



PROGRAMME: “NICE WORK”

PRODUCER: ROZINA BREEN

PRESENTER: PHILIPPA LAMB

REPORTERS: MIKE JOHNSON, DIANA LAMOMAN

DATE: 17 JUNE 2003

INTERVIEWEES:

Richard Reeves - author and consultant, the Work Foundation

Joanna Wade – A specialist in employment law with solicitors, Palmer Wade

Patricia Hewitt - Trade and Industry secretary

Paul Wylie - property fund manager, Glasgow

Susan Anderson - director of human resources policy, CBI

David Franklin - Pongo air fresheners, Surrey

Simon Totman - chief executive officer of Acne Whistles, Birmingham

David Rosenberg - psychologist in the NHS, and Baobab, a children’s organic clothing company

Michelle Wade - designs gardens and marketing and communications director for the voluntary organisation, Campaign for Learning

Tape Transcript by MAREE SHILLINGFORD

LAMB: Hello and welcome to the new series. Over the next six weeks we are going to be investigating claims that Britain is fast becoming a nation of malingerers, looking at the pitfalls of doing work experience and updating you on important changes to the law protecting workers with disabilities. We’ll also be looking into the spiritual side of working life and finding out about the help available for people who want to find a job after a lengthy career break. This week though we’re focusing on what many British employees regard as the answer to all their prayers, flexible working. Last week Alan Milburn resigned as Health secretary saying, he had had to choose between his career and politics and his life with his family. Now traditionally it’s been women who’ve faced the choice between downgrading their careers and looking after their children. Now though it’s seen more as a dilemma for parents of both sexes and Richard

Reeves has been looking at the reasons behind that. He's an author and consultant with the Work Foundation and he's with me now.

LAMB: Richard, we do hear a lot about this nowadays, don't we, but when did the widespread desire for flexibility really kick in?

REEVES: Well of course if you took a very long historical perspective you could say that before the industrial revolution workers were very keen on flexibility. But more recently I think one can trace the beginnings of the demands for flexibility to the '70s, not coincidentally, when we saw an increase in the number of women in the workplace. But then I think during the '90s we saw an acceleration in both the number and the intensity of demands for flexibility coming from both men and women.

LAMB: Now Joanna Wade's also with me. She specialises in employment law with the solicitors, Palmer Wade. Joanna when did workers first begin to acquire hard legal rights about their working hours?

J. WADE: Well the acquired hard legal rights with the Sex Discrimination Act in 1975, although...

LAMB: So around the same time?

J. WADE:nobody actually noticed for about twenty years because hard legal rights can be very obscured legal rights and the rights under the Sex Discrimination Act are pretty hard to understand.

LAMB: Now in April this year parents were given the legal right to ask, and this is an important word here, "ask" for flexible hours. How exactly does that work?

J. WADE: Well the government's prescribed a procedure that an employer must go through if their employee, mother or father, asks them for flexible working hours. So there's a lengthy procedure which takes about 12 weeks, lots of paper involved, as a result of which the employer can either say yes or no to the request for flexibility and the

employer is allowed to say no if, for example, there are additional costs involved or there's going to be a detrimental effect on the ability to meet customer demand. If, in the assessment of the employer, one of those factors is present, then the employer is free to say no.

LAMB: So a whole raft of reasons why they can say no?

J. WADE: There's a whole list of reasons why they can say no and the key thing is that the employer has a choice really to say yes or no. Whereas under Sex Discrimination, the tribunal decides whether the employer's reasons are good enough.

LAMB: Well according to the government, the right-to-ask legislation will make life easier for parents but its success will be very dependent on employers accepting the idea that flexible working makes good business sense. Now smaller companies have been particularly vocal in their opposition to the idea and I asked the Trade and Industry secretary, Patricia Hewitt, just how confident she is that large numbers of them will agree to flexible hours.

HEWITT: We put this whole package together through a social partnership process. We had the CBI certainly and the TUC, but we also had some small business people, people who run their own small businesses.

LAMB: And the CBI wasn't very keen on it, was it?

HEWITT: Well we got everyone round the table. Now the CBI was very worried that, you know, what we were going to do was force every employer to give everyone a right to work part-time if that was what they wanted, but almost by definition you can't impose flexibility by law because what's going to suit one person with a particular family and a particular job in one company isn't going to suit somebody else in a different organisation.

