



Flexible working and work-life balance

Why is there a need for work-life balance and flexible working?

The hours and times people work have always been subject to change but the pace of this change is now more rapid than ever because:

- customers expect to have goods and services available outside traditional working hours
- organisations want to match their business needs with the way their employees work
- individuals want to achieve a better balance between work and home life

Matching customer and business needs

Organisations are under constant pressure to produce goods and services, of the right quality and the right price, as and when customers want them. This pressure can often mean that new ways of working have to be found to make the best use of staff and other resources.

Flexible patterns of work can help you to address these pressures by maximising the available labour and improving customer service.

Flexible working can also help you to reduce absenteeism and increase productivity, employee commitment and loyalty.

What is flexible working?

There are many different forms of flexible working. Flexible working can describe the place we work – such as homeworking – or the kind of contract we are on – such as a temporary contract.

Common kinds of flexible working include part-time working, flexitime, job sharing and shift-working.

Recognising family and caring responsibilities

More and more people do two jobs - they work and they look after children or elderly relatives.

The majority of families (68%) with dependent children have two working parents. Within these families there is as much focus on the role of the working father as the working mother.

There are also over 1.9 million families with dependent children headed by a lone parent – and 53% of these parents are working. The 2001 Census carried out by the Office for National Statistics estimates that there are 5.2 million carers in England and Wales. Many of these carers do paid work as well. Of the 15.2 million employees aged 16-74 in full-time work, 1.6 million are providing at least some unpaid care.

More choice for employees

The 2004 Workplace Employment Relations Survey showed that 64% of employees have the choice of working part-time (up from 46% in 1998). The survey also reported an increase in the availability of:

- homeworking
(up from 16% to 28%)
- job sharing
(up from 31% to 41%)
- parental leave
(up from 38% to 73%)

Problem:

You cannot recruit staff locally as most possible recruits have family responsibilities and can't work the hours available.

Solution:

You introduce flexitime which allows workers to adjust their start and finish times but still provide adequate cover.

Problem:

Your organisation has seasonal peaks and troughs so your need for employees also fluctuates during the year.

Solution:

You agree an annualised hours system with the recognised trade union. Your employees work a set number of hours during the year to suit customer demands.

Problem:

You are a single parent with a five-year old child. The cost of after-school care is making it difficult for you to cope.

Solution:

Your employer agrees that you can start and finish work earlier.

Problem:

You live two hours away from your office and have caring responsibilities for an elderly relative.

Solution:

You ask your manager if you can work at home one day a week and they agree to a trial period.

Other people may also be unable or unwilling to work normal full-time hours but potentially be valuable employees. These might include:

- people combining work with continuing education
- those with duties or interests outside work
- employees needing time off for religious observances
- people who have retired from fulltime work but who are available on a part-time or temporary basis.

Employees who work flexibly often have a greater sense of responsibility, ownership and control of their working life. If a manager helps an employee to balance their work and home life this can be rewarded by increased loyalty and commitment. An employee may feel more able to focus on their work and to develop their career.

The rights of parents and carers

In April 2003 the Employment Act introduced the right for parents of young and disabled children to apply to work flexibly.

From April 2007 this right has been extended to cover carers of adults. The definition of carer is an employee who is or expects to be caring for an adult who:

- is married to, or the partner or civil partner of the employee; or
- is a relative of the employee; or
- falls into neither category but lives at the same address as the employee

The 'relative' definition includes parents, parent-in-law, adult child, adopted adult child, siblings (including those who are in-laws), uncles, aunts or grandparents and step-relatives.

Employers are responding positively to employee requests to work more flexibly. A survey from the Department of Trade and Industry, published in 2006, showed that four out of every five flexible working requests were either fully or partly accepted.

For further information on how employees should make a request for flexible working - and how employers should respond to these requests – see [Appendix 6](#), [Appendix 2](#) has more information on flexible working and the law.

Using a trial period

You might be asked by an employee for flexible working to cover looking after an ill relative. Remember that the employee may not know the demands of the caring responsibilities and may not know the working pattern best suited to both your needs. In these instances why not agree to a trial period. You could test out the type of flexible working that seems most suitable and review how it's going at the end of the trial period.

What are the different kinds of flexible working?

