

FEBRUARY 2008

**Joint Negotiating Committee
for Higher Education Staff:
Equalities Forum**

**Work-Life Balance
Guidance for Higher Education institutions**

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Introduction

Purpose

The aim of this document is to assist Higher Education institutions (HEIs) to achieve standards of good practice in work-life balance by implementing comprehensive and effective local policies. The Guidance that it includes is designed to highlight the main legal entitlements in the area and to identify examples of good practice, and should be considered alongside existing local policies and relevant national agreements inherited by JNCHES.

Partnership approach

All parties to JNCHES strongly recommend that HEIs work with their trades unions as 'local partners' to develop policies on work-life balance.

A partnership approach is likely to enhance the quality of the policies adopted and promote commitment to their implementation. In this case, a partnership approach would entail consulting with the recognised unions on work-life balance policies and procedures, and conducting an equality impact assessment on such policies and procedures in partnership with the unions.

Legal context

The area of parental rights has undergone significant changes over the last five years. A wide range of "family-friendly" legislation governs maternity, paternity and adoption leave and pay, and flexible working. Most of the relevant legislation can be found consolidated into the Employment Rights Act 1996 or the Employment Relations Act 1999, the Employment Act 2002 and, most recently, the Work and Families Act 2006. The details of the provisions of these Acts can be found in the relevant implementing regulations listed below, and explained in more detail later in this guide. Additional guidance is listed in the Resources section at the end of this guide.

Maternity leave and pay:

- The Maternity and Parental Leave (Amendment) Regulations 2006.
- The Statutory Maternity Pay and Maternity Allowance (Amendment) Regulations 2006.

Adoption leave and pay:

- The Paternity and Adoption Leave (Amendment) Regulations 2006.

Paternity leave and pay:

- The Paternity and Adoption Leave (Amendment) Regulations 2006.

Parental leave:

- The Maternity and Parental Leave (Amendment) Regulations 2006.

Time-off for dependants:

- The Maternity and Parental Leave (Amendment) Regulations 2001.

Right to request Flexible working:

- Flexible Working (Procedural Requirements) Regulations 2002.
- Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002.
- The Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2006.

Developing policies on work-life balance

The Regulations summarised above apply to full-time, part-time, permanent, fixed-term and temporary employees. However, many of the rights are also dependent upon employees satisfying certain criteria, including periods of continuous service. Further details are provided later in this Guidance. Local policies should recognise that all groups of staff are covered by these rights, which should be reflected in their conditions of service, and local policies should be drafted accordingly.

All policies should ensure that employees are not disadvantaged or discriminated against in any way (for example, in relation to promotion, contribution pay and development opportunities), and should be subject to an equality impact assessment..

Institutions may also wish to consider, with their locally recognised trade unions, the advantages of developing a harmonised approach to work-life balance policies across all staff groups. There is no sound reason why members of one staff group should be treated less favourably when it comes to conditions designed to support working parents.

Benefits of work-life balance policies

- Developing policies on work-life balance offers HEIs important potential business benefits in the context of a highly competitive labour market where skilled workers have higher expectations of their employers. The HEFCE Flexible Employment Options Project (see the Resources section at the end of this guide) highlights that offering employees flexibility and/or control over working arrangements can provide important recruitment and retention incentives. The DfEE report “Work-life Balance 2000: a baseline study” (see the Resources section at the end of this guide) cites the benefits of work-life balance as including improved commitment and retention, increased morale and a reduction in absence levels.
- Flexibility can have important advantages for employers as well as employees. The increasing diversity of the student population has led to demands for provision of services over a wider range of hours or for a higher proportion of the working year. A workforce which includes members of staff who wish or are prepared to work outside of normal work patterns will offer an institution a means of resourcing this expanding demand.

- Employers also need to respond to social and demographic changes. The proportion of the workforce with caring responsibilities is continuing to increase. 65% of women with dependent children are in the workforce (compared with 90% of men). There are over three million single-parent families in the UK today, and the proportion of families with dependent children headed by a single parent has trebled in the last thirty years to stand at approximately 25% in 2006. The population is also ageing. In the next 20 years, the dependent elderly will outnumber the dependent young and an increasing number of employees will have eldercare as well as child-rearing responsibilities.¹

Legal context

In the following sections guidance is provided on the legislation that is particularly relevant to work-life balance policies and examples of good practice are given. Whilst the legislative background focuses on the statutory requirements of the legislation, consideration is also given to areas where institutions may wish to consider enhancing those requirements. Particular issues that arise when implementing work-life balance policies are also highlighted.

Flexible working

Legislative background

Parents of children aged under six and of disabled children aged under 18, and carers of adults have the right to request flexible working, although this does not entitle them to insist upon a new pattern of work. The employer must consider the request seriously, and has to follow a procedure as set down in detail in the DBERR guidance² (see Appendix 1) and summarised on page 6 of this guidance.

Who has a legal right to apply?

The right only applies to those who are employees: it does not apply to agency workers, or self-employed or freelance workers.

Eligibility – caring for children

Employees must:

- have a child under six, or under 18 in the case of a disabled child.
- be one of the following: the child's mother, father, adopter, guardian or foster parent, or married/civil partner to or the partner (including same-sex partner) of the child's mother, father, adopter, guardian or foster parent.

¹ All data from the Office of National Statistics: <http://www.statistics.gov.uk/>

² Flexible working: the right to request and the duty to consider. A guide for employers and employees (see Resources section at the end of this guide)

- have worked for the employer continuously for at least 26 weeks at the date the application is made, and not have made another application within the previous 12 months.
- make the application no later than two weeks before the child's sixth birthday or 18th birthday in the case of a disabled child.
- have or expect to have responsibility for the child's upbringing.
- be making the application to enable them to care for the child.