LAMB: You mentioned that if employers refuse a request to work flexibly from a staff member obviously the staff member can go to a tribunal. As I understand it

there's a difficulty there because the tribunals aren't actually allowed to question a business reason for saying no put forward by the company, are they?

HEWITT: Well we're trying to strike rather a careful balance here because I don't think in reality you can possibly have tribunals really getting down into the details of how a particular workplace is managed.

LAMB: But then they have no teeth, do they?

HEWITT: No they certainly do because of course what the tribunal can do is where the employer has quite clearly not considered the request seriously, it's just ticked a box, sent out a proforma letter, said no we can't afford to do this. The tribunal can indeed, as a last resort, send the whole thing back for reconsideration or fine him. So there is a stick there.

LAMB: So the fines are very small, aren't they? We're taking about £2,000 or £3,000 sort of thing?

HEWITT: That's quite significant if you're running a small firm.

LAMB: Not if you're ICI though.

HEWITT: No but then you know the very large companies with human resource departments are very unlikely to take that kind of, if I may say so, rather crass approach to this new law.

LAMB: So you see that as a stick to be used on smaller organisations?

HEWITT: It's a stick to be used in very rare cases. What we are trying to do here is to use the law to reinforce and speed up a process of culture change and that's a rather different way for people to think about the law but it's what you need in this area of flexibility.

LAMB: If you find that flexible working hasn't become more widespread that you feel the legislation isn't working, then compulsion might be on the table?

HEWITT: Well then we'll look at all the possible options and we'll consult on that.

LAMB: And would that be one of them?

HEWITT: Well clearly, I mean we had people proposing that when we did the consultation before this package was introduced.

LAMB: And we all rejected it.

HEWITT: We did indeed but we will look at the impact that these changes have. If we're not satisfied with the progress, then we'll get views from everybody with an interest in this to see what government needs to do, whether that's through strengthening the law or anything else in order to make sure that we do enable parents to meet both their responsibilities. Their responsibilities to their children and their need to earn a living.

LAMB: The Trade and Industry secretary, Patricia Hewitt, and of course as she rightly said, it is early days for the new legislation but people are already trying to use it to improve their working conditions with varying degrees of success. Our reporter, Mike Johnson's been talking to one man who's been negotiating with his boss for more time at home with his baby daughter.

WYLIE: My name's Paul Wylie. I'm a property fund manager based in Glasgow but travelling throughout the UK. Very busy, quite long hours, fairly regularly away from our office, my home town for a day, two days at a time.

JOHNSON: So you do put in the hours?

WYLIE: I certainly do significantly more than the 35 hours a week in my employment contract. Probably somewhere between 45 and 50. I became a father for the first time in October last year. My daughter, Mable, was born and it made me reflect a little bit more on priorities and I wanted to spend more time with my family if I could because I felt that the balance had to change a little bit rather than being so heavily committed towards work.

JOHNSON: To help him change that balance Paul decided to exercise his new legal rights to ask for flexible working. What he wanted was the chance to look after Mable one day a week on Friday. But with a new born baby he couldn't afford to take the pay cut that going part-time would require. So on the very first day possible under the new law, Paul put forward a plan to his employer to do what's known as compressed hours. The idea was to fit the work he had been doing five days a week into four. Between Monday and Thursday he'd come in early, take a shorter lunch break and leave later, giving him Fridays at home with Mable.

WYLIE: I thought it was equitable as I didn't see my company was losing anything particular by my hours just being carved up slightly differently.

JOHNSON: So as far as you're concerned there's nothing that you currently do on a Friday that you couldn't fit in on other days of the week?

WYLIE: Absolutely certain about that, I've no doubts at all. My work is not time constrained and on management and on work loads, particularly with the use of e-mail and voice mail which I use intensively. There would have been virtually no disruption to my employers or my team.

