



INTRODUCING AND MANAGING FLEXIBLE WORKING

GUIDANCE FOR MANAGERS AND SUPERVISORS

Flexible working can help you recruit and retain the best possible people for your organisation, increase productivity and lower absenteeism.

In addition to the benefits to your organisation, there are also a number of legal obligations on employers in respect of flexible working including:

- Considering flexible working requests from employees;
- Avoiding sex discrimination;
- Setting the terms and conditions of work for non-standard workers; and
- Leave arrangements.

This checklist, designed for line managers, will help you introduce and manage flexible working arrangements in your organisation.

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About the Checklist series

Your role as a line manager is important in delivering equality of opportunity in the workplace. To help you do this, the EOC has produced a series of Checklists aimed at line managers.

The checklists take you through typical situations, raising areas where problems could arise and giving guidance on how to handle the situation in the best interests of your staff and your organisation.

Why employers are offering flexible working

There are many reasons why a positive approach to flexible working can be good for employers and well as employees, especially where employers go beyond the minimum provisions required by law.

An objective and flexible approach to non-standard working can bring the following benefits.

- Help you gain **competitive advantage** by recruiting and retaining the best staff, especially valued female employees, if you provide better flexible working provisions than your competitors.
- Save the time, inconvenience and financial costs involved in **recruiting and training** new staff, especially in the case of women who remain with the company after maternity leave.
- Help to **extending working hours** and make best use of plant /machinery and/or provide service to your customers 24 hours-a-day, seven days a week
- Tap into the market of **skilled women** looking to return to work after maternity leave
- **Reduced absenteeism**, as one cause of absenteeism is where parents take time off to care for sick children – but is better for both employer and employee if this type of absence is managed in a formal way
- In job share or certain other part-time working arrangements, the company gets **‘two heads for the price of one’** – twice the level of experience, talent and skills – and better cover for period of absence, holidays or peak times
- A **happier and more fulfilled workforce**, as people feel able to combine working life with a family role, and
- Help in **avoiding tribunal complaints** which can be time-consuming and expensive.

Why employees are asking for flexible working

Standard, full-time working patterns generally involve working from between 8am to 5pm each weekday over a full year, with four or five weeks off for holidays.

However, not all employees are able, or are required to work to this type of pattern. In some organisations, employees are expected to work considerably longer hours than specified in their contract - and long hours working in these organisations are viewed as the norm.

Many working parents and carers of the sick, elderly or disabled, have caring responsibilities that do not fit well with standard working patterns.

In practice, childcare and other caring responsibilities often fall to working women. However, men must benefit equally from policies on flexibility. Indeed, it would be unlawful to exclude them on the assumption that flexibility was only intended for females with family responsibilities.

Responsibilities for dependents that could impact on working arrangements include:

- working parents may not want to leave pre school age children for long periods
- parents needing to take children to and from school or childminders in the mornings and evenings
- the opening hours (8am-6pm) of professional childcare facilities restricting the parent's working pattern
- working parents needing to look after children out of school hours or during school holidays
- occasional emergencies that need to be dealt with, such as a sick child, elderly relative or childminder – which is covered by the right to emergency leave (see the section on 'The law and flexible working')
- employees caring for elderly or disabled relatives may also like to start work later, leave earlier or take extended lunch breaks.

As an alternative to standard working patterns, there are many forms of flexible working patterns that can be introduced into the workplace, which can help employees to work effectively and efficiently as well as manage outside commitments. These fall within three main categories:

- working time or hours of work;
- place of work; and
- paid or unpaid leave and time off from work.

Employer case studies

The following employers have introduced and benefited from introducing flexible working at their organisations.

"At **BT** we have seen the benefits of flexible working drive up productivity, reduce operating costs and improve the health and happiness of our people", Caroline Waters, Director of People Networks at BT, said. The company's wide-ranging portfolio of flexible working has allowed the company to make productivity gains of £10m a year, as well as recruitment and sickness absence savings of over £7m a year and accommodation savings of over £40m.

'Best Boss 2001' Kevin Coleman, Managing Director of **Swift Construction GB**, runs a successful interior refurbishment company. A new parent himself, he says his flexible and family friendly approach has resulted in loyalty from employees, sub-contractors and clients. "I'm flexible with the clients and I'm flexible with the workforce, and that breeds understanding and trust on all sides," he says. "My staff are very loyal and committed and are rarely off sick, so clients know they can always rely on us. Our hours are 8am to 4.30pm and our closing time is set in stone, so everyone can see their kids and get in quality time at home. Clients accept our policy - of course there is an emergency number, but we try to set clear boundaries. Time at home with our families won't come back."