There are many different forms of flexible working that cover the way our working hours are organised during the day, week or year. Flexible working can describe the place we work – such as homeworking – or the kind of contract we are on – such as a temporary contract.

Flexible working hours

Flexible working hours include:

- part-time work
- flexitime
- overtime.

Part-time work

Part-time is when employees are contracted to work for anything less than the normal basic full-time hours. Part-time workers make up 25% of workers in Britain and 80% of them are women.

What are the advantages and disadvantages?

Machinery and other equipment can be used more efficiently if part-time workers cover lunch breaks and operate twilight shifts.

Where do they work?

Part-time

Part-time workers are often found in hotels, restaurants, health and social work, shops, warehouses, business and financial services and agriculture.

Flexitime

Flexitime is mostly used for officebased staff below managerial level in the public sector and in private sector service organisations. Manufacturing companies are less likely to operate flexitime.

Overtime

Overtime is most common among manual workers. Other groups, such as professional staff, often work considerable amounts of unpaid overtime.

Employee levels can also be increased during times of peak activity and the hours of operating extended by using part-time workers in the evening or at weekends. The employment of part-time workers may lead to higher training, administrative and recruitment costs.

For example, it may take longer to recruit two part-timers than one fulltimer to cover the same hours of work. Providing a continuous level of service may also be more difficult.

Problem:

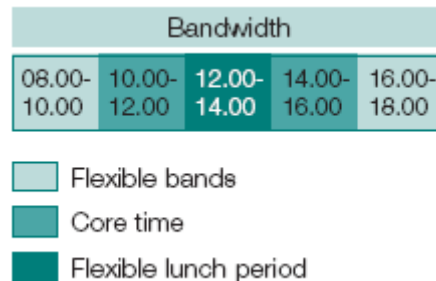
I need to extend the hours my business runs to cover 8am-8pm but I can't afford the extra overtime.

Solution:

Switching to flexitime could help provide staff cover and reduce the need for overtime. Some employees might appreciate the advantages of working more flexibly – for example, travelling outside peak times.

Flexitime

Flexitime allows employees to choose, within set limits, when to begin and end work. Employees are required to work during core times and must work an agreed number of hours during a settlement or accounting period (typically four weeks). Outside the core times, at the beginning or end of each day, are flexible bands when employees may choose whether to be at work. For example:



The total period your workplace is open is called the bandwidth. You need to decide what happens at lunch breaks – start and finish times and the maximum and minimum lunch period that can be taken.

Hours of attendance are recorded and added up at the end of each settlement period. Within limits, employees can carry over any excess or deficit in the number of hours they are required to work (typically a day to a day and a half a month). Some schemes allow employees to take excess hours as additional leave, known as flexi-leave.

What are the advantages and disadvantages?

For employers, flexitime can aid the recruitment and retention of staff. Flexitime can also improve the provision of equal opportunities to staff unable to work standard hours.

On the debit side, flexitime can result in increased administration costs. These may include the costs of keeping records, and extra heating and lighting. Providing adequate supervision throughout the bandwidth may also be difficult.

Overtime

Hourly paid workers are more likely to have a recognised system of paid overtime than salaried staff. UK companies have traditionally worked higher levels of overtime than other European countries.

What are the advantages and disadvantages of overtime?

Overtime can provide flexibility for employers to meet fluctuations in demand, bottlenecks in production and labour shortages without the need to recruit extra staff. Providing paid overtime, even with premium payments, is often less costly for employers than recruiting and training extra staff or buying extra capital equipment.

Employees can become fatigued when working excessive overtime. This can result in high absence levels and unsafe working practices.

WARNING:

Overtime should not be used to compensate for low pay. The regular working of long hours can adversely affect employees' performance, health and home life.

Flexible working weeks

Flexible working weeks include:

- job sharing
- compressed hours

Job sharing

Job sharing is a form of part-time working where two (or occasionally more) people share the responsibility for a full-time job. They share the pay and benefits in proportion to the hours each works. Job sharers may work split days, split weeks, or alternate weeks.

What are the advantages and disadvantages?

Job sharing can increase flexibility when used to meet peak demand, for instance by both sharers being present when workloads are heavy. However, the employees must agree any changes to the contracted hours.