It should be noted that the Government has announced its intention to extend the right to request flexible working to parents of older children and is currently consulting on the age-range. HEIs drawing up new policies may want to anticipate this development.³

Eligibility – caring for adults

Employees must:

- have worked for the employer continuously for at least 26 weeks at the date the application is made, and not have made another application within the previous 12 months.
- be or expected to be caring for a person in need of care who is i) married/civil partner to or the partner of the employee; ii) a relative of the employee; or iii) living at the same address as the employee.
- be making the application to enable them to care for someone who is, at the date of application, a person aged 18 or over.

³ <http://www.berr.gov.uk/employment/workandfamilies/flexible-working/index.html>

Good Practice Example – Caring for adults

The University of Gloucestershire

The University's Flexible Working Scheme includes guidelines for supporting members of staff involved in caring for elderly, sick or disabled partners, relatives or friends. The guidelines apply to all staff with particular caring duties. The University recognises that there are many different caring situations which require a different response: some may be emergency situations which need a quick reaction to a temporary problem, whereas others may be of a more permanent nature. It also recognises the potential for the situation to change, for example, if the condition of those being cared for deteriorates, and the unpredictable nature of the member of staff's caring responsibilities. A variety of options with or without pay are offered. Options with pay include flexibility over working hours, extended leave on compassionate grounds, planning of work which can be completed at home, flexibility regarding the taking of annual leave, emergency leave and job-sharing. Options without pay include a career break before a return to a full-time position, and short periods of unplanned leave commensurate to particular cases.

Extending flexible working to all staff

When developing local policies, institutions may wish to consider with their locally recognised unions the advantages of a single policy that applies to their whole workforce. Advantages of such an approach include:

- **Equity:** Extending flexible working to all employees would promote a fairer working environment.
- **Simplicity:** As explained above, both working parents and carers of adults have the right to request to work flexibly. In addition, many employees approaching retirement may wish to carry on working but in a more flexible way and many institutions are developing policies on flexible retirement (see the section on flexible retirement on page 12 for more information). What this means in practice is that there is an increasing range of employees to whom flexible working arrangements are being made available. Applying a range of different conditions to different groups is administratively complex and can lead to mistakes and confusion.
- **Retention and commitment:** There may be employees who are not parents or carers of adults who would welcome flexible working arrangements to improve their work-life balance. Examples include employees who are combining work with continuing education, undertaking voluntary or community work or pursuing particular interests outside work. Flexible working could enable such employees to take on such a challenge, maintain their focus on their careers, and improve their loyalty and commitment to the institution.

Good Practice Example – Extending flexible working to all staff

The University of Huddersfield

The University is committed to assisting all staff to achieve work-life balance regardless of their personal circumstances. Therefore, whilst the Flexible Working Procedure meets the statutory requirements, the provisions for flexible working have been extended to *all* employees. The procedures are easy to understand, easy to operate and allow for transparency in decision making, both when requests are met but also when a request cannot be met. Both academic and support staff across the University use the procedures. The provision has been used for a wide range of reasons –childcare, both on return from maternity leave but also as children reach different ages and/or the demands on the family change; elder care is increasingly being cited as a reason for changes; preparation for retirement; looking after grandchildren; and for some it's just the opportunity to get more leisure time and enjoy life. As one male professor commented in his request for flexible working "I want to experience more of the "life" in the work/life balance". An important benefit to the University has been the retention of key staff who have requested flexibility, and also a more positive attitude amongst staff generally due to assistance being given to their colleagues and the knowledge that the provision to request a flexible working arrangement is there for them if needed at a future time in their life.

What kinds of flexible working are covered by the law?

Eligible employees are able to request any of the following:

- a change to the hours they work.
- a change to the times when they are required to work.
- to work from home.

As such any of the following may be included: reduced working hours, annualised hours, compressed hours, flexitime, home-working, job-sharing, self-rostering, shift working, staggered hours and part-year working.

Procedural aspects of provisions

- The employee should apply in writing, setting out what pattern of flexible working is requested (e.g. reduced hours, flexitime, term-time working) and explain, in so far as it is possible to ascertain, the effect that this might have on the business, and how such effect might be dealt with. They should also state when they want the new pattern to begin.
- Any change agreed has permanent effect unless agreed otherwise: the employee has no legal right to go back to their original working pattern, but if both sides agree the change could be agreed on a temporary basis.

- The employer has a legal duty to consider the employee's request by following a set procedure. Failure to follow the procedure entitles the employee to take a case to an Employment Tribunal.
- The employer should hold a meeting to consider the request within 28 days, at a mutually convenient time and place. The employee has a right to be accompanied by a work colleague (who can be a trade union representative as long as they work for the same employer). The companion can address the meeting, and confer with the employee, but cannot answer questions for the employee. The companion should be given paid time off for this meeting.
- If the employee fails to turn up for the meeting on two occasions, without reasonable excuse, the employer is entitled to treat the application as withdrawn.
- The employer should inform the employee of their decision in writing within 14 days of the meeting. If the request is accepted, the response should set out details of the new working pattern, and the date when it will begin.
- If the request is refused, the employer should state the business grounds for refusal, and explain why those grounds apply in the circumstances.
- The employer should also provide details of the right to appeal.
- The grounds for refusing the request must include one (or more) of the following:
 - Burden of additional costs.
 - Detrimental effect on ability to meet customer demand.
 - Inability to reorganise work among existing staff.
 - Inability to recruit additional staff.
 - Detrimental impact on quality.
 - Detrimental impact on performance.
 - Insufficiency of work during the periods the employee proposes to work.
 - Planned structural changes.
- The employee has 14 days to appeal in writing. The appeal can be on any grounds. If the employee appeals, the employer has to arrange an appeal meeting within 14 days of receiving the request. The employer must inform the employee of the outcome of the appeal in writing within 14 days of the appeal meeting.
- The employee can make a formal complaint to an Employment Tribunal, or through the ACAS arbitration scheme, but only if the employer has failed to

follow the set procedure or the employer's refusal was based on incorrect facts. There is no right to make a complaint against the decision itself.

