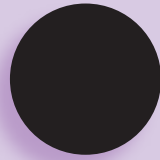


EMPLOYMENT ADVICE

Job sharing

information and advice for members



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1 Introduction

ATL believes that job sharing is important in achieving equal opportunity in employment practice in educational establishments; it helps to retain existing staff and to ensure that vacancies are available to as wide a field as possible.

For those who are not able to work full-time, job sharing can provide an opportunity to work fewer hours while maintaining skills, career development, status and job satisfaction. It can also have a significant impact on staffing because it:

- enables women and men who are out of the profession due to family responsibilities to return;
- encourages women to resume work sooner after maternity leave;
- enables men to share in the upbringing of children and the care of the wider family, while women can continue with career and family responsibilities;
- provides work opportunity for disabled people who may not be able to work full-time;
- may be attractive to staff approaching retirement who wish to reduce the pressures and commitments of full-time work.

ATL recommends that educational establishments adopt clear and reasonable policies on job sharing after they have consulted staff, unions and professional associations.

Job sharing is advantageous to employers as:

- it can help retain and recruit staff;
- it can bring complimentary skills, experience and expertise to a post that may not be found in one person;
- sickness absence is often lower amongst job sharers and if a job sharer is incapacitated some cover still remains;
- it demonstrates a commitment to equal opportunities;
- there is no evidence that it adversely affects education.

2 What is job sharing?

Job sharing is a way of working where two people share the responsibilities of one full-time position and divide the hours, salary and benefits. It should not be confused with general part-time working. If the job share arrangements for a post end, it should be possible for the post to revert to a single, full-time position.

There are a variety of ways in which a job share can be divided up. The most common include:

- split week – each job sharer works two full days and one half day;
- split day – one partner works mornings and the other works afternoons;
- two days one week and three days the next – the sharers alternate to cover the week;
- alternate weeks – one sharer works one whole week whilst the other works the next week.

3 Contracts

Each partner in a job share must hold an individual contract of employment, giving details of hours and salary, etc. His/her title in the contract should be the same as the established post but with the endorsement, 'job share'. Where a full-time employee transfers to job sharing, the existing contract should be terminated and replaced by a permanent job share contract. All the terms and conditions of employment for full-time workers should be applied to job sharers on a pro-rata basis.

4 Job descriptions

The job description should be the same as the established post, and should include an addendum to reflect any agreements on:

- the proportion and nature of the responsibilities;
- the workload of each job sharer;
- the position where overlap/continuity and/or split tasks are required.

The hours to be worked should be stated individually for each job sharer.

5 Salary

Each job sharer should receive the appropriate proportion of full-time salary for the post. Where incremental salary scales apply, it is possible for job share partners to be on different incremental points. It should also be possible for a partner to be paid on an individual basis, for example, where a teacher was being paid a protected salary before the change to job sharing, this may continue.



6 Employment protection rights

An employee acquires the right to bring a claim of unfair dismissal upon completion of one year's continuous service in an educational establishment, irrespective of the number of hours worked. Job-share partners qualify for employment rights on exactly the same basis as their full-time colleagues.

7 Redundancy

When looking for staff reductions, schools and colleges should remember that job sharers are entitled to be treated in the same manner as their full-time colleagues. However, as statutory redundancy payments are based on the weekly salary and years of service at the date of termination of employment, an employee who is made redundant after moving from a full-time post to a job share would receive a lower redundancy payment. For further advice on redundancy, please see ATL's publication entitled, *Redundancy in maintained schools*.

8 Training and development

There may be occasions when it would be desirable for both job sharers to attend the same meetings or in-service training. They and their employers may find it convenient to enter into flexible arrangements for attendance on these occasions, e.g. additional salary and/or time off in lieu. These arrangements should be agreed in advance by both parties and confirmed in writing. Job sharers are entitled to have the same access to training and staff development as all other staff.

Job sharers cannot be required to attend for any directed day or part of a day at a time when they are not contracted to work, unless this has been specified in their contract.

9 Appraisals and performance management

Whilst job sharers are responsible for ensuring that the duties attached to the post are carried out, they are individually responsible for their own performance within the post. Consequently, job sharers should have their individual appraisal/performance review conducted in the same manner as all other employees.

10 Promotion

Job sharers, together or individually, should be considered for promotion in the same way as all other employees.

11 Sick pay

Sick pay entitlement will apply to job sharers, pro-rata to the hours worked. However, entitlements which are awarded on the basis of length of service should be calculated individually.