If one partner is absent, due to illness or holiday, the other partner can carry on with at least half the work. Two people can also bring a wider range of skills, experience, views and ideas to the post. Job sharing is particularly useful for carers or parents of young children and can make it easier for women to return to work after maternity leave.

TIP:

Successful job sharing depends to a large extent on the partnership between the sharers.

Employees need to work well as a team and think about how their working styles complement each other.

Disadvantages can include the extra costs of induction, training and administration. If one job sharer leaves, it may be difficult to find someone to complement the hours worked by the remaining sharer. If the job share involves managing or supervising staff, this may create problems with staff who find it difficult working for two managers.

Job sharing also places added responsibility on supervisors, who must allocate work fairly and ensure that the job sharers communicate effectively.

Compressed working weeks

Compressed working weeks involve the relocation of time worked into fewer and longer blocks during the week. This does not necessarily involve a reduction in total hours worked or any extension in individual choice over which hours are worked.

Through starting early and/or finishing late, employees can build up additional hours which they take as a day or half-day away from work.

What are the advantages and disadvantages?

Compressed working weeks can help with recruitment and reduce overtime, labour turnover and absenteeism. However, it may be difficult to schedule work and to provide sufficient cover within the compressed working period. In addition, where employees are highly interdependent, time off must be on a strict rota basis.

For employees, compressed working weeks can provide a longer weekend and increased leisure opportunities.

Some employees, however, may find it difficult to adjust quickly to work after a long weekend and the longer daily work periods of compressed working weeks can increase fatigue.

A compressed week

9am-6pm: Monday, Tuesday, Wednesday, Thursday 9am-1pm: Friday (total: 40 hours)

An employee can also sometimes opt to work nine days out of 10 in a fortnight.

A normal week

9am-5pm: Monday, Tuesday, Wednesday, Thursday and Friday (total: 40 hours)

Other ways of increasing flexibility

These include:

- shiftwork
- annual hours
- term-time working

Shiftwork

Shiftwork is a pattern of work in which one employee replaces another on the same job within a 24-hour period. Shiftworkers normally work in crews, which are groups of workers who make up a separate shift team. In some shift systems, each crew will regularly change its hours of work and rotate morning, afternoon, and night shifts.

Continuous shift systems provide cover for 24 hours, seven days a week. Non-continuous shift systems provide cover for less than the total hours available in a week – for example five 24-hour periods in seven days, or 12-hours out of 24. See also [Appendix 3](#) 'Planning a shift rota' and [Appendix 4](#) 'Types of shift system'.

What are the advantages and disadvantages?

Shiftwork can reduce unit costs because capital equipment is operated more intensively and cheaper off-peak electricity can be used. Rotas in some shift systems can enable a more flexible response to peaks and troughs of demand. Shiftwork can provide higher earnings for employees and allows them to use shops and social facilities at times when they are less crowded.

Why is shiftwork on the increase?

Economic reasons

Shiftwork allows employers to keep up with rapid changes in equipment and IT. It can maximise the use of a plant, reduce production costs and increase output

Social reasons

To meet customer demands retail outlets are commonly open seven days a week and in some cases for 24-hour periods

Shiftwork is widespread in industries which must run on a 24-hour cycle, such as newspaper production, utilities and hospital and emergency services.

On the debit side, shiftworking increases wage and labour costs and can disrupt employees' social and domestic lives. It can also upset employees' body rhythms and cause them to lose sleep. The Health and Safety Executive (HSE) has produced a risk index for shiftworkers, which helps employers to analyse the link between shift patterns and employee fatigue. The risk index and other related information can be found in the 'human factors' section of the HSE website at www.hse.gov.uk.

Annual hours

Under an annual hours system the period within which full-time employees must work is defined over a whole year. Typically, the annual hours an employee is contracted to work are split into:

- set shifts which cover the majority of the year
- unallocated shifts which the employee can be asked to work at short notice

In some systems the employee is paid for unallocated shifts and 'owes' the time to the company. The company holds these hours or 'payback' shifts in reserve and can ask employees to work them at short notice, to cover for colleagues or to cope with peak demand. The company then monitors the hours worked for each employee to identify any 'underspend' or 'overspend'.

The company may not call back all the shifts it is owed – to the advantage of the employee. Annual hours can apply to all employees, but in practice the system is often restricted to shiftworkers.