Particular issues for HEIs to consider

- Which employees are entitled to apply to work flexibly.
- The kinds of flexible working that the institution will make available. Institutions may wish to issue explanatory notes about their policy on the range of flexible working options to inform both staff who might wish to request flexible working, and managers. This could include issues relating to different working patterns
- (see pages 9-12 below for further information).
- How employees are given information on the potential consequences for their pay, holiday entitlements and pensions.
- The procedure for applying to work flexibly.
- Reasons why a request to work flexibly may be refused. Institutions will want to consider carefully all the employer justifications provided by the legislation in the HE context.
- The procedure for appealing against the employer's decision.
- A procedure for reviewing the agreed flexible working arrangement where the employee's circumstances change.
- How to accommodate flexible working arrangements for employees with no fixed hours of work.

Types of Flexible Working Arrangements

These are some of the main options:

Annualised hours: working time is organised on the basis of the number of hours worked over a year rather than a week.

Career breaks: this allows employees to take unpaid time out of work for personal reasons, returning on an agreed date.

Compressed hours: total agreed hours are worked over a reduced period, for example over four days in a week or nine days in a fortnight.

Flexitime: the employee has some choice about when they work and can vary this from day to day, as long as they work the agreed total hours, including certain core hours.

Home-working/teleworking: this involves working from home for some or all of working time and typically involves the use of ICT to maintain contact with the workplace.

Job-sharing: where two (or occasionally more) people work on a part-time basis to cover a single full-time post.

Part-time working: employees have agreed hours which are less than the full-time week.

Shift working: employees are organised into shifts with working hours that enable employers to operate over longer than, say, an eight-hour day.

Staggered hours: different employees have different start and finish times.

Term-time/part-year working: employees are able to take unpaid leave of absence during school holidays.

Good Practice Examples

University of Sunderland – Flexible hours of work

Recruitment is considered key to securing the future of the University, and as such there is a commitment to getting the right person for the job through offering flexible working options. For example, the University has recently recruited a Health, Safety and Environment Officer on a flexible basis. Although the post is full-time, his working hours are flexible enough to enable him to arrive for work before 7 a.m. and leave work at around 3.30 pm so that he can fulfil his childcare responsibilities.

Northumbria University – Career breaks

The University has a Career Break Procedure which enables staff to deal with situations or pursue interests in their personal lives that require a lengthy period of time away from work, such as to care of a relative/dependent who requires full time care, to care for a child or to undertake a long-term course of study. Employees who have worked for the University for a period of at least 5 years and have a good employment record are eligible to request a Career Break and these may be granted for periods from 3 to 36 complete calendar months.

University of Chester – Compressed hours

Introducing formal flexible working practices has had a major impact on the culture of the University due to the introduction of flexible working options in preference to the use of overtime and time off in lieu to deal with work life balance issues. It has also led to increased motivation and morale, as well as increasing service provision in some areas. The use of compressed hours has been particularly successful in Student Guidance and Support Services as this has allowed the Department to extend their opening hours providing a more comprehensive service to students. Compressed hours has also been used for senior members of staff in the Services Department, again creating more flexibility for service provision and the ability to increase communication between staff who may not necessarily see a senior member of staff on their shift.

The University of Cambridge – Home-working

The University's provisions for working at home cover both short-term (e.g. to complete a specific project) and longer-term arrangements, and emphasise the need to take into account employment considerations as well as practical considerations including the working environment, health, safety, security and insurance. The Head of Department must be satisfied, in all cases, that the proposed arrangements are suitable for the work to be undertaken. If a request to work from home is refused, the grounds for the refusal must be specified and fall within one or more of the following:

- The burden of additional costs.
- Detrimental effect on ability to meet customer demands.
- Inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- Detrimental impact on quality or performance.
- Insufficiency of work during the periods the employee proposes to work.
- Planned structural changes.

Oxford Brookes University – Part-year working

The University's part-year working arrangement builds on the established practice of working during term-time only which is used particularly by staff with children of school age in order to allow them to spend more time with them during school holidays and reduce the costs of childcare. When the University changed the shape of its academic year to semesters, it was necessary to change the description of this work pattern from 'term-time only' to 'part-year working'. The arrangement has been extended to all staff. The policy allows the extra time away from work to coincide either with the school holidays or to take an extended break for other reasons.

Issues relating to specific flexible working arrangements

Annualised hours: This arrangement can help employers to resource peaks and troughs of work during the year. For example, it could involve particular staff working shorter hours outside of term-time and longer during the term. It could also enable employees to accommodate caring responsibilities that vary over the year, or to build up time-off by working additional hours at times of peak workload.

A policy or guidance on annualised hours would need to include:

- How hours are calculated.
- Whether any hours are kept in reserve by the employer to deal with particular circumstances.
- The arrangement for "banking" hours.
- The extent to which variations in daily/weekly hours need to be scheduled in advance, and the scope for short notice variations.
- How actual working hours are to be agreed and reviewed.
- Arrangements for changing the agreed working pattern.

Compressed hours: This arrangement means that the staff concerned will work longer hours on most days and either not be in work, or work shorter hours on the other day(s). From an employer's point of view it can offer flexibility where some days of the week are more or less busy than others. Employees could, for example, use this method to reduce the amount of paid childcare that they require and/or to have more time during normal working hours with their family.

Issues to address in policies or guidance would include:

- The extent of compression that is allowed.
- Any impact on the calculation of holiday entitlement.

