



# FACTSHEET

## A Guide to Flexible Working: The Options

Since the launch of the Government's Work Life Balance Campaign in March 2000, flexible working practices have been increasingly included as an important part of work-life balance policies and practices. These can enable all employees, not only parents, to balance paid work with the rest of their lives.

Over the last few years, more and more employers have introduced work-life balance initiatives and flexible working, but many employees don't realise how many different types of flexible working options there are.

This factsheet provides a brief overview of some of the most commonly used flexible working options.

### **Flexible Working and the Law (the Employment Act 2002)**

From April 2009 the right to request a flexible working pattern is extended to parents and carers with children aged 16 and under, or disabled children aged under 18. This right to request has also been extended to carers of adults. Employers have a duty to consider these applications seriously and can only refuse an application if there are good business reasons for doing so. An application can cover hours of work, times of work and the place of work. (See Negotiating Flexible Work Arrangements below)

### **Flexibility in the Arrangement of Hours**

#### **Annual/Annualised Hours**

An annualised hours scheme is a way of organising working time on the basis of the number of hours to be

worked over the year rather than a week. How this works will vary according to the needs of the business/ service. Many employers will schedule a number of committed hours over the year, with the remaining hours reserved to be allocated more flexibly to suit the needs of both employee and employer.

This system can allow employees more flexibility to organise their working patterns, as well as allowing employers more scope for effectively managing fluctuating business demand.

Employees should be aware that an annualised hours scheme may mean the abolition of overtime rates and they may want to negotiate enhanced rates of pay to compensate for this.

#### **Flexitime**

Flexitime gives people some choice over the actual arrangement of the hours they work and can enable them to vary their hours from day to day. There are normally agreed core times when everyone must be present, although some employers are now eliminating them. A certain number of hours (credit or debit) can be carried forward from one accounting period (typically one month) to the next, with the option of taking a day or half day off as 'flexileave'.

#### **Term Time Working**

This gives an employee the right to leave of absence during school holidays, while remaining on a permanent full or part time contract. School holidays total 13 weeks in a year and are much longer than annual allowances, usually of about 5 weeks.

Having taken the full annual leave entitlement during school holidays, there remains a potential for 8 or 9 weeks to be taken as unpaid leave to cover all remaining school holidays. Alternatively, part time workers may negotiate to work more hours during term time and take paid leave to cover the school holidays. Payment throughout the year, rather than just during the time at work, spreads the employee's income, and establishes their rights as permanent employees. Continuity of employment rights and benefits with the employer are retained.

### **Compressed Hours Working/Staggered Hours**

Compressed hours working involves employees working their total contracted hours over a shorter number of days. It usually involves working 4 or 4½ days in a week, or 9 days out of 10 in a fortnight.

### **Self Rostering/Shift Swapping**

Self rostering allows teams of employees to propose the patterns they want to work, within agreed parameters, while meeting the needs of the service. In most organisations staff rosters are drawn up by managers, often in consultation with staff. The philosophy underpinning self rostering involves agreeing the staffing levels and skill mix required at any time of day, then giving staff the ability to schedule their working day collectively to meet those requirements.

### **Reduced Working Hours**

#### **Part Time Work**

Part time work has no legal definition, but Government statistics usually define it as less than 30 hours a week. Part time work is the most common form of flexible working.

Part time workers can work shorter days (perhaps to fit in with school opening times) or fewer days per week, and could combine part time hours with other flexible work arrangements such as term time working.

Part time workers have traditionally been disadvantaged in terms of career progression and development opportunities. However, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 make it unlawful for employers to treat part time workers less favourably than comparable full time workers in the same organisation. This means part time workers are now entitled to the same hourly rates, pensions, training, sick leave and pay, annual leave and maternity/paternity benefits (on a pro rata basis) as their full time equivalents.

Part time workers should be aware that they will not be entitled to claim working tax credit if they are working less than 16 hours. If working part time takes you under the lower earnings limit for National Insurance contributions (£95 in 2009/10) you will not qualify for statutory payments and the basic state pension.

#### **Job Sharing**

Job Sharing is an arrangement where two people voluntarily share the responsibilities of a job that would normally be done by one person. Each person is employed on a part time basis but together they cover a full time post and divide the pay, holidays and other benefits on a pro rata basis. It is a way of opening up part time opportunities for jobs that are traditionally only available on a full time basis. Depending on the nature of the work job sharers may be expected to overlap for, say, half a day in order to hand over and plan work effectively.



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## **Voluntary Reduced Working Time**

Voluntary reduced working time allows employees to trade income for time. It usually involves reducing hours by between 5% and 50% for a set period, usually a year, with the right to return to full time. The time can be taken by reducing the working day, or week, or by taking blocks of time off in the year.

## **Taking a Break from Employment**

### **Sabbaticals and Other Leave Schemes**

A sabbatical is a form of career break or extended leave which some employers use to reward employees for long service. Some employers will allow sabbaticals to be used for any reason, which may include travel, voluntary work or the pursuit of a hobby or interest. In other cases sabbaticals are given for training or career development. Sabbaticals can be paid, partially paid, or unpaid.