How are annual hours calculated?

A typical formula to calculate 'annual hours' is:

number of weeks per year, less contractual annual leave and bank holidays, multiplied by the number of working hours per week.

The following example is based on a 39-hour week and five weeks annual holiday:

length of year: 52.00 weeks

deduct

- (a) annual holidays: 5.00 weeks
- (b) public holidays: 1.60 weeks

total working weeks

= 45.4 x 39 hours per week
= 1770.6 annual hours

What are the advantages and disadvantages?

Annual hours can give you greater employee flexibility, reduce overtime and maximise productivity and efficiency. One of the main benefits for employees may be improved basic pay.

One disadvantage is that those groups of employees who have high overtime earnings may resist the introduction of annual hours. Most annual hours agreements specify that employees can be asked to work extra hours at short notice, which can reduce their freedom to plan leisure time. In addition, the seasonal nature of certain businesses may mean that employees will work longer hours during the spring and summer months.

Term-time working

Term-time working gives employees the opportunity to reduce their hours or take time off during school holidays.

What are the advantages and disadvantages?

It solves the problem of childcare for parents and the structured working gives employers plenty of time to plan ahead to cover absence.

However, the long absences during prime holiday time may make it difficult to arrange cover, particularly in specialist roles. Term-time working can also put pressure on other colleagues who feel they cannot take holidays during school holiday periods.

Flexible contracts

Flexible contracts include:

- temporary working
- fixed-term contracts
- sub-contracting
- zero hours contracts.

Temporary working

A temporary worker is someone employed for a limited period whose job is usually expected by both sides to last for only a short time.

Temporary workers may be employed directly by the employer or by private agencies. Agencies will recruit, select and sometimes train temporary workers and hire them out to employers.

Fixed-term contracts

Temporary workers are sometimes hired on fixed-term contracts. A fixed-term contract is a contract of employment based on a definite period or the completion of a specific task. Employment ends when the contract expires and no notice need be given by the employer. Fixed-term contracts can sometimes be ended by notice on either side before the expiry date of the contract.

What are the advantages and disadvantages?

Temporary workers and workers on fixed-term contracts can provide greater flexibility because the number employed can vary to take account of changes in demand for the product or service. These workers can also provide cover for permanent staff on leave, as well as additional support during peak times or to carry out specialist projects.

However, organisations which use agency 'temps' are dependent largely on the screening and testing methods used by the agency to select staff. Using temporary staff and fixed-term contracts may also restrict the training opportunities for other members of staff. Also, employees who have been employed on successive fixed-term contracts for a period of four continuous years can become permanent employees.

WARNING:

You need a period of notice for fixed-term contracts. This means that if circumstances change you can terminate the contract during the course of the fixed term.

Sub-contracting

Sub-contracting is the use of a commercial contract to 'get the job done'. Sub-contracted workers range from permanent employees of large organisations – such as building, computer or catering firms – to small one person businesses.

What are the advantages and disadvantages?

It is easy to arrange contracts as and when a particular job needs doing. It is often cheaper to sub-contract work to a contractor who can provide ready trained staff and expertise for a limited period. On the other hand, contract workers may sometimes not be as well motivated as directly employed staff and may also have a different working 'culture' from those directly employed.

A worker or an employee?

An employee is someone who works for an employer under a contract of employment.

A worker is a term that includes employees and also other groups such as agency workers or anyone carrying out work who is not genuinely self-employed.

Legal Facts:

Under the National Minimum Wage Regulations 1998 workers on 'stand-by-time', 'on-call time' and 'downtime' must be paid the National Minimum Wage provided they are at the place of work and required to be there. Similarly, such time is likely to count as working time under the Working Time Regulations 1998 if the worker is required to be on-call at the place of work.

Zero hours contracts

Zero hours contracts are arrangements where people agree to be available for work as and when required but no particular number of hours or times of work are specified.

What are the advantages and disadvantages?

Zero hours contracts may suit some people who want occasional earnings. However, these contracts can be misused. For example, employees might be asked to clock off during quiet periods while remaining on the premises.

