the past year, up from 34% in 2009 and 38% in 2008. With nearly a quarter of these claims (22%) being withdrawn at a later stage by the applicant, employers are spending a disproportionate amount of resource dealing with claims that never progress (**Exhibit 42**). Every claim, no matter how weak its basis, takes up management time and energy – this boom in the number of claims will affect employers' ability to direct resources towards achieving future growth.

As in previous surveys, the number of employers settling cases they were advised they would win at tribunal remains high: 29% of claims were handled this way, compared to 26% both last year and in 2008. Relatively few employers choose to fight claims at tribunal, even though the results show that they win over five times as many cases as they lose when opting to do so – 23% compared to 4%. Many employers have concerns about the consistency of tribunal decisions and prefer to settle as a more cost-effective and less time-consuming option, even though this encourages the culture of claims.

### Employers see a further rise in the number of weak and vexatious claims...

Only a minority of tribunal claims are deemed weak and vexatious – but it is a rising minority according to employers. The failure of the tribunal system to deal with such claims effectively undermines its credibility in the eyes of business. Our survey results show 45% of employers believe that the number of weak and vexatious claims has increased over the past 12 months, with a further 42% suggesting the number has stayed about the same (**Exhibit 43**). Only 13% believe the number declined over the year, giving an overall balance of +32%. When compared with last year's results, the scale of the problem becomes clear. In our 2009 survey,<sup>34</sup> 37% of employers said they thought weak and vexatious claims had increased over the past year and 12% perceived a fall, giving a balance of +25%. This suggests no significant progress has been made towards tackling the problem, giving employers little confidence in the tribunal system to stop these claims from progressing.

**Exhibit 42 Outcomes of tribunal claims in the past year (%)**



### ...and urge tribunals to make better use of existing powers

It is clear from these results that more needs to be done to ensure greater consistency in how tribunals process claims. Weak and vexatious claims can cause employers financial and reputational damage and divert time from more productive activities – prompt action is needed to restore employers' faith in the tribunal system.

Mechanisms and tools to tackle the problem already exist but are currently underused. Our survey asked employers to consider a number of options and sought their views on whether they would be effective (**Exhibit 44**). Three quarters (75%) of respondents thought tribunals should focus on better case management and use of pre-hearing reviews to weed out weak claims earlier in the process. It is in the employer's and the claimant's interests not to waste time and money pursuing weak claims. Where claimants are determined to push ahead with weak claims in spite of advice to

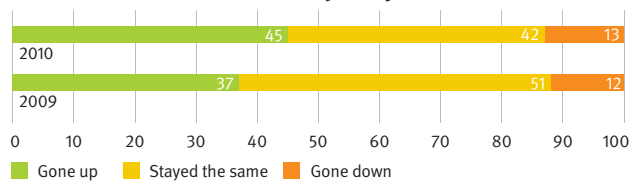
the contrary, 72% of employers thought there should be greater awarding of costs against them. The threat of cost awards acts as a strong deterrent to pursuing weak claims, yet tribunals are often unwilling to use this power.

**Introducing a cap on discrimination claims could help to curb claimants' expectations of rewards**

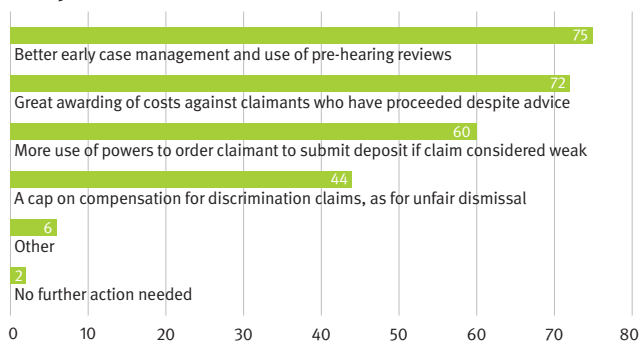
Effective access to justice must be accompanied by transparency about the likely value of any compensation. Too often claimants are dazzled by media coverage of multi-million pound City awards. They sometimes push small claims to tribunal hearings with unrealistic expectations, often only to win an award of no greater value than might have been achieved through an out-of-court settlement. In such scenarios, employer and claimant both lose out through the high costs and wasted time of pursuing a claim.

