



## Working part time after maternity leave

ATL receives many enquiries from female members employed on full-time contracts who wish to return to work part time after maternity leave. This factsheet aims to provide answers to the most frequently asked questions and applies across the UK.

### **Do I have the right to resume work on a part-time/job-share basis following maternity leave?**

You do not have an automatic right to resume work on a general part-time or job-share basis after your maternity leave. However, you can ask and your employer should consider your request seriously.

### **Do I have any legal rights because of my childcare responsibilities?**

It is generally accepted by employment tribunals and courts that women have greater childcare responsibilities than men. Therefore, employers who insist on resumption of full-time work after maternity leave may indirectly discriminate against women since fewer of them are able to work full time.

An unjustifiable refusal of a request to go part time or job share may amount to indirect sex discrimination under the Equality Act 2010 and the Sex Discrimination(Northern Ireland) Order 1976.

### **How do I pursue a claim for indirect discrimination?**

The starting point is to show that being required to work full time will put you at a disadvantage. The physical and emotional stress of working full time, coupled with the inconvenience and expense of maintaining practical childcare arrangements, can amount to a disadvantage.

The employment tribunals/courts will consider the individual circumstances of each case.

### **Can my employer justify an insistence on full-time work?**

Your employer must prove that insisting on full-time working can be objectively justified. They must show they have carefully examined whether the change is feasible, what problems continuing to work full time will cause you and whether it is essential for the school/college.

Your employer should not rely on suppositions for rejecting your request, such as the parents will not like it or that it would be detrimental to the education of the pupils. Employment tribunals and courts will consider the employer's evidence and balance it against the discriminating effect on you.

### **Are there any tips on requesting part time/job share?**

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

You should make a written request, which tries to address concerns that have been raised. The tone of your letter should be positive, emphasising your commitment to the school/college and that your skills and experience will be retained – see sample letter below. ATL should be contacted for further advice and support at this point.

## **Should I appeal if my request is refused?**

Yes. You should contact ATL before lodging an appeal. We can advise and assist you with the appeal. While a disappointing decision can result in some members considering resignation, you should seek ATL's advice first.

## **Do I have any legal redress if my request is turned down?**

If your employer rejects your request, ATL will consider legal proceedings on your behalf for indirect sex discrimination. A claim must be lodged in the employment tribunals within three months of the date on which the alleged discriminatory act took place.

As time limits are strictly applied, you are strongly advised to contact ATL as soon as you receive a negative decision, either verbally or in writing, and not wait for the outcome of an appeal.

## **What can be achieved by claiming indirect sex discrimination?**

In successful cases, the employment tribunal can order the employer to pay compensation to the employee for financial loss caused by the discrimination.

Compensation could cover past and future loss of earnings, loss of opportunity as well as the upset, stress, etc caused by your employers (known as injury to feelings).

## **My employer has asked me to relinquish my responsibilities in return for part time/job share. Is this reasonable?**

No. It is possible and reasonable to maintain career development while working part time, and positions of responsibility can often be successfully job shared.

A positive response to the sharing of responsibilities demonstrates an employer's commitment to equal opportunities. An imposed demotion could amount to indirect sex discrimination.

## **I have a permanent full-time contract. My employers have offered me part-time work on a fixed-term basis. Is this reasonable?**

It would not be reasonable to offer continued employment only on a fixed-term basis if permanent work is available.

## **Can I apply for flexible working?**

It is possible to apply for part-time work or a job share under the Flexible Working Regulations (which cover the UK) if you have been employed for at least 26 weeks (your maternity leave counts towards this time).

If you apply, your employers can reject it on at least one of the business reasons specified in the Regulations – see ATL's factsheet on flexible working, which can be found at [www.atl.org.uk/factsheets](http://www.atl.org.uk/factsheets).

## **Do I have any legal redress if my flexible working application is refused?**

You can bring a claim in the employment tribunals only if your employer has failed to follow the procedure laid down in the Flexible Working Regulations, has rejected your request on an impermissible ground, or the refusal is based on incorrect facts. Employment tribunals can only order the employer to re-consider your application and award a maximum of eight weeks' pay (currently capped at £464 per week from 6 April 2014).

As limited legal redress is available under the Flexible Working Regulations, ATL members who wish to resume work part time or on a job-share basis after maternity leave are advised to use ATL's sample letter, instead of completing an application form under these Regulations.

## SAMPLE LETTER

Dear

I would be grateful if you would treat this letter as a formal request to change from full-time to part-time employment following my return from maternity leave on [date].

I have the principal responsibility for the childcare of .....who is aged .... In order to meet my childcare responsibilities, I need to work part time. It would be too physically demanding, emotionally draining and inconvenient for me to work full time while bringing up my child.

I want to spend part of the week with my child while he/she is young and believe that it is undoubtedly in his/her interests that I do so. It would also be difficult/expensive to maintain practical arrangements for the full-time care of my child.

Specifically, I wish to work for [state what you want, eg three days a week: Monday, Tuesday and Wednesday] and would be willing to job share.

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 to meet my childcare responsibilities. It also gives students the continuity that a familiar figure provides.

I believe that my request for part-time work 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 do hope that with goodwill and flexibility on both sides we shall be able to reach agreement.

Thank you for giving my request your time and consideration. I believe I still have much to offer the school/college on a part-time basis and hope that I shall be permitted to do so, while maintaining my childcare responsibilities.

I look forward to hearing from you.

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 advisers 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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