

# ATL ADVICE



## Flexible working

ATL receives many enquiries from members interested in applying for flexible working. This factsheet aims to give members an understanding of flexible working and the application process.

### What is flexible working?

Flexible working is a request by an employee to change their working hours/days and/or work from home.

### Who can make an application for flexible working?

To qualify for the statutory right to request flexible working you must:

- have worked for your employer for 26 weeks continuously prior to making your application
- have a distance of 12 months between your present application and any previous application.

If you meet this criteria you will have the statutory right to make a request provided you:

- have a child under 17 (or 18 with effect from April 2011)
- have a disabled child under 18 who receives Disability Living Allowance (DLA)
- are the parent/guardian/special guardian/foster parent/private foster carer, or as the holder of a residence order or the spouse, partner or civil partner of one of these and are applying to care the child
- care, or expect to care, for an adult who is a spouse, partner, civil partner or relative, or an adult who, although no relation to you, lives at the same address as you.

### How do I make an application for flexible working?

You should make a written request for flexible working

that fulfils certain legal requirements, including explaining the likely effects of the changes on your employer (see the sample letter below).

Within 28 days of receiving the application the employer must either:

- send a written notice to the employee agreeing to the application, or
- meet with the employee to consider the request and notify him/her in writing of the decision within 14 days of the meeting.

### Are there any tips for making an application?

Yes. You may want to approach your employer informally in the first instance and assess their reaction. Make a note of any concerns they may have.

Try and address these concerns when making your formal written application. 'Sell' your application by keeping the tone positive and emphasising any benefits the changes could bring the school/college, for example retaining the skills and experience of a committed member of staff.

End your application on an upbeat note such as "I am confident that with goodwill and flexibility on both sides we can reach agreement".

### Does my employer have to grant me an application for flexible working?

No. Your employer can reject the application if they feel it would place too much of a burden on the school/college.

There are eight statutory reasons for refusal that can be given. These are:

- burden of additional costs
- detrimental effect on ability to meet customer (pupil/parent) demand
- inability to reorganise work among existing staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- inability to recruit additional staff
- planned structural change.

ATL has noticed that some employers give non-specific reasons for rejecting applications, for example that it is 'not convenient' or there are 'too many' part-time staff. Clearly, these are too general (and the latter potentially discriminatory) and an employer should be pressed to state how their reason(s) match any of the above criteria.

## Can I appeal if my application is refused?

Yes, you have 14 days in which to lodge an internal appeal, which must be considered at a formal appeal meeting.

## Further information

For teachers in Northern Ireland, the Teachers' Negotiating Committee procedure on flexible working can be found at [www.deni.gov.uk/tnc\\_2009-6\\_flexible\\_working\\_scheme\\_for\\_teachers-2.pdf](http://www.deni.gov.uk/tnc_2009-6_flexible_working_scheme_for_teachers-2.pdf). For support staff in Northern Ireland, the statutory document ER36 is available at [www.delni.gov.uk/index/publications/pubs-employment-rights/erbooklets/er36.htm](http://www.delni.gov.uk/index/publications/pubs-employment-rights/erbooklets/er36.htm).

The conditions of service for teachers in Scotland are agreed by the Scottish Negotiating Committee for Teachers, see [www.snct.org.uk](http://www.snct.org.uk) for more information.

## Sample letter

ATL members may find the following sample letter useful when making an application for flexible working.

## Sample letter

Dear ...

I would be grateful if you could treat this letter as a formal request for flexible working under section 80F of the Employment Rights Act 1996.

I have the principal responsibility for the childcare of ... who is aged ... In order to meet my childcare responsibilities I need to work flexibly. Specifically, I wish to work for (state what you want, eg three days per week: Monday, Tuesday and Wednesday).

I am, as you know, fully committed to my role as ... at ...school/college. This request gives the school/college the advantage of retaining my proven skills, expertise and commitment while recognising my need for a reasonable work-life balance. It also gives the students the continuity that a familiar figure provides.

I believe my request for flexible working is both reasonable and achievable. I am advised that a refusal could be regarded as indirect sex discrimination, as the majority of carers of young children are women and a requirement to work full time could therefore have a detrimental effect on a considerably larger proportion of women than men. However, I am confident that with goodwill and flexibility on both sides we will be able to reach agreement.

I look forward to hearing from you, specifically that you either agree to my request or are able to discuss it at a meeting within 28 days of receiving this application.

Thank you for giving my application your time and consideration.

Yours sincerely



### Need advice?

Your first point of contact is the ATL rep in your school/college. Your local ATL branch is also available to help, or you can contact ATL's member advisors on 020 7930 6441, email [info@atl.org.uk](mailto:info@atl.org.uk). Don't forget there's lots more advice on ATL's website at [www.atl.org.uk](http://www.atl.org.uk).

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