JOHNSON: Paul made sure his application followed to the letter detailed government advice which he found on the Department of Trade and Industry website. He made clear how he would deal with any disruption which not working Fridays may cause. He explained he was happy to be contacted at home by phone or e-mail and would even be prepared to change the day if necessary. But his request was still refused. Paul's employer was adamant it would damage business because he wouldn't be

available for meetings and wouldn't be there to deal with queries from clients. The formal rejection letter also explained:

READER: "At present you and others of equivalent status regularly work beyond normal contract hours in order to meet the additional demands of the business from time to time. If your core working hours were to be compressed into four days, your capacity to work additional hours to meet the intermittent increased demands of the business would be diminished. This would have a detrimental effect on our ability to meet the demands of customers."

JOHNSON: In other words working to a more flexible way of working would disadvantage Paul's employer because it may result in him working less time for free. Paul was none too impressed.

WYLIE: First I think was disappointment and second was surprise for the reasons that were given because I just did not think they were legitimate. I felt they were contrived.

JOHNSON: What do you think is behind all this?

WYLIE: I was the first person to make an application and they were very concerned about a precedent being established. In our company we have two offices, in Glasgow and London. Quite a large number of the senior staff, the fund managers, associate directors etc., certainly I suspect in excess of 50% do have a young family and I think that was a perceived risk from the company that could see potentially a large number of applications.

JOHNSON: At the beginning of this month Paul appealed against the decision. That's also his right under the new law. His company has since responded with an offer to work part-time. It will mean a 20% cut in his salary and benefits, the very penalty he was so anxious to avoid. But after nine weeks of letter writing, form filling and negotiation, Paul now feels he has little choice but to agree, but he doesn't feel the law's been much help.

WYLIE: The first part I was a little naive. It seemed like a good opportunity for me to spend more time with my family. However, having gone through the process and becoming a little battle weary, I realise that the legislation is pretty weak.

JOHNSON: What best sums up your feelings now about the whole process?

WYLIE: Both frustration and disappointment. Frustration in that I know my application wouldn't cause disruption, I genuinely believe that, and disappointment that something that I thought was a great opportunity has turned out just to be a great big headache.

JOHNSON: Not presumably the effect this labour government had in mind. Unions claim ministers bowed too easily to lobbying by the employers' group, the Confederation of British Industry, designed to water down the legislation. But for Susan Anderson, the CBI's director of human resources policy, the new law goes quite far enough. She's satisfied that it requires employers to at least consider seriously what might be possible when it comes to flexible working.

ANDERSON: It will be unrealistic to think that employees could just determine the hours that they work. That would be totally unrealistic. I think what our objective was in getting involved in these new rights was to introduce something that would be practical. Good employers will give good justification and poor employers won't. But the employer, also at the end of the day, has the right to say no.

LAMB: Susan Anderson of the CBI ending that report by Mike Johnson and since talking to Mike, Paul Wylie has agreed to work that four day week and return for a 20% pay cut rather than the compressed week he was hoping for. Interestingly he also told us, he thought he'd jeopardise his career prospects if he went to a tribunal and he didn't think much of the powers tribunals have in this area anyway.

LAMB: Joanna, the fear of being seen as a troublemaker by going to a tribunal is a very real one, isn't it?

J. WADE: Absolutely, and we rarely advise people to go to a tribunal unless they've already left their jobs for that very reason. The tribunal is somewhere to go as a last resort once there's nothing much to be lost. But of course the threat of a tribunal, the stick that Patricia Hewitt talks about, is a very powerful one.

LAMB: What about the powers they have, are they tough enough?

J. WADE: Well the powers under the new April "right to ask for flexible working" are fairly puny on the face of it. The maximum, maximum compensation you can get is £2,080 which is pretty hopeless. But the tribunal can refer back to the employer, they can refer the whole process back and get the employer to go through it again. So a robust tribunal is going to be pretty difficult to defeat on that point I think and also with sex discrimination, the powers are much much greater, but that's really only available for women.

LAMB: Richard, Patricia Hewitt says the government's hoping to use this law to speed up the cultural shift towards flexible working. Is that a realistic hope?

REEVES: It's a realistic hope. I suppose the question is how much she wants to speed it up and what she thinks the current situation is. I think there's a yawning chasm between the potential for flexibility in the British workplace and the reality of that flexibility and so the cultural shift what she and others want to achieve is a significant one and it seems to me that if you are serious about affecting that shift, you need to use legislation a little bit more robustly than the current government is choosing to, otherwise it begins to feel a little bit like trying to move an elephant with a feather.