12 Maternity, paternity, adoption and special leave

Job sharers are entitled to leave in accordance with the terms of their employment and to be paid on a pro-rata basis.

13 Cover

Some job sharers may welcome the opportunity to cover during the absence of their partners. However, they are not obliged to do so. If the absence is prolonged, then it would be appropriate for the partner who has agreed to cover to be paid at the job sharing rate. Where the partner is unable to cover the hours, the normal arrangement for recruiting temporary part-time staff should apply.

14 Pensions

Job sharing, for pension purposes, is regarded as part-time employment.

The Teachers' Pension Scheme

Since 1 January 2007, part-time teachers/lecturers starting a new contract, or deemed by their employer to have had a change of contract, will be automatically entered into the Teachers' Pension Scheme (TPS), on the same basis as full-time workers. However, those already in post prior to this date must elect to have pension contributions deducted from their salary.


On retirement, pension benefits will be based on the total number of years and days worked from part- (and full) time employment, together with average salary, using the full-time equivalent salary for part-time periods. The average salary will be the better of:

- pensionable salary in the 12 months before leaving; or
- the average pensionable salary of the best three consecutive years in the last 10 years before leaving, revalued in line with the Retail Price Index; or
- the best 365 days in last three years' employment (this calculation will not be performed on retirements after 31 December 2008, where there is any service on or after 1 January 2007).

Please note that the relevant schemes in Scotland and Northern Ireland are called the Scottish Teachers' Superannuation Scheme (STSS) and the Northern Ireland Teachers' Pension Scheme (NITPS), and are virtually identical to the NITPS. Most university lecturers in Scotland are eligible to join the STSS. University lecturers in Northern Ireland may be eligible to join the NITPS or the NI Universities Superannuation Scheme. Check your contract or with your employer.

Local Government Pension Scheme

Most support staff in schools will be eligible for the Local Government Pension Scheme (LGPS). Those on a contract of at least three months are automatically put into the scheme. Those on a succession of shorter term contracts will be eligible once they have completed three months and are still employed; they then have the option to backdate their membership of the scheme.



On retirement, pension benefits will be based on the total number of years and days worked from part- (and full) time employment, together with average salary, using the full-time equivalent salary for part-time periods. This will be calculated as:

- best year out of the last three.

If your salary has been restricted, or you have taken a post of lower responsibility, the following calculation can be used:

- average of the best three consecutive years in last 10 (ending on 31 March).

Please note that you need to choose to have this calculation used if this affects you. Please also be aware that in the LGPS, each contract you have (whether concurrent or sequential) accrues separate benefits, unless you chose to bring them all together. It is possible to retire from one post and not another if you have more than one.

In Scotland, the rules are very similar to the LGPS, although the last five years can be looked at where you have a 'Certificate of Protection' in the cases of salary restriction through no fault of your own. In Northern Ireland, the Local Government Officers' Superannuation Committee will consider a period of 13 years in similar circumstances. Please contact your local Fund administrator for details.

Universities Superannuation Scheme

All part-time employees are eligible to join the scheme as long as they satisfy the normal membership criteria of being in employment with a Universities Superannuation Scheme (USS) institution, in a pensionable post of an appropriate type, under age-60 at the date of joining and not already a USS pensioner. Special arrangements exist for employees who are aged-60 or over. Please consult your finance office for further information.

At retirement, pension benefits will be based on the total number of years and days worked from part- (and full) time employment, together with average salary, using the full-time equivalent salary for part-time periods. Your pensionable salary is either:

- the highest revalued annual salary during the last three years; or
- your highest revalued salary averaged across any three consecutive years over the last 13 years.

For further information, please contact ATL's Pension advisers at our London office on 020 7782 1600.

Please also see the following ATL Pension Factsheets on the TPS:

Factsheet 9: *Part-time and supply teaching, and part-time lecturing*

Factsheet 12: *Calculation of pension benefits*

Factsheet 15: *Taking a drop in salary*

And *ATL's guide to the Local Government Pension Scheme*. All can be ordered from ATL Despatch by phone on: **0845 4500 009**, by email at: **despatch@atl.org.uk** or as downloadable pdfs from ATL's website at: **www.atl.org.uk**.

15 Applying for a job share

Those wishing to apply for a job share should write to their headteacher/principal and/or complete appropriate forms. Job share policies/procedures should be followed. The initial application should present a good case for the job share and include the following:

- the reason(s) for the request. Emphasise your commitment to your work and to your employer. Explain why you need to reduce your working hours;
- the provisional date on which you wish to start the job share, as well as the days/hours you would like to work;
- why you believe a job share would be practicable and in the interests of the school/college;
- details of the person who wishes to share the job (if known).