(Source: www.workingfamilies.org.uk)

Basic Connections is a call centre established in 1994 by two directors, who at the time each had a young family. Michael Mills, non-executive Chairman, says: "We have found that offering flexibility provides Base Connections with a motivated, loyal and committed work force. This in turn has resulted in low staff turnover for our industry and direct financial benefit to the business." There are high levels of support among employers for measures to support flexible working and work-life balance. In a survey of more than 1,500 employers, over 90% took the view that people work best when they can strike a better balance between work and outside life. Less than a third of employers considered that they bore no responsibility towards helping people to balance their work and other aspects of their lives. (DTI survey, reported in IRS Employment Review 789, Dec 2003)

The **Central Scotland Forest Trust** has used the introduction of work-life balance policies to improve employee morale and business performance after a period of major change and redundancies. The options available to employees include flexitime, compressed hours, home-

working, flexible holiday entitlement, sabbaticals and enhanced maternity, paternity and adoption leave. Business benefits attributed to the organisation's flexible working policies include: a decrease in staff turnover; decline in short-term absences; and an increase in applicants for advertised posts. (Equal Opportunities Review, March 2004)

Manufacturers **Listawood** say their family friendly culture is an integral part of the business and vital to its profitability. Staff return flexibility with the same, as well as demonstrating loyalty and commitment. Their own two children were small when they set up the company and, as it grew, they recruited from local mothers and organised work patterns around school and childcare needs. From the start, part-timers had the same advancement prospects as full-timers and many of their original employees are now on the management team. Staff members agree their own work patterns and hours according to their wider work-life needs. Management of production and scheduling is devolved to small teams. "We started out with an attitude of common sense and common decency," says Arthur Allen who started the company with his wife, Irene, in 1987. "But we soon discovered these policies make good profitable business sense, too. We found that, in return for flexibility, our staff were willing to give a great deal of commitment. When we need them for a rush job, they all rally round and organise themselves. They work with great initiative and a minimum of supervision. They have acquired skills and responsibilities many never dreamt possible, and they have fun." (Source: www.workingfamilies.org.uk)

Centrica, the essential services provider that is best known in the UK for three consumer brands – the AA, British Gas and One.Tel – is increasing the flexible working options available to staff. Almost one-third of the organisation's 36,000 UK employees are already based at home or work from home and the plan is to increase this proportion significantly over the next few years. The business benefits anticipated from greater use of flexible working include: ensuring the organisation is seen as an "employer of choice", embracing diversity further and helping to retain staff. Within the organisation, the AA has been one of the UK's pioneers in terms of applying home-working to the call centre environment. Whilst acknowledging that the cost of equipping someone to handle breakdown calls from home is a "limiting factor", the company finds that the business benefits are significant. They are reported to include labour turnover between 5% and 10% below the call centre average; and productivity between 30% and 40% higher than in a standard call centre. (IRS Employment Review 797, April 2004)

Your role and responsibilities as a line manager or supervisor

There are numerous examples of employers switching to flexible working practices that result in higher productivity and increased profitability.

As a line manager you have the opportunity to respond to requests for flexible working in a way that creates a win – win situation for your organisation and your staff.

Don't fall into the trap of thinking that because you need continuity, flexible working isn't an option - you do need continuity, but there's more than one way of getting it.

Start from a positive standpoint as to how a request could be accommodated. Here are some points to bear in mind:

- **Open mind.** Don't dismiss flexible working requests out of hand as being 'unworkable'. Flexible working is commonly perceived as working less than full-time hours. However, this is not always the case – quite often a rearrangement of working time is all that is needed.
- **Outputs and inputs.** Think about work in terms of outputs (getting the job done) rather than inputs (number of hours worked).
- **Give it a try.** You may want to agree a 'flexible-working' trial period – although remember that employees using the statutory provisions on the right to request flexible working are entitled, if successful, to maintain the arrangements on a permanent basis.
- **Two-way process.** Managers and staff need to be flexible to make it work and line managers need to trust staff to make it work. Staff need to know they are trusted.
- **Keep in touch.** Maintain regular contact with remote or flexible staff, and ensure that you set them clear goals – but also that goals take account of the hours that they work, especially where these have been reduced.
- **Overload.** Bear in mind that you will have problems if the individual ends up working fewer hours with no reduction in workload, or if other members of the team are left to pick up what is left, or if the work suffers.
- **Build in an “overlap” period** into the working patterns of jobsharers. Remember to plan ahead to avoid delays in deadlines, making decisions or arranging meetings.
- **Job sharing.** If you receive a request to job share, try to find a suitable jobsharer and/or ask if the applicant has anyone in mind. If one jobsharer leaves, you can

offer the remaining jobsharer the full-time hours, or see if they could convert the extra hours until they are filled.