Flexitime: Flexitime can help employers to staff extended operational hours and provide flexibility for urgent work to be completed outside of normal hours. It can offer employees the flexibility to deal with ongoing domestic demands, such as taking a child to school, as well as one-off emergencies. Under most schemes it also provides the potential for building-up additional leave.

Policies/guidance should include:

- Whether any core hours are required.
- The bandwidth (the range of hours within which staff can work).
- The accounting period over which total working hours should balance.
- How hours are to be recorded.
- Whether it is possible to build-up additional leave and any limitations on this.

Home-working/teleworking: The main advantages to employers of having employees who work from home are potential savings in accommodation costs, plus the possibility of recruiting and retaining experienced staff. Home-working can offer employees greater flexibility in the organisation and control of their work, make it easier to combine work and domestic responsibilities and provide savings in the time and cost of travelling.

Amongst the issues that should be covered by the institution's policy and guidance are:

- Whether staff are able to apply to work from home all the time and/or some of the time.
- Whether normal office times still apply.
- The provision of office equipment.
- Any payment for other costs of working from home (e.g. telephone calls, postage etc.).
- Systems of communication and reporting to maintain effective working relationships.
- How performance will be monitored.
- How training needs will be monitored and met.
- Health and safety assessments. The HSE have produced guidance for employers and employees on risk assessments (see the Resources section at the end of this guide).
- Whether staff have the appropriate level of home insurance for any personal property used at home whilst undertaking work duties.
- How to ensure that the same standards, and relevant policies and procedures are followed as if the employee were located in the institution (e.g. with regard to keeping up to date on developments in the workplace, team meetings, monitoring workload, engaging in appraisal etc.).

- How to ensure staff continue to have access to the full range of university services and facilities (e.g. employee assistance programme, occupational health, library membership etc.).

Job-sharing: Job sharing is typically used by employers as a way of offering reduced hours whilst maintaining cover of a full-time post, and thereby helping with the recruitment or retention of staff. For employees job-sharing is often a way of remaining in a relatively senior post whilst working part-time.

Issues that should be covered in the institution's policy and guidance include:

- Finding a job-share partner.
- Decisions on dividing the hours and responsibilities of the post.
- Communication and overlap between job-share partners.
- Arrangements for annual leave, maternity leave etc.
- Arrangements when one job-share partner is, for example, absent on sick leave, or annual leave.
- What happens if one job-share partner leaves.
- Arrangements for carrying out individual performance reviews for both job-share partners, and dealing with any performance issues that may arise.
- Arrangements for formally reviewing the job-share arrangement.

Part-time working: Part-time working is the most common means used by employees in the UK to combine work and family responsibilities. Employers typically offer part-time work as a way of covering peaks in their business, to meet a specialist need which is not required on a full-time basis, to enable the extension of operating hours (at evenings or weekends, for example), in response to employee requests, or to help recruitment of suitable staff.

Unlike other aspects of flexible working a specific body of law applies to part-time working. The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, ensure that part-time workers are not treated less favourably than comparable full-timers in their contractual terms and conditions, unless such treatment can be objectively justified. This means that compared to full-timers, part-timers are entitled to:

- The same hourly rate of pay (though part-timers are not entitled to enhanced overtime pay – if applicable - until they have worked more than normal full-time hours).
- The same access to company pension schemes.
- The same entitlement to annual leave and maternity/parental leave on a pro rata basis.
- The same entitlement to contractual sick pay.
- No less favourable treatment in access to promotion, training or in selection for redundancy.

In addition, case law in relation to the Sex Discrimination Act has established that refusing an employee's request to work part-time can be seen as sex discrimination, unless the employer has an objective justification.

Shift working: Shift working has traditionally offered little flexibility to the employee, tending to be highly structured and often involving a group of workers doing the same job one after another to provide 24-hour cover. It is not a major component of working practices in the HE sector and is unlikely to form a major part of the flexible working arrangements requested by employees. However, where shift-working is in place (e.g. for security staff) employees might request a variation offering greater flexibility. This could include self-rostering (where teams of workers organise their own shift patterns in a way that ensures full cover whilst also having flexibility to address individual domestic circumstances); or shift swapping (whereby employees are allowed to swap shifts with their colleagues).

Staggered hours: This arrangement gives the employer the potential to extend operating hours, whilst allowing employees some choice in start and finishing times. However, once agreed these times are usually fixed, so there is not the same scope for variation as with flexitime.

HEIs' arrangements will need to address:

- The range of start and finish times that are permissible.

Part-year/term-time working: The main attraction of this pattern of working to employers is that it may offer the potential to recruit and/or retain staff with school age children. In addition, since for some areas of an HEI the need for staff may be reduced outside of the normal teaching periods it provides the potential to cut staffing costs since employees who have opted to take unpaid leave during the school holidays will not necessarily need to be replaced during their absence.

Institutional guidance and policies should cover:

- When and how normal paid leave entitlement should be used.
- Continuity of service and related benefits.
- Whether staff are paid in equal instalments over the whole year, or in full for the periods worked month by month; and the impact of this as regards tax, benefits and other factors with income thresholds.
- The impact on other terms and conditions, including pensions.

Career breaks: Career breaks can allow employees to take time off to bring up children, care for an elderly relative or undertake career or personal development through secondment, formal education, or by some other means. This has the distinct advantage of attracting good staff back to work. HEIs' arrangements for career breaks need to address:

- The duration of the career break and arrangements for the return of the employee to his/her current or a comparable alternative post.

- The impact on pay, conditions and pensions.
- Measures to ensure equal pay and to avoid discrimination.
- Arrangements for the institution and the employee to keep in touch during the career break.