To address this problem, almost half of employers (44%) believe that the government should look at introducing a cap on compensation for discrimination claims, as applies in cases of unfair dismissal. This would encourage attempts to resolve disputes in-house first by giving both parties a platform to work from and help curb unrealistic expectations of awards. In our report *Making Britain the place to work*, we set out the level at which a cap could be set to ensure that claimants are adequately compensated.<sup>35</sup> A cap of £65,300 (mirroring the upper limit of unfair dismissal awards) or twice annual salary – whichever is greater – would be appropriate and in line with EU practice.

**Exhibit 43 Employers' experience of weak and vexatious claims over the past year (%)**



**Exhibit 44 Employers' views of how to address the problem of weak and vexatious claims (%)**



# References

- 1 All statistics taken from ONS labour market statistics bulletin, September 2010, unless otherwise stated
- 2 See for example the results of the CBI Service Sector Survey, September 2010
- 3 CBI Economic Forecast, September 2010
- 4 Article by Richard Lambert (director-general of the CBI) in the Daily Telegraph, *We mustn't talk Britain's economy down*, 25 August 2010
- 5 Eurostat statistics on harmonised unemployment rates, 1993-2009
- 6 OECD statistics for unemployment by duration as a proportion of employment level in 2009
- 7 ONS *Economic and Labour Market Review*, September 2010
- 8 Eurostat statistics on employment rates
- 9 CBI/Harvey Nash, *Work patterns in the recession*, June 2009 and *Easing up? employment trends survey*, November 2009
- 10 CBI/Harvey Nash, *Work patterns in the recession*, June 2009
- 11 CBI/Harvey Nash, *Picking up the pace*, May 2010
- 12 CBI/Harvey Nash, *Picking up the pace*, May 2010
- 13 CBI/Siemens, *Jobs for the future: a business vision for sustainable employment in the UK*, July 2009
- 14 CBI, *Making Britain the place to work: an employment agenda for the new government*, June 2010
- 15 CBI/EDI, *Ready to grow: business priorities for education and skills*, May 2010
- 16 CBI/Pertemps, *Pulling through: employment trends survey*, September 2008
- 17 CBI/Pertemps, *Pulling through: employment trends survey*, September 2008
- 18 CBI/Siemens, *Jobs for the future: a business vision for sustainable employment in the UK*, July 2009
- 19 CBI/Pertemps, *People driving performance: employment trends survey*, September 2005
- 20 CBI/Pertemps, *People driving performance: employment trends survey*, September 2005
- 21 Department for Business, Enterprise and Regulatory Reform (now BIS), Consultation on implementing the recommendations of Imelda Walsh's independent review, August 2008
- 22 CBI/Harvey Nash, *Easing up? employment trends survey*, November 2009
- 23 Pensions Commission, Second report, November 2005
- 24 CBI/Pertemps, *Pulling through: employment trends survey*, September 2008
- 25 CBI/Harvey Nash, *Picking up the pace*, May 2010
- 26 CBI/Harvey Nash, *Easing up? employment trends survey*, November 2009
- 27 CBI/Pertemps, *Fit for business: employment trends survey*, September 2007
- 28 CBI/Harvey Nash, *Picking up the pace*, May 2010
- 29 CBI/Harvey Nash, *Picking up the pace*, May 2010
- 30 Department for Business, Innovation and Skills, *Engaging for success: enhancing performance through employee engagement*, 2009
- 31 Department for Business, Innovation and Skills, Trade union membership statistics, 2009
- 32 CBI, *Making Britain the place to work: an employment agenda for the new government*, June 2010
- 33 Tribunals Service, Annual statistics 2009-10, June 2009
- 34 CBI/Harvey Nash, *Easing up? employment trends survey*, November 2009
- 35 CBI, *Making Britain the place to work: an employment agenda for the new government*, June 2010

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