- **Flexibility and training.** Try to arrange training courses at times that are convenient for employees on flexible working patterns. Give them plenty of time to make necessary arrangements, if they can attend a course in their normal non-working time. If a training course is full-time, part-time staff attending should receive pay for the duration of the course.
- **Part-time and flexible workers** should have access to the same development and promotional opportunities as full-timers and their pay should be pro-rated accordingly. Don't assume that because someone works part -time or flexibly they are less committed or less ambitious than other staff.
- **Informal flexible working arrangements** could include:
 - arriving and leaving early to cover dropping off, or picking up the dependant or such situations as doctors' or dentists' appointments, or public transport problems
 - giving staff some time-off after working a period of long hours to hit a deadline or deliver a project.
- **Flexibility can attract staff.** Many staff place flexibility high on their list of work priorities – stress your organisation's attitude to flexible working in job adverts and job descriptions.
- **In the case of all informal arrangements,** make sure you take a consistent approach regardless of irrelevant characteristics such as gender.

The law and flexible working

There are a number of legal provisions surrounding flexible working, including in particular:

- the right to request emergency leave
- the right to request flexible working for certain parents
- the right not to be discriminated against on grounds of sex
- the right of part-timers to equal treatment
- leave provisions.

If an employee makes a request under a statutory procedure, there are often formal procedures that you must follow within certain set timescales. In addition, there may be conditions that employees need to meet to be entitled to certain provisions, for example on length of service. Consult your HR department about these.

The time frames for dealing with the statutory right to request procedure, is an ideal one to adopt for all employees. It makes more sense to have a consistent policy for all. Not only does this remove opportunities for confusion, but means that all staff are treated in the same way.

In addition, all employees with dependant care responsibilities have the right to genuine objective consideration of their requests to work a different pattern of work as an unjustifiable refusal, could be unlawful discrimination.

*Research from the **Chartered Institute of Personnel and Development**, published in October 2003, revealed that 76% of organisations say that the impact of flexible working legislation on their organisation has been negligible and 90% report no significant problems complying with the new requirement.*

Right to request emergency leave

Employees now have the right to take unpaid time-off work to deal with an emergency involving a dependent. For example, a:

- husband, wife or partner;
- child or parent;
- someone living with and part of their family – for example, fostered or adopted children.

Staff can take this time-off to deal with emergencies when a dependent is:

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- ill and needs help;
 - involved in an accident or is assaulted;
 - needs help to arrange their longer term care;
 - needs help to deal with an unexpected disruption or breakdown in care - such as a childminder or nurse failing to turn up;
 - goes into labour;
 - dies and funeral arrangements need to be made or they need to attend the funeral.

Employees can take off enough time to deal with the immediate emergency. For example, if a child falls ill staff can take enough time off to deal with their initial needs, such as taking them to the doctor and arranging for their care. However, they would need to make other arrangements if they want to stay off work longer to care for them.

Right to request flexible working

Employers should remember that certain parents have a right to request flexible working. These are:

- Carers of children aged under six; and
- Carers of disabled children aged or under 18.

If an employee makes a request under the statutory procedure, remember that you must seriously consider the request.

The provisions in law on the right to request flexible working apply equally to men and women. If you have no policy for dealing with alternative work arrangements, you need to be aware of the process and procedure involved and to use this as a guideline for dealing with all requests, regardless of the age of the dependant needing the employee's care.

However, you can refuse the request where there is a clear business reason for doing so. These reasons are:

- The burden of additional costs on your business to comply with the request
- A detrimental effect on your organisation's ability to meet customer demand
- An inability to reorganise work among existing staff or recruit additional staff
- A detrimental impact on quality or performance of the organisation

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- Insufficient of work during the periods the employee proposes to work.
 - Planned structural changes to the organisation.

Treatment of part-time workers

By law, part-time workers must receive the same terms and conditions as full-time workers – unless it is possible for less favourable treatment to be objectively justified.

Part-time workers must be treated the same as full-timers – but on a pro rata basis if appropriate – on conditions including:

- Hourly pay rates;
- Access to a company pension;
- Training;
- Contractual sick pay; and
- Leave provisions.

Flexible working and sex discrimination

You must take account of the law on sex discrimination. This means that you must not discriminate directly or indirectly on the basis of gender.

Indirect sex discrimination occurs when an apparently neutral provision, criterion or practice applies to all workers but causes a particular disadvantage to either women or men and cannot be justified as a proportionate means of achieving a legitimate aim.