Implementing flexible working arrangements in the workplace – common issues

Deciding whether it is possible to approve a request for flexible working

The following should be considered:

- The benefits that could result from agreeing the request for both the employee and the institution.
- Whether the job is suitable for flexible working. Consider, for example, whether the employee manages other staff, requires regular supervision or direction, has control over their own workload/priorities, needs to liaise with colleagues or students in person, and needs to use particular equipment only available in the workplace. The ACAS guide on Flexible working and work-life balance contains a useful example of a Job Suitability Questionnaire (see the Resources section at the end of this guide).
- The impact on and needs of the organisation and/or department/service.
- The impact on colleagues.

Dealing with requests for flexible working that cannot be agreed

- Identify the particular objective business reason(s) why the request should be refused, taking into account the specific context of the request.
- Consider whether a compromise or an alternative working arrangement would be possible - the answer does not have to be a straight yes or no.
- Consider whether a trial period (e.g. 3 months) would be useful, and would enable both the individual and the institution to decide whether a particular arrangement would work in practice. This could be particularly useful in dealing with requests from staff caring for adults. If a trial is agreed, decide in advance when and how this is to be evaluated.

Dealing with requests for flexible working from more than one person in a team

- Consider each case on its own merits, and assess each job separately. Avoid making value judgements about which employee is more deserving, or any suggestion of discrimination (you should be able to justify your decisions objectively).

- If there are conflicts, consider whether both requests could be accommodated through reaching a compromise on one or both of the requests.
- Ask the staff themselves for their input to an appropriate solution.

Dealing with changes in personal circumstances

Legally, any new working arrangements agreed in response to a flexible working request are permanent, although an employee is entitled to make a new request after 12 months. However, there is nothing to stop the institution from coming to a different agreement with the individual, or agreeing to review the arrangement within a certain timeframe. This may be particularly helpful for working parents or carers of adults whose circumstances are likely to change over time.

Flexible Retirement

Institutions are encouraged to develop more flexible approaches to retirement to enable staff to retire in a gradual or phased way, and to support key business objectives. Guidance Notes 4 and 6 in the UCEA/ECU Age Discrimination guidance series (see the Resources section at the end of this guide) provide further information.

Flexibility could be increased by accommodating requests to continue working beyond the intended retirement date by altering the nature of the employee's work and/or their terms and conditions in the lead up to final retirement (e.g. part-time working, job-sharing, downshifting i.e. reducing responsibilities over time or moving to a lower grade, secondments or sideways moves).

The benefits of introducing flexible approaches to retirement for the employer and the employee include:

- The retention of experienced and skilled staff.
- The sharing of knowledge and skills through the mentoring of other staff.
- Easing the transition from work to retirement for the employee.
- Providing greater choice for employees, thereby improving morale in the workplace.

Institutions need to ensure that any policy they introduce in relation to flexible approaches to retirement is available to all staff nearing retirement and is applied consistently.

The Government has introduced new simplified rules around how pensions are taxed to enable staff to take advantage of flexible retirement arrangements. These changes were introduced on 6 April 2006 (known as Pensions A-Day). They allow people in occupational pension schemes to continue working on a reduced salary, because of a reduction in hours or grade for example, in the lead up to their retirement while drawing their pension, where the scheme rules allow it. All the main pension schemes in the HE sector have either been amended to facilitate flexible retirement, or have confirmed that they are considering amending their rules accordingly.

Good Practice Example – Flexible retirement

Middlesex University

The University made a very positive step by implementing flexible age retirement in October 2006. The policy exceeds the requirements of the Employment Equality (Age) Regulations 2006. The policy removed compulsory age retirement and replaced it with an approach that allows employees, if they choose, to continue working beyond the normal retirement age of 65. This removes the need for planned retirement procedures, as set out in the Regulations, to be undertaken for all employees approaching 65 without removing the University's ability to invoke planned retirement if it is deemed necessary. The implementation of flexible age retirement has been a driver for the more effective operation of other HR policies including workforce planning, management of performance, capability and personal development. The policy has improved relations with employees and trade unions, and has had the on-going effect of being a recruitment and retention incentive. Even though the policy has focussed on older workers, it has not impacted adversely on the progression of younger employees – as the policy is flexible, not all employees wish to work beyond 65 and a significant number who choose to do so work fewer hours which creates opportunities for others. The University believes that this flexible approach will help it to be seen as an employer of choice.

Maternity leave/pay

Legal background

Maternity is a complex area but a summary of the main aspects of the law in this area is provided below and there are a number of resources available which provide full details of entitlements and responsibilities – see the Resources section at the end of this guide.

- All women can take up to 52 weeks' maternity leave, that is 26 weeks' ordinary maternity leave, and 26 weeks' additional maternity leave, regardless of length of service.
- Maternity leave can begin any time from 11 weeks before the expected week of birth up to the birth itself. If the employee is absent from work due to a pregnancy-related reason after the beginning of the 4th week before the expected week of birth, but before the date she has notified, the maternity leave begins automatically on the day after the first day of her absence.
- Pregnant employees who meet qualifying conditions based on their length of service and average earnings are entitled to up to 39 weeks' statutory maternity pay which is paid at the rate of 90% of average weekly earnings for 6 weeks followed by the standard rate of SMP, or 90% of average weekly earnings (whichever is lower), for the remaining 33 weeks.
- All pregnant employees are entitled to paid time off for antenatal care.

- Employees can undertake up to ten 'Keeping in Touch Days' during their maternity leave by agreement with their employer.
- During ordinary maternity leave, an employee has a statutory right to continue to benefit from the same terms and conditions that would have applied to her had she not been on maternity leave, except for the payment of salary. This includes the accrual of annual leave and service-related pay increments. During additional maternity leave, only certain terms and conditions continue to apply. She does not, for example, have an entitlement to continue accruing contractual annual leave (only statutory annual leave).
- Employees have the right to return to the same job after ordinary maternity leave. There may be some exceptions to this if the employee takes more than 26 weeks' maternity leave and if it is not reasonably practicable for the employer to hold her job open. However, she must still be offered a job that is suitable with terms and conditions which are not less favourable.
- Employees are protected from dismissal or unfavourable treatment for reasons connected with their pregnancy.
- Employees who wish to change the date they are returning to work following their maternity leave must give their employer 8 weeks' notice.