LAMB: And it sounds like you think it's going to take a lot longer to achieve that cultural shift than perhaps the government is saying?

REEVES: Yes, I would draw a comparison again with equal pay is that the move towards equal pay is still, it's a long way away from us and that was after a relatively robust piece of legislation which did actually, in the short-term, shift the pay gap

towards something closer to equality and that was after a labour government said, we're going to legislate, we're going to make it compulsory, we're going to really hit this hard and even so that's taking a long time. So whether a relatively weak form of legislation has any chance of affecting the cultural shift, I am very sceptical.

LAMB: Well if more people are to work flexibly, clearly employers will need to be convinced that letting them do that won't disrupt their businesses, but corporate opposition, as we've been hearing, is widespread. David Franklin runs a firm in Surrey producing Pongo air fresheners for cars. He speaks for many employers when he says that the right to ask is just another example of irritating government interference.

FRANKLIN: We've been in business 43 years this year and if you want a reflection of how our staff feel, three of those in fact have been with us, between them, fifty-four years which would demonstrate, I think, that we really know how to treat staff. Now for ministers or legislators who've never had any experience in running or trying to run a profit-making business to tell us how to treat staff I think is sanctimonious. We're a small company, we only employ 19 people, but we have a production line when the machines are working of four people on that production line. Now if one of those were to ask for flexi-time it would stop the production line. If a production line is stopped, the goods can't be produced, the customer will not get the goods and the customer will say to us, look, terribly sorry Mr Franklin, your air fresheners are brilliant but we'll go and buy Pongos somewhere else. So all these so-called family-friendly laws in fact are decidedly unfriendly because they will cause unemployment on production lines.

LAMB: Obviously the government has made it clear that they're moving towards greater flexibility. What would you like to say to the government?

FRANKLIN: I would like to say to the government that, if they could be like my namesake of 300 years ago in America, Benjamin Franklin, who said, "less government is best government" because they don't know how companies work.

LAMB: David Franklin of Pongo air fresheners. But not all small employers are anti-flexibility. Simon Totman is chief executive officer of Acne Whistles which

employs fifty people at a factory in Birmingham. He's in our Birmingham studio. Simon I know you're more open to the idea of flexibility than perhaps David Franklin is. What do you see as the advantages of doing that for small businesses?

TOTMAN: The advantages for us have been two-fold. The first is that we have a waiting list of people mainly recommended by our existing workforce who would like to come and work for us because they know that our practices are flexible and we can fit people in. And the second thing is keeping our staff happy, keeping them working at full pace for us because of the working conditions they find themselves in.

LAMB: So it's clear recruitment and retention benefits for you?

TOTMAN: Yes we have a great problem. Every time we advertise for anybody, filling people from the local skills is really hard. There's generally a skills shortage. So being able to call upon a pool of people who'd actually like to work for us rather than trusting to luck and hoping the market will provide is very very useful, and it's our attitude towards work and our ability to build people into a flexible strategy that creates that waiting list.

LAMB: Now as I've said, you're unusual, relatively unusual in your business sector. What do you think it's going to take to persuade other employers to your point of view?

TOTMAN: I think two things. First of all, as the labour force gets tighter and tighter, which it is already, and as the skills become scarcer and scarcer, then necessity will drive the whole thing forwards. We're doing it through necessity. I wouldn't like to pretend we're wonderful altruistic people who just set out to make a great contribution to society. The business plan requires that we do this and I think that's what will drive it forward.

LAMB: I wonder Simon, whether you feel that the one size fits all approach is appropriate here?

TOTMAN: No, very definitely not. I'm quiet certain that there are some businesses for whom flexibility is almost impossible. In theory it ought to be very difficult for us because we too are a production line company with various departments each feeding each other in the same way that the gentleman who spoke with the air fresheners who was speaking earlier said that, if he has a bottleneck it can stop his production. That is true for us as well. Now we have been able to work around that by having a number of strategies within the workplace where we can bring people forward and we often, which has been a very successful strategy, will say to people who ask for flexibility, can you provide us, you our employee, can you suggest how we might get round this. And so often we find they've already had a chat to colleagues and worked out a little plan which works.