16 Finding a job share partner

Establishing a job share from amongst existing staff may well be an ideal solution for many schools and colleges. As an alternative, one job share application can be agreed in principle and an advertisement placed for a partner in accordance with normal arrangements. It should not be necessary for a job sharer to apply with a partner in order to be appointed.

Where the job sharer is an existing employee, s/he should not be subject to another selection interview when transferring to a job share, although it may be necessary to discuss altered job descriptions or to be involved in joint discussions with the other job sharer.


17 Rejection of a job share application

ATL members who request a job share and are rejected should contact their Regional Official/Branch Secretary or their respective offices as soon as possible. After communicating with you, ATL may contact your headteacher and/or local authority personnel section or Principal. We will advise you with regard to appealing against the decision and/or taking out a grievance. ATL will also consider the legal merits of using anti-discrimination legislation. However, as there are strict time limits in lodging claims in the employment tribunals, ATL must be contacted at an early stage.

18 What happens when one job sharer leaves?

ATL believes that all employers should have a clear procedure which is followed when a job sharer leaves. Members are advised only to accept those schemes which make provision for:

- The full-time post to be offered to the remaining job share partner, providing there are not particular circumstances which would make this inappropriate. The partner should be free to choose not to work full-time;
- The vacant job share post to be advertised, and for recruitment and selection to be undertaken as for any other post.



Schemes which do not offer the first option, where, in effect, the post has to be filled permanently on a job share basis, do not, in ATL's view, contribute to equal opportunities. They would oblige job sharers who subsequently wish to work full-time to resign their job share and apply for a new full-time post. ATL maintains that job sharers should have the opportunity to work full-time.

If employees are to have confidence in job sharing schemes, it is essential that the resignation of one job sharer should not cast doubt on the security of the other job sharer. Schools and colleges should be aware that, under employment legislation, employees gain protection against unfair dismissal after they have worked continuously for one year for the establishment in which they are employed.

Schools/colleges tend to experience few problems in recruiting job sharers. Consequently, ATL believes that suggestions of dismissal because of the resignation of a job share partner should seldom arise. Members in this situation should contact ATL immediately for advice and assistance.

19 Changing from full-time to job share for childcare reasons

Increasing numbers of women in full-time employment have expressed the desire to job share following their return from maternity leave. They have the right to return to work in the same job on the same terms and conditions. There is no legal right to return to work on a job share basis following maternity leave. However, ATL believes that most full-time posts in schools/colleges can be job shared. Employment tribunals and courts will not readily accept employers' reasons for refusing job share requests. A refusal by an employer to permit job sharing in these circumstances may be challenged as sex discrimination or a breach of the Flexible Working Regulations (see section 20 below).


20 The legal context

When considering an application and implementing arrangements for job sharing, schools and colleges should be aware of their obligations under the equal opportunities legislation, which include the following:

Sex Discrimination Act 1975

The Sex Discrimination Act 1975 permits women and men of any age to bring claims of direct and indirect discrimination in employment on the grounds of sex, marital/civil partnership status, pregnancy or maternity leave. It is not uncommon for women on full-time contracts who are on maternity leave to request a job share (or part-time work) on their return because of child care responsibilities. They have the right to return to their full-time post; there is therefore no positive right to resume work on a job share basis. However, a refusal to allow such women to job share or work part-time has resulted in a significant number of tribunal claims for indirect sex discrimination.

Indirect sex discrimination concerns cases in which employers treat all their employees in the same manner but this results in a disparity in the impact of that treatment. It is generally accepted by employment tribunals and courts that women have greater child care responsibilities than men. Therefore, employers



who insist on a resumption of full-time work after maternity leave may indirectly discriminate against women since fewer of them will be able to work full-time. Employers in this situation will have to have sound objective reasons to justify their refusal.

A claim for sex discrimination must be lodged in the employment tribunals within three months of the date when the alleged act of discrimination took place. ATL members are advised to contact their Regional Official, Branch Secretary or their respective offices as soon as possible if their request for a job share has been rejected.

Flexible Working (Procedural Requirements) Regulations 2002 and Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002

An employee may formally apply in writing to the employer to request a change in hours, times or location of work to enable him/her to care for a child. The employee is eligible to request 'flexible working' if s/he is, or is the partner of, the mother, father, adopter, guardian or foster parent of the child and expects to have responsibility for the upbringing of that child. Carers of adults are also able to make the same request.