Particular issues to consider

- Entitlement to maternity leave and pay (e.g. any service requirements for maternity leave or pay which is greater than the statutory minimum).
- The amount of maternity leave and pay to be offered by the institution (i.e. the statutory minimum as set out above, or an improved contractual scheme).
- Treatment of terms and conditions whilst on leave (e.g. the assessment of any performance-based pay arrangement, or whether to allow the accrual of contractual annual leave during additional maternity leave).
- Arrangements for communicating with the employee whilst on maternity leave.

Good Practice Example – Maternity leave

The University of Manchester

The University's maternity policy aims to:

- support staff to balance work and family life
- enable staff to take paid leave for the birth and care of a new baby
- maintain contact with staff and assist them in their return to work
- retain staff and thereby encourage equality and diversity within the workplace

It aims to do this in a number of ways including extending the benefits offered beyond the statutory minimum. For example, for those with 26 weeks' service, the entitlement to maternity pay is 26 weeks' full pay followed by 13 weeks' SMP; and contractual annual leave continues to accrue throughout both Ordinary Maternity Leave and Additional Maternity Leave.

Paternity leave/pay

Legal background

The main aspects of the law in this area are summarised below:

- The current right is to two weeks' paternity leave with statutory paternity pay paid at the same rate as statutory maternity pay.
- This right is available for an employee who has, or expects to have, responsibility for the child's upbringing, and is either the biological father, or the mother's husband or partner (including same sex partner).
- The employee must have 26 weeks' continuous employment in the Qualifying Week (the 15th week before the baby is due), and have worked for the employer from the 15th week up until the baby's birth.
- Employees can take one week or two consecutive weeks' leave. It cannot be taken as odd days or two separate weeks.
- Leave cannot begin before the baby's birth. The employee can choose to begin leave either on the day the baby is born, after a specified number of days following the birth, or on a specified date after the birth, as previously notified to the employer. Leave must be completed within 56 days of the actual birth.
- The employee must notify the employer of their intention to take paternity leave by the end of the 15th week before the expected week of childbirth, including when the baby is due, when they want to start leave, and whether they want to take one week or two.
- To claim statutory paternity pay, the employee must give 28 days' notice, and produce a self-certificate.

- The employee can change the date leave begins by giving 28 days' notice.
- During paternity leave the employee is entitled to the benefit of all contractual terms and conditions, except pay. Holiday entitlement continues to accrue.
- The employee is entitled to return to the same job at the end of paternity leave, and is protected from dismissal or unfavourable treatment for reasons connected with paternity leave.

The government recently completed a consultation regarding the proposed introduction of Additional Paternity Leave and Pay whereby eligible employees can take up to 26 weeks' additional paternity leave, some of which could be paid if the mother returns to work before the end of her ordinary maternity leave. Although a firm date for introduction has not been proposed, the earliest such a scheme might be introduced would be for babies due on or after 5 April 2009.

Particular issues to consider

- Entitlement to paternity leave and pay (e.g. any service requirements for maternity leave or pay which is greater than the statutory minimum).
- The amount of paternity leave and pay to be offered by the institution (i.e. the statutory minimum as set out above, or an improved contractual scheme).
- Permitted timing of paternity leave and flexibility as to when and how it is taken.
- Notice requirements.
- Treatment of terms and conditions whilst on paternity leave.
- Arrangements for self-certification. The Government has produced a model self-certificate (SC3) which is available on the HM Revenue and Customs website (see the Resources section at the end of this guide).

Good Practice Example – Paternity leave

Queen’s University Belfast

The University has introduced a Paternity Leave Policy which provides fathers of new babies with 15 days’ paid leave. Fathers can take the leave at any time during the period from the birth of the baby up until the baby is four months old. The University is considering the possibility of setting up a Paternity Cover Fund, to mirror the already existing and successful Maternity Cover Fund – this is a central fund which has been created by the University comprising the amount of money reclaimed through Statutory Pay Credits plus a top up from University funds. It provides assistance to departments and schools to ensure that the essential work of all members of staff who take maternity leave is covered and that women can enjoy an anxiety-free maternity leave.

Adoptive leave/pay

Legal background

Adoptive leave is available to one person in respect of each child placed. Where the adoption is being undertaken by a couple they will have to decide which partner takes the adoption leave. The other partner may be eligible for paternity leave under the same terms as set out above, with the key reference date for entitlement being the week in which they are notified of being matched with a child for adoption.

Adoptive leave is not available for foster parent or step-parent adoption.

Adopters have statutory leave and pay entitlements similar to those of pregnant mothers, except that all entitlement is restricted to those with at least 26 weeks’ service with their employer at the time that the adoption agency notifies the adopter of a match with a child, and there is no entitlement to 6 weeks pay at 90% of actual earnings: all statutory adoption pay (SAP) is at the standard rate or 90% of employee’s average weekly earnings (whichever is lower).

In order to claim adoptive leave, the employee must notify the employer of their intention to take leave, and the start date, within 7 days of being notified by the adoption agency, unless this is not reasonably practicable. In order to claim SAP, the employee must notify their employer of when they want to receive SAP at least 28 days before the date they want it to begin, or as soon as is reasonably practicable (notice can also be given earlier alongside notice of the start of adoption leave). Employers must write back within 28 days, setting out the date of return to work.

- Adopters are entitled to 26 weeks’ ordinary adoption leave, followed by up to 26 weeks of additional adoption leave.
- SAP is paid for up to 39 weeks’ at the standard rate or 90% of employee’s average weekly earnings if this is less.