### **Breaks From Employment/Career Break**

A career break allows an employee to take a break from employment for an agreed length of time and to return to the same or similar level of job. Career breaks, sometimes called employment breaks, are extended periods of leave (normally unpaid) of between 1 to 5 years. Some employers set up schemes that are open to all employees, whereas others stipulate that career breaks must be for a particular purpose. Employees are generally asked to keep in touch with their employer during a career break, for instance by working 2 or 3 weeks in every year taken off.

It is important to maintain continuity of service when taking a career break as any break in service can affect your rights to certain benefits and redundancy payments. Ask your trade union representative or law

centre to check the implications for your continuity of service.

## **Changing the Place of Work**

### **Working from Home/Teleworking**

Working from home, teleworking, telecommuting or remote working involves employees spending all or some of the working week at home or working from home as a base. Increasingly some employees are allowed to work at home on an occasional basis in order to work without interruption. Some employees work at home because of the pressures to complete work that cannot be finished during normal office hours.

Working from home is not a substitute for childcare of young children, but it can save time in commuting. Your employer is still responsible for your health and safety while you work at home, and can insist that you have the correct equipment and childcare in place.

### **Leave Arrangements**

Maternity and Paternity leave and Parental leave are statutory entitlements and are not therefore classed as flexible work arrangements.

### **Maternity/Paternity Leave**

All employees are entitled to 26 weeks of ordinary maternity leave and 26 weeks of additional maternity leave. You may be entitled to receive Statutory Maternity Pay for up to 39 weeks of the maternity leave.

Statutory paternity leave is available to employees who are fathers or partners, to enable them to care for the newborn child or to support the mother. You have to have been with your employer for at least 26

weeks by the 15<sup>th</sup> week before the baby's due date. As long as you meet certain conditions you can take either one or two weeks. This must be taken as a continuous period within the first 56 weeks of the child's life. Statutory Paternity Pay is normally available for up to 2 consecutive weeks.

Many employers have their own maternity and paternity schemes which may be more generous than the statutory schemes. Employers cannot offer you less than the statutory scheme.

For more information see our factsheet 'A Guide to Maternity Rights and Benefits'

## Parental Leave and Time Off for Dependants

The right to parental leave entitles all eligible employees who have completed one year's qualifying service to take a period of unpaid leave to care for each child under 5 (or under 18 if the child is disabled). In the case of adopted children the leave can be taken up to the fifth anniversary of the adoption placement, or the child's 18<sup>th</sup> birthday, whichever is sooner. The right applies to mothers and fathers and to people who have obtained formal parental responsibility for a child under the Childcare Act or its Scottish equivalent. The maximum period of unpaid parental leave is 13 weeks for each child and 18 weeks for each child entitled to Disability Living Allowance.

## Negotiating Flexible Work Arrangements

Whether or not you have a statutory right to request flexible work arrangements, it is preferable to try to reach a negotiated agreement with your employer. Your approach to your employer is important, particularly if you are going to need to challenge their decision. It is therefore useful to take some advice before

approaching your employer, to keep a note of conversations and to put things in writing wherever possible.

### Points to consider

- Are you eligible to make a request under the Right to Request legislation? (see below for criteria)
- The Right to Request process may take up to three months, so make your request as early as possible
- Does your employer have a work-life balance policy to allow you to work flexibly, or have other employees been allowed flexible working?
- Can the work be organised so the change in your working pattern can be managed? Can any of your colleagues confirm the arrangements will be workable?
- Are there advantages to your employer, for instance greater availability at peak times?
- Would your employer be prepared to try out the proposed arrangements on a trial basis if they are reluctant to commit to permanent change? Any changes made following a request to work flexibly may result in permanent changes to your contract of employment. It may be worth requesting a temporary trial period if you have concerns about this
- Changes to the number of hours worked will change the amount of pay you receive
- You will need to check how any benefits received from the employer will be affected if your working pattern changes?

### You have a statutory right to make a request for flexible working if you:

- have worked for the employer continuously for 26 weeks at the date the application is made
- have or expect to have responsibility for a child of 16 or under, or under 18 in the case of a disabled child in receipt of Disability Living Allowance



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- have or expect to have caring responsibility for an adult
- are making the application to enable you to care for the child or adult
- are not an agency or casual worker, or a member of the armed forces
- have not made another application to work flexibly under the Right to Request during the past 12 months.

Under the law your employer must seriously consider any application you make, and only reject it if there are good business reasons for doing so.

Employees who do not have the legal Right to Request flexible working are, of course, free to ask their employer if they can work flexibly. Many employers are willing to consider such requests.

### **How do I make a request for flexible working under the legislation?**

A request for flexible working under the Right to Request legislation must be made in writing. If your employer has no procedure, the Department for Business Enterprise and Regulatory reform has standardised forms to enable you to comply with the procedure that must be followed (see link in 'useful information').