If an employer insists that a job must be carried out on a full-time basis, this could in certain circumstances constitute indirect sex discrimination. This is because women are less likely than men to be able to comply with a requirement to work full-time, as more women than men have primary responsibility for childcare and are still more likely to take on other caring roles.

Only an employment tribunal can ultimately decide whether an insistence that a job must be done full-time amounts to indirect sex discrimination – but, to try to stay within the law, managers should consider all requests fairly and objectively.

*Outsourcing services company **Cogent Investment Operations** encourages all staff to work a 9 day fortnight. The firms also promotes home working , which is taken up by men and women. “The key is flexibility”, says Ian*

Barnard,” and we go out of our way to ensure that flexibility is seen as an option for fathers as well as mothers”. (‘Dad’s Army: the case for father friendly workplaces, Richard Reeves, The Work Foundation)

Flexibility over working time and hours of work

Many people find that, at certain times in their lives, domestic considerations mean that they cannot work a standard working pattern of, say, 9am to 5pm, five days each week. This is particularly the case for many working parents and carers.

There are many different ways in which flexibility in working time can be arranged to help employees meet different domestic commitments, including the following:

- **Permanent part-time working week** – where an employee is contracted to work anything under the typical 35 hour week.
- **Temporary reduction in hours** – a voluntary reduction in working hours, for say a few days or weeks, perhaps to cover a childminder's sickness or sickness of an elderly relative.
- **Flexitime** – this provision allows flexibility in the times at which employees attend work on a day-to-day basis. Avoid stipulating "core" hours – of say, 10am to 4pm – which may be difficult requirement for working parents.
- **Job sharing** – where two job sharing partners cover one full-time job. Not only does this give you cover in times of sickness absence and holidays, you are getting two people's skills and experience for the 'price of one'.
- **Condensed or compressed working** – this involves working full working hours on the basis of working longer hours over fewer days, for example a four-day week or a nine-day fortnight.
- **Term-time working** – where an employee works during school term-time only. Remember that absences by working parents during school holidays could be covered by other groups – for example student workers – who may want to work during college vacations.
- **Annualised hours** – where hours are calculated over a full year and can vary from week to week. This can be arranged to suit differing employees' needs and can also help employers in seasonal industries by allowing more hours to be worked at peak times during the year and fewer at slack times.
- **Time-off in lieu** – where employees that work in excess of their normal hours during busy times can take that time off during less busy periods.

Flexibility over leave and time off from work

Could any particular paid or unpaid leave arrangements be used to assist employees in meeting their non-work needs?

These should be extended to all employees, although they are likely to be particularly useful to working mothers in practice.

Remember that you must provide certain leave arrangements by law, including statutory maternity, paternity, adoptive, parental and emergency leave.

- **Career breaks, or sabbaticals** – this type of arrangement is particularly useful to working parents who may prefer to stay at home to care for pre-school age children or for carers who may need to care for a terminally ill relative. There should be certain guidelines, for example a maximum length of career break and provision for the employee get regular “refresher” sessions to keep skills and knowledge up-to-date. The employee should not be made to resign in order to take up a career break.

Flexibility over place of work

Some jobs, by their nature, have to be done in a certain place, for example assembly work on a factory line. But many jobs can be done at home or elsewhere, especially with so many forms of new technology available to employers.

You do need to ensure that employees can access development, training and promotion opportunities.

Could a job be done from a different place of work? There are two main options to consider:

- **Home working.** Some work can be done from home, either on a regular or an occasional basis. While working from home cannot generally be undertaken while caring for pre-school age children, this option may help. For example, it could allow parents to get to a school in time to pick up a child by avoiding the time spent commuting to and from the workplace. Home working may also assist carers to stay in paid employment.
- **Working from a different office.** Again, this could be undertaken on a regular or an occasional basis. It could help employees who live close to a local branch of a firm, or who can arrange “telecottageing” provisions (a local office that is shared among a group of workers in the area).
- If using these options, remember to take account of **health and safety** implications such as the need for home workstation assessments.

Sources of advice

ACAS

ACAS provides information, advice and training and works with employers and employees to solve problems and improve performance in the workplace.

Tel: 0845 747 4747

www.acas.org.uk

Equality Direct

Equality Direct is a confidential telephone advice service for employers, providing help on managing equality issues.

Tel: 0845 600 3444

www.acas.org.uk

Department of Trade and Industry (DTi)

This government department provides information for employers and employees on a range of workplace issues, including flexible working.

Tel: 020 7215 5000

www.dti.gov.uk

Health and Safety Executive (HSE)

The HSE is a government agency providing information and advice for employers and employees on a range of workplace health and safety issues, including flexible working.

Tel: 08701 545 500

www.hse.gov.uk

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