- All contractual benefits (except wages or salary) continue during ordinary adoption leave, whereas only certain terms (such as confidentiality clauses) continue during additional leave.
- Employees who wish to return to work early must give 8 weeks' notice.
- Employees can undertake up to ten 'Keeping in Touch Days' during their adoption leave by agreement with their employer.
- Employees are protected from dismissal or unfavourable treatment for reasons connected with adoption leave.

Employees must also give the employer documentary evidence from the adoption agency of their entitlement to statutory adoption pay and the employer can decide to request documentary evidence of entitlement to adoption leave.

Particular issues to consider

- Entitlement to adoption leave and pay.
- The amount of adoption leave and pay to be offered by the institution (i.e. the statutory minimum as set out above, or an improved contractual scheme).
- Notice requirements.
- Treatment of terms and conditions whilst on leave.
- Arrangements for providing evidence of entitlements.
- Arrangements for communicating with the employee whilst on adoption leave.
- Whether to provide other employment information and guidance to employees about adopting a child.

Parental leave

Parental leave is the right to take unpaid time off work to look after a child or to make arrangements for a child's welfare. This kind of leave is of a planned nature and is likely to cover a period of weeks rather than days. The right to time-off to deal with certain domestic emergencies falls under the heading of dependants' leave which is outlined in the next section.

Institutions are encouraged to draw up policies to ensure that flexible leave provisions operate in a way that is most appropriate to the needs of the HEI and its staff, and which can be applied equitably and without discrimination across all staff groups.

Legal background

A following is a summary of the main aspects of the law in this area:

Statutory entitlement provides for a total of up to 13 weeks' unpaid leave for each child, or 18 weeks in the case of disabled children. Entitlement to parental leave is available to those with at least one year's continuous service with their employer.

In addition:

- The child must be under five years-old (or 18 years-old if the child is disabled), or where the child is adopted, within five years of the date of adoption.
- Women who qualify can take parental leave immediately after maternity leave.
- Employees are entitled to 13 weeks' parental leave in respect of each child (including multiple births). Where employees change employer they can only take 13 weeks per child in total, including any leave taken with a previous employer.
- Each parent is entitled to this 13 weeks' parental leave but unused leave cannot be transferred from one parent to another.
- The maximum leave to be taken in any one year is four weeks.
- The employer can postpone leave for up to six months if the employer 'considers that the operation of his business would be unduly disrupted if the employee took leave at the time stated', but the employer cannot postpone leave which immediately follows childbirth or adoption.

Statutory provision provides a range of protection to employees taking parental leave. This includes:

- The continuation of the employment contract and of some terms and conditions (e.g. contractual notice and redundancy terms) during the period of the leave.
- For periods of four weeks' leave or shorter the right to return to the same job as before the leave started.
- For longer periods the right to return to the same job, or if not practicable a similar job with the same or better terms and conditions.

Particular issues to consider

- Entitlement to parental leave.
- The amount of parental leave and pay to be offered by the institution (i.e. the statutory minimum as set out above, or an improved contractual scheme).
- Entitlement to parental leave including the service requirement for eligibility, staff to whom it applies, definition of parent and age limit for children.

- Treatment of terms and conditions whilst on leave.
- Amount of employee notice required.
- Establishing whether the entitlement has already been taken with a previous employer.
- How leave can be taken, for example the minimum or maximum leave that can be taken in one period (out of the total of 13 or 18 weeks per child).
- Arrangements for the employer to postpone leave as a result of business need.

Dependants' leave

Leave for dependants has the purpose of providing an immediate short-term and limited period of time-off to deal with unforeseen emergencies relating to dependants.

Legal background

The following is a summary of the main aspects of the law in this area.

All employees, regardless of length of service, are entitled to take leave to deal with dependant emergencies and there are no specified limits in the legislation on the length of leave or the number of times it can be taken, provided it is to deal with emergencies. However, guidance from the DBERR suggests that “for most cases one or two days should be sufficient to deal with the problem”. The statutory entitlement is to unpaid leave.

Dependants are defined as including: a spouse, child or parent of the employee; someone living in the household with the employee who is dependent on them, or, in cases of illness or injury or where care arrangements break down, someone else who reasonably relies on the employee for assistance.

The right allows employees to take leave in unforeseen or unexpected circumstances to deal with an immediate problem and/or to make longer-term arrangements relating to:

- The illness, injury or assault of a dependant.
- A dependant having a baby.
- The death of a dependant.
- The disruption to or breakdown of care arrangements for a dependant.
- An unexpected incident involving the employee's child during school hours.

Employees are protected from any detrimental treatment by the employer relating to the taking of dependants' leave.

The employee needs to tell the employer, as soon as reasonably practicable, the reason for and likely length of absence, but this information does not have to be provided in writing.

Particular issues to consider

- Whether to offer the statutory minimum as set out above, or an improved contractual scheme.
- Arrangements in respect of pay, conditions and pensions for employees taking dependants' leave.
- Arrangements for notifying the employer of the reasons for absence.

Other forms of support

As well as work-life balance policies, institutions could consider offering additional support through, for example:

- Special Leave Policies which could include, for example, provision for unpaid leave.
- Opportunities to review work-life balance on a regular basis through, for example in the course of staff appraisal discussions.
- Employee Assistance Programmes.
- Occupational Health services.
- Providing workplace facilities/support such as crèches, nurseries, childcare vouchers or subsidised nursery places, and salary sacrifice schemes for nursery places.