Eligible employees can apply for a job share under these Regulations. The employer can reject the application only on the following prescribed grounds:

- additional costs;
- detrimental effect on the ability to meet customer demand;
- inability to reorganise work among existing employees;
- inability to recruit additional employees;
- detrimental impact on quality or performance, inefficiency of work during the periods during which the employee proposes to work or planned structural changes.

Within 28 days of the request, the employer must hold a meeting with the employee to consider the request. The employer should write to the employee within 14 days thereafter, either accepting the request or rejecting it. If the request is rejected the employer is required to give a sufficient explanation of the specified ground(s) for doing so and to set out the appeals procedure. The employee has the right to appeal within 14 days of this decision. An appeal hearing must then be held within 14 days of notification of the appeal, to which the employee has the right to be accompanied.

An employee may complain to an employment tribunal where the employer has:

- refused the request on grounds other than those described above;
- rejected the request on incorrect facts;
- failed to follow the procedure described in the Regulations.

The time limit for bringing a claim to an employment tribunal is three months from the date the employee is notified of the decision on appeal or breach of this procedure. If the claim is successful, the tribunal may order the employer to reconsider the request and award maximum compensation of eight weeks' pay (currently capped at £330 per week from 1 February 2008).



The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

The above Regulations provide that part-time workers have the right not to be treated less favourably by an employer when compared to full-time workers with regards to the terms of their contracts of employment, unless that treatment can be objectively justified. These terms include salary, holiday entitlement, rate of sick pay or maternity pay, access to pension schemes or training schemes, and the criteria used to select jobs for redundancy. Job sharers can therefore seek redress under these Regulations.

In an attempt to resolve disputes, the Regulations provide that the part-time worker/job sharer can request, in writing, a statement from the employer, explaining the reasons for what the worker considers to be unfavourable treatment. The employer must provide a written response within 21 days.

The worker may make a complaint to an employment tribunal that the employer has infringed these Regulations. The complaint must be lodged within three months of the date on which the less favourable treatment occurred.

Disability Discrimination Act 1995


The Disability Discrimination Act 1995 requires employers to make 'reasonable adjustments' to premises or working practices to ensure that employees are not disadvantaged because of their disability.

In order to have rights under the Act, an employee must show that s/he is disabled as defined by it. This means suffering from a physical or mental impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities. Any adverse effects must last (or be expected to do so) for at least one year to be considered 'long-term'.

Impairments must affect at least one of the following:

- mobility;
- manual dexterity;
- physical co-ordination;
- continence;
- ability to lift, carry or otherwise move everyday objects;
- speech;
- hearing;
- eyesight;
- memory or ability to concentrate, learn or understand;
- perception of risk of physical danger.

Under the Act, people with Cancer, Multiple Sclerosis and those who are HIV positive are deemed to be disabled from the point of diagnosis. Other impairments that employment tribunals have considered a disability include depression, epilepsy, ME and asthma. This does not mean, however, that all people who suffer from other impairments are disabled under the Act; much depends on how their ability to carry out at least one of the day-to-day activities listed above is affected.



In educational establishments, making reasonable adjustments to working arrangements can include permitting a disabled employee to alter his/her working hours by job sharing.

A claim for disability discrimination must be lodged in the employment tribunals within three months of the date on which the act complained of occurred.

ATL members are advised to contact their Regional Official, Branch Secretary or respective offices as soon as possible if their request for a job share has been refused.



Further information

Further information on job sharing can be obtained from the following government websites.

Northern Ireland Executive, Department of Education at:
www.deni.gov.uk

The Scottish Government, Education and Training at:
www.scotland.gov.uk/Topics/Education

The Welsh Assembly Government, Education and Skills at:
new.wales.gov.uk/topics/educationandskills/?lang=en

ATL's website at:
www.atl.org.uk

Members may find related advice contained in ATL's publication entitled, *Family, work and you* of use. Copies of can be obtained from ATL Despatch by phone on: **0845 4500 009**, by email at: **despatch@atl.org.uk** or as a downloadable pdf from ATL's website.

ATL, the education union, uses its members' voice to influence education policy, impacting positively on pay, conditions and career development across the UK. From early years to post-16, support staff to leaders, we represent education professionals throughout their career.

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To receive the text of this publication in large print, please contact ATL on 020 7930 6441.

Association of Teachers and Lecturers 2008

ATL members	FREE
Non-members	£9.99
ATL product code	PE09
ISBN	1-902-466-28-4

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