LAMB: Okay Simon, thanks for that. Richard I know you've been looking into how men, in particular, combine the roles of worker and father. Would it be fair to say that men are often keener on talking about working flexibly than actually doing it?

REEVES: Yes I think that would be a fair comment. In fact I know at least one man who wants to work flexibly but when he goes home waits until his children are asleep before actually going in through the front door.

LAMB: I don't think he's that unusual.

REEVES: A scary story. Well I hope that he is. There's a structural change in the labour market which will keep this issue alive, which is that as there are more women in the workplace, it means there are more men with partners in the workplace which means there are more men who are under greater pressure and also, lets be honest, also want to do more child care, do more work in the home. And so the revolution in terms of women in the workplace is having a second-round effect on men.

LAMB: So what would you say is really holding men back then, is it attitude or is it economic? Because clearly, I think particularly for men with children, it's a clear issue that they're the breadwinner and I think they feel that very strongly, don't they?

REEVES: Of course in a vast majority of households where there are two earners, the men are the breadwinner and so there are some real economic decisions here to be made. The problem is that we end up in rather a vicious circle. Because men are the principle breadwinner, it makes it harder for them to work flexibly, which means that women are the ones who tend to have to make the choice to work flexibly which affects their career potential, which means they end up earning less, which means that men remain the breadwinners. And so we're in danger here of just staying in a vicious circle. Unless we get to the route of this problem around gender equality, then we're always going to be in a situation where men have less choice to choose to be at home and women have less choice to choose to be at work because their men are unable to do that for them.

LAMB: Well let me put this point to Simon Totman. Simon, you're at the coal face of all this. Do you find that men come to you and ask to work flexibly, or is it always women?

TOTMAN: So far it has only ever been women. I had one very interesting comment made by an employee when he learned of the new parental rights that are coming out for a couple of weeks off. He said, "oh great, does that mean I'll be able to have a bit of a golfing holiday then?" And I'm sorry to have to say, cynical though this may sound, I suspect that a lot of men still don't see their role as being in the family. Some do of course, but I think there's still a very traditional attitude of men out there as not seeing themselves as bringing up children and having time off with wives. At least that is my experience.

LAMB: Joanna, in fairness there is good reason for people of both sexes to be cautious about asking for flexible working, isn't there? I saw a survey this month from the Chartered Institute of Personnel Development which said that: "asking to work flexibly was one of the factors most likely to impede career progression."

J. WADE: Yes I suppose so, although looked at another way, the point is that the workforce is losing hundreds and hundreds and hundreds of very talented women entirely because there isn't the choice to work flexibly at the moment, and if you

allowed flexibility for either sex but at the moment in practice I accept mainly for women, then you would be retaining women with skills in the workforce. There is a business case for that. There is also a huge social-justice case and I think you can't just look at this issue as a, is there a business case, will the production line grind to a halt? That's deeply important but it's also very important to look at the long-term effect on society.

LAMB: Richard, I'm sorry to harp on this but it does seem to be that this is an instance where men won't commit in the sense that even if they are working flexibly and taking time off at the end of the day to go and pick up their kids from nursery, they often don't admit it do they, they say they're going to a meeting?

REEVES: Yea, men are much more likely to do it than women actually and in a survey I did for the Work Foundation, we found that men were twice as likely to pretend they were ill if they're at home looking after their children as women were.

LAMB: Why?

REEVES: Precisely for the reasons we've just been talking about which is that men are struggling because the role in the workplace is that of a primary breadwinning man with a wife caring for the children at home. Now it's obvious that women suffer hugely from that system and Joanna's talked about that. I think what's less obvious is that younger men are beginning to suffer from that system too because their partners are refusing to stay home and play wife and that's a change that employers have yet to really wake up to and it's harder when men do what I call stealth-parenting of the kind you've just described, they have a late meeting, they're sick themselves or whatever and men do seem to do that more often than women.

LAMB: Of course it is not just parents who want flexible working lives, all sorts of people are pursuing flexibility for all sorts of reasons as our reporter Diana Lamoman has discovered.