Good Practice Examples –

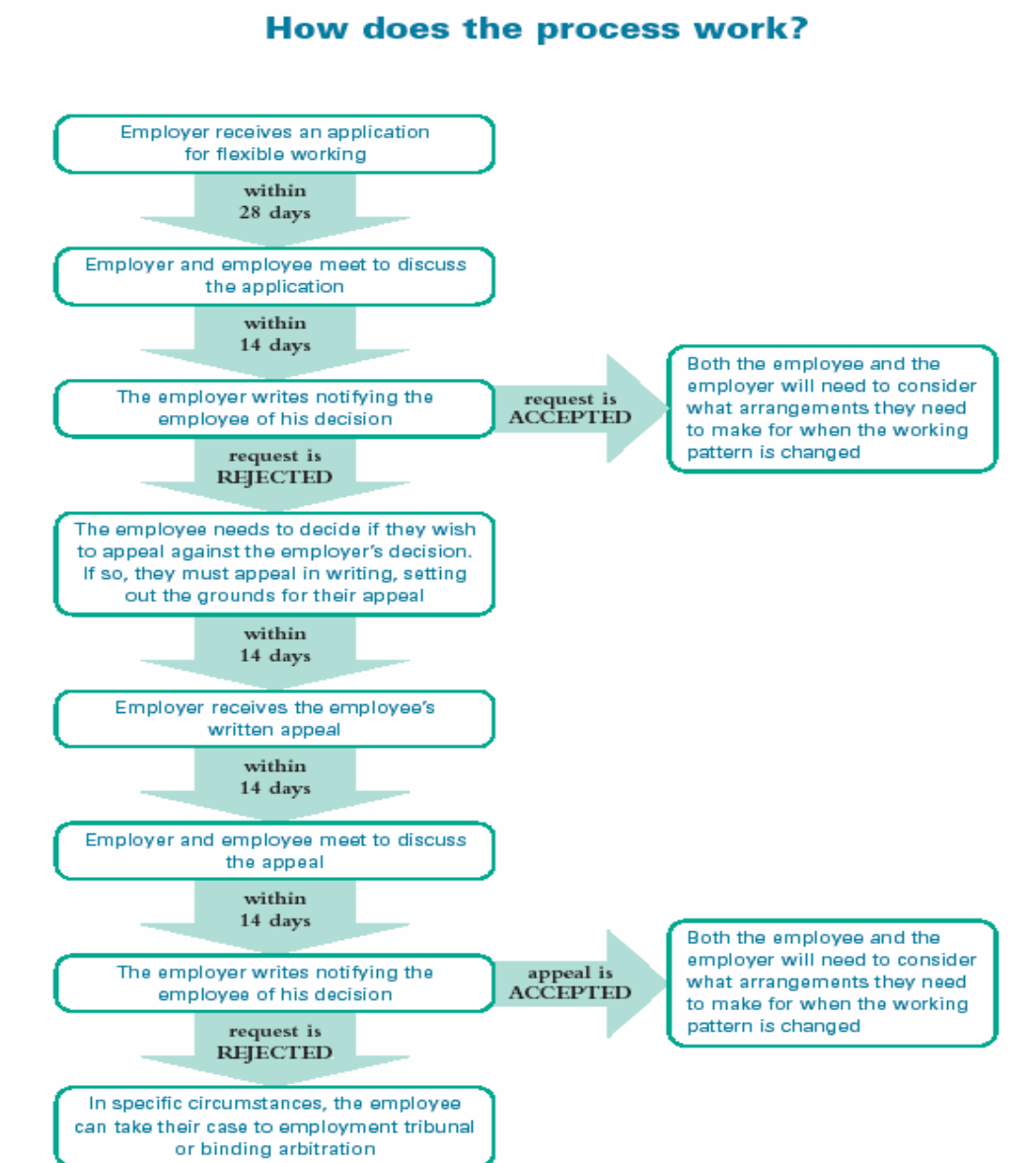
The University of Manchester - Provision of workplace facilities for childcare

The University offers workplace childcare facilities for staff under either a salary sacrifice scheme or childcare vouchers which offer real financial savings to staff. These benefits are offered to staff as part of a number of family friendly benefits designed to give greater flexibility for individual staff members, and to improve recruitment and retention.

Northumbria University – Time off for IVF Treatment

The University grants female staff upto 5 days paid time off per year for up to 2 years (i.e. 10 in total) to attend hospital to undergo IVF treatment. It will also grant supporting partners up to 2 days per year for 2 years. Again, these benefits are offered to staff as part of a number of family friendly benefits designed to give greater flexibility for individual staff members, and to improve recruitment and retention.

APPENDIX 1: DBERR Flowchart: Request for flexible working



APPENDIX 2: Resources

Employers and Work Life Balance: www.employersforwork-lifebalance.org.uk/work/legislation.htm

Department for Business, Enterprise and Regulatory Reform: www.dti.gov.uk/employment/workandfamilies/flexible-working/index.html

Flexible working: the right to request and the duty to consider. A guide for employers and employees: <http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page35662.html>

Directgov: www.direct.gov.uk/en/Employment/Employees/WorkingHoursAndTimeOff/DG_10029491

CIPD: www.cipd.co.uk/subjects/wrkqtime/wrktmewrklfbal

Flexible Employment Options (HEFCE): www.staffs.ac.uk/feo/

ACAS Guide to Flexible Working and Work Life Balance: www.acas.org.uk/media/pdf/a/o/B20_1.pdf

A Guide to Work Life Balance and Good Practice at Oxford Brookes University: <http://www.business.brookes.ac.uk/research/cdpr/publications/gpg.pdf>

Paternity Leave model self-certificate (SC3): <http://www.hmrc.gov.uk/forms/sc3.pdf>

Work-life Balance 2000: a baseline study: <http://www.dfes.gov.uk/research/data/uploadfiles/RR249.PDF>

UCEA/ECU Age Discrimination Guidance – Guidance Notes 4 and 6: www.ucea.ac.uk or www.ecu.ac.uk