Your application must:

- state that the application is made under the statutory Right to Request a flexible working pattern
- confirm that you are a parent or carer or have parental responsibility, or have caring responsibility for an adult (however you are not expected to provide evidence that you have parental or caring responsibility)
- describe the flexible working pattern that is requested and when it should start

- explain the effect the new pattern will have on the employer's business and how it might be dealt with. You should aim to show that your plans would not harm the business and may in fact enhance it. It may mean, for example, that you are available to provide extra cover at peak hours, so improving customer service.
- state whether a previous application has been made, and if so when.

Your employer has to consider the application and must:

- hold a meeting with you within 28 days of receiving the application allow you to have a colleague with you at the meeting (this may be a colleague or a trade union representative)
- discuss the application in depth and look at alternatives if appropriate
- give you a decision in writing within 14 days
- inform you why a request has been refused and how to appeal against the decision.

### **On what grounds can an employer refuse a request?**

Under the legislation your employer can only refuse your request on a limited number of set business grounds, rather than your personal circumstances. The set grounds are:

- burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to reorganise work amongst existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- there is not enough work during the periods you propose to work
- planned structural changes

Your employer must state in full the business case for refusing any request. Failure to do so will give you grounds for appeal.

### **Taking matters further**

If you are refused flexible working arrangements or are treated less favourably because of your flexible work arrangements, you will need to ask your employer to make clear the reasons for this refusal, preferably in writing. If your application for flexible working is refused under the Right to Request legislation you may appeal. You have 14 days from the notice of the refusal to set out the grounds on which the appeal is being made. You have the right to be accompanied at the meeting (as above). Following the appeal meeting you must be notified of the decision within 14 days, and reasons for the decision must be given.

If it is not possible to get your employer to reconsider, you can then take out a grievance under your employer's Grievance Procedure. This will involve putting your case in writing, being prepared to meet with your employer to discuss your case, and, if you wish to take things further, appealing against any subsequent decision not to allow you flexible work arrangements.

If you are still not satisfied with the results of this process, you have the right to take your claim to an employment tribunal. This should normally be done within three months of a request being refused. It is advisable to seek advice from your trade union or a solicitor. If you are not a member of a trade union you will normally have to fund the case yourself.

## **Useful Information**

### **Sheffield Information Link (SIL)**

Tel: 0114 275 6699 (out of hours answerphone)

11 Leopold Street, Sheffield, S1 2GY

Mon, Tues, Thurs 9.30am - 5.30pm; Weds 9.30am - 6.00pm; Fri 9.30am - 4.00pm

Email: [info@sheffinfoolink.org.uk](mailto:info@sheffinfoolink.org.uk) • Website: [www.sheffinfoolink.org.uk](http://www.sheffinfoolink.org.uk)

*For information and guidance on finding childcare and services for children and young people in Sheffield. SIL produces a range of useful factsheets, including one on Children and Young People's Rights. These can be viewed on our website: [www.sheffinfoolink.org.uk](http://www.sheffinfoolink.org.uk)*

### **SIGN Information Service**

Ryegate Children's Centre, Tupton Crescent Road, Sheffield S10 5DD

Drop in and phone service Monday – Friday 10.00am – 1.00pm

Tel: (0114) 266 9476 (out of hours answerphone)

Email: [sign@sheffinfoolink.org.uk](mailto:sign@sheffinfoolink.org.uk)

*Free information for parents and carers with children or young people with special needs or disabilities*



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## **Advisory, Conciliation and Arbitration Service (ACAS)**

Tel: 0845 747 4747 (Helpline) • Textphone 0845 606 1600

Mon – Fri 8.00am – 6.00pm

Website: [www.acas.org.uk](http://www.acas.org.uk)

*An organisation devoted to preventing and resolving employment disputes by offering information and advice to employers and employees. Produces a free booklet on 'Flexible Working and Work Life Balance'.*

## **Department for Business Enterprise and Regulatory Reform** (Formerly the Department of Trade and Industry)

Tel: 020 7215 5000

Email: [enquiries@berr.gsi.gov.uk](mailto:enquiries@berr.gsi.gov.uk) • Website: [www.berr.gov.uk](http://www.berr.gov.uk)

*For information and publications on flexible working and work life balance. Downloadable standardised forms for right to request applications:*

<http://www.berr.gov.uk/whatwedo/employment/workandfamilies/flexible-working/flexforms/index.html>

## **Equality and Human Rights Commission** (Formally the Equal Opportunities Commission)

Helpline 0845 604 6610

Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

*For further information about employee rights in relation to hours of work under: Sex Discrimination Act, Employment Rights Act, Human Rights Act, Working Time Regulations, Part time work Regulations.*

## **Sheffield Law Centre**

Enquiry Line: 0114 273 1888.

Monday – Friday 10.00am - 4.00pm

Website: [www.slc.org.uk](http://www.slc.org.uk)

*For free employment advice to employees who live and work in Sheffield*

## **Trades Union Congress (TUC)**

Tel: 0870 600 4882

Website: [www.worksmart.org.uk](http://www.worksmart.org.uk)

*For information including a free copy of 'Flexible working for parents'.*

## **Working Families**

Helpline 0800 013 0313

Website: [www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)

*For an 'Employees Guide to Flexible Working' and an 'Interactive Flexible Working Guide' to help employees put together a proposal.*