LAMOMAN: Ever wanted less of this (ringing phone) and more of this (bird song)? Michelle Wade did, so she decided to reduce the time she spends at her main job so she could pursue another different career. According to a report by the electronic learning network, Learn Direct, around 68% of us have taken on second jobs. Michelle is part of a trend that's being called sunlighting. On a Thursday and Friday Michelle designs gardens. For the other three days she's marketing and communications director for the voluntary organisation Campaign for Learning.

M. WADE: They're actually incredibly contrasting jobs. Monday to Wednesday I'm developing marketing campaigns to try and engage more people in learning throughout the country. So it feels very big and complicated. But on the other hand, it's very satisfying when you know that you're actually helping people learn and develop themselves and grow.

LAMOMAN: And then what's it like on Thursday and Friday?

M. WADE: Well on Thursday and Friday I get to focus on something which I feel is much more containable. It feels as though I'm much closer to the work I'm doing in a way. So it's got a more immediate output which is a different kind of satisfaction I suppose.

LAMOMAN: Having more control was part of the appeal for David Rosenberg in reshaping his working pattern. He spends four days a week as a psychologist in the NHS and then on his fifth day he works at home with his wife on their new venture, "Baobab", a children's organic clothing company.

ROSENBERG: When I think of the sorts of pressures and the sorts of aims we have for the business, compared with some of my NHS work, I've got to say I think there's a greater purpose involved in the Baobab enterprise because a lot of the NHS work, increasingly I feel, have motivations lying more at the political level than at the clinical level.

LAMOMAN: Do you think that your NHS work benefits from the fact that you've now got a different layout for your week?

ROSENBERG: It's certainly benefited on a number of levels. Firstly, I've structured my time very differently and I suppose I work more efficiently now. I've just had to do that. There hasn't been a lessening in the amount of work. Also I feel that ironically the quality of my patient contact is greatly improved. For several, probably quite difficult to define reasons, but nonetheless that is the case.

LAMOMAN: Michelle Wade too finds her new second career has brought benefits to her main job.

M. WADE: Because I've completely changed direction, I've got a whole alternative track now, I actually feel more settled in the kind of original job because I've got something very challenging to stimulate the other side of my life. So yea, it's been quite liberating, it's great. You suddenly feel that your horizons have picked up and there's a whole load of stuff that you've never even thought about that you could do.

LAMB: That report by Diana Lamoman. Now Richard Reeves it strikes me that Diana's report illustrates very clearly the point, unlike our parents' generation perhaps, we really feel we have a right to enjoy work nowadays, don't we, it's not just about earning money?

REEVES: People's expectations of their work have risen hugely in the last few years and I think that that's entirely to be welcomed. People are no longer saying, I'm just working to pay the bills, I'm working to have my weekends off and so on. They're actually demanding that the activity they spend so much time on is fulfilling in itself.

LAMB: It puts a lot of demands on employers though, doesn't it?

REEVES: Yes it does but they should be demanding on their employers.

LAMB: Joanna, is flexible working just a middle-class perk? I mean it strikes me job-sharing, four-day-weeks, it's great if you can afford to cut down your earnings.

J. WADE: Well the starting point is that an awful lot of women, in particular, have already cut down their earnings and are doing small low paid jobs that are far below their talents and abilities. So no, I don't think it is a middle-class perk. I think every sector has a need to retain good people in the workplace because they need to work flexibly because they have children who need to be looked after. I think what's happening is that as flexible working is exploding through all different strata in society and in the workplace, we're getting a lot more focus on it and that's really good because it will have a knock-on effect throughout the workforce.

LAMB: Richard, finally, is this trend here to stay or is it just a product of a buoyant economy?

REEVES: No I think unlike lots of these issues this one is here to stay. We've seen a structural change in the labour market because of the number of women who are now in the workplace and we've seen a real and emphatic change in people's expectations of their work. For those two reasons the demand for flexibility is here to stay.

LAMB: Richard Reeves, Joanna Wade thank you both very much indeed. That's it for today. If you'd like more information about this afternoon's programme call the BBC Action Line. Here's the number, 0800 044 044, calls are free. Alternatively check out our website www.bbc.co.uk/radio4/nicework. I'll be back at the same time next week. Join me then.