

## **Chapter 9: Work-life balance**

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2. Consider the arguments in favour of and against the introduction of family-friendly laws, including laws which entitle all workers to demand that they work flexibly. In your opinion, which of these arguments is/are the most convincing?

**Author's answer:** This question requires students to think about how working men and women ought to strike an appropriate balance between domestic and working commitments. Traditionally, the demands imposed by working and domestic responsibilities were divided along gendered lines in accordance with the 'male breadwinner/female carer' model. The 'family-friendly' laws represent an attempt by Parliament to dislodge that framework, albeit some commentators take the view that it only makes modest inroads into doing so. In other words, it seeks to transition to a 'dual breadwinner/carer' dynamic, i.e. equal parenting. It is also reflective of a policy preference for the division of domestic and caring roles between males and females by increasing the amount of (1) paid work undertaken by the latter and (2) unpaid care undertaken by the former. Such a 'dual breadwinner/carer' framework is felt to be more economically beneficial as it enables a greater pool of individuals to be included in the labour market, thus securing greater social inclusion.

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5. Busby recommends the introduction of a novel legal model, which imposes a duty on employers to take reasonable steps to accommodate requests for flexible working from employees with care-giving responsibilities: N. Busby, *A Right to Care* (Oxford, OUP, 2011) 182–190. Consider the advantages and disadvantages of such an approach in light of the existing statutory regime, including the feasibility of its introduction.

**Author's answer:** There is the danger that adding 'carers' to an already burgeoning list of protected characteristics might lead to the potential for 'carers' as a new protected characteristic to clash with the existing nine protected characteristics, particularly disability. The introduction of a duty of reasonable accommodation in favour of carers could cause difficulties where the same case also enjoins the employer to consider the interests or rights of disabled workers, who are also entitled to a duty of reasonable adjustment. In *Archibald v Fife Council*, the House of Lords ruled that the employer's duty to make reasonable adjustments in favour of disabled workers may require the employer to treat the disabled worker preferentially and more favourably than mainstream groups and other groups of persons with other protected characteristics. If this conceptualisation of the duty to make reasonable adjustments was adopted in the case of carers, the end result would be that two groups of protected characteristics would have the right to preferential treatment, which could create problems in the sense of there being competing rights. However, on the other hand, the argument can be made that the ageing population of the UK, with growing numbers of elderly persons requiring support and assistance, necessitates the introduction of legal provisions which enable workers who are carers to be protected in the workplace, and with the benefit of workplace adjustments if necessary.