Flexible places of work

Many employees spend all or part of their working week away from their employers' workplace. This form of working is often called 'teleworking' and includes:

- homeworking
- mobile working and hot-desking

Homeworking

Homeworking is when employees do their job from home, either occasionally or as a permanent working arrangement. It requires a working relationship that is based upon trust and encourages employees to manage their own work.

What are the advantages and disadvantages?

Advances in technology make it far simpler to keep in touch and work away from the business. An increasing number of organisations see homeworking as an effective working option.

TIP:

You need to think about how you will supervise your homeworker and monitor their performance. It can help to agree how often the employee comes into the office. Also, keep in regular contact via email and phone.

Homeworking can provide savings on office space and other facilities. Many homeworkers find they can manage their job and home more easily and give a better performance. Others say that they sometimes feel stressed and isolated. Some homeworkers feel they put in more hours without lunch breaks and find it hard to switch off.

Is your job suitable for homeworking?	Yes	No
Telephone sales	✓	
Receptionist		x
Researcher or writer	✓	
Doctor or nurse		x
Customer service	✓	
Mechanic		x

Mobile workers and hot-desking

Traditional mobile workers include sales representatives and delivery drivers. They usually receive instructions by phone or computer at home or in their vehicles.

There is a growing trend for managerial, professional and other staff to spend time working away from their office base and to share desks with colleagues when they are in the office. This is known as hotdesking.

What are the advantages and disadvantages?

Mobile working and hot-desking can provide savings on office space and other facilities. It can improve productivity as people are not interrupted by the day-to-day distractions of office life and politics.

They also reduce or eliminate time spent on travelling and lower absence and turnover rates.

On the debit side, remote working is not suitable for all types of job. Providing suitable technology can be expensive and some people may feel socially isolated. Despite improvements in technology, managers may sometimes find it difficult to communicate with and manage remote workers. Career development and training may suffer and health and safety issues and the recording of working time may also be problematic.

How do I develop a policy to benefit from work-life balance?

To develop a flexible working policy you need to answer the following questions:

Step 1 - Why are you making changes and what do you and your employees want out of them?

Step 2 - What are your options?

Step 3 - How are you going to draw up the policy?

Step 4 - How are you going to put the policy in place?

Step 5 - How well is it working and could it be improved?

Why are you making changes and what do you and your employees want out of them?

The way your business is organised should reflect the needs of your business, your customers and your employees.

But what is your main motivation for making changes – improved production levels, better customer care or more committed employees?

There may be concerns on both sides about the impact of flexible working. Employees may feel guilty about the effect their new working hours will have on the business or colleagues. They may also fear that their career prospects will be damaged if they work part-time or from home.

Employers may worry about a lack of control over who does what and when, and increasing costs for administration and training.

Checklist

- ✓ Plan any changes well in advance
- ✓ Think about the needs of your business
- ✓ Identify what you and your employees want to get out of flexible working
- ✓ Consult widely with employees and employee representatives
- ✓ Do your research – what will work best?
- ✓ Set up a task group to introduce a policy
- ✓ Use a suitability questionnaire
- ✓ Review the likely impact of flexible working on production, staffing, supervision, contracts etc
- ✓ Check what the law says
- ✓ Trial any changes before implementation
- ✓ Monitor how it's working.

What are your options?

Before you make any changes to your working patterns find out what your employees think. They will be aware of the practical implications and potential problems of introducing new forms of flexible working.

Think carefully about the suitability of different forms of flexible working in your organisation. For example, you may be planning to introduce shiftwork in order to increase production levels. However, shiftwork tends to work best where:

- labour costs are low compared with capital costs
- developments in technology are rapid and plant needs to be replaced regularly

Or you might be talking to your employees about how to introduce overtime. But how much overtime should you pay – and for how much work?

The common overtime rate for Monday to Saturday is one and a half times the basic rate. For Sunday and Public Holidays, the usual rate is double time.

Some organisations specify a minimum number of hours to be worked before they pay overtime – commonly between 15 minutes and one hour over the basic working week.

Other organisations vary premiums according to the length of time worked – for example, time and a third for the first two hours and time and a half thereafter on Monday to Friday.

Is the job suitable for flexible working?

A suitability questionnaire asks questions about various aspects of a job. For example, does the job holder:

- manage other staff?
- depend on others for advice or guidance?
- have long or short-term deadlines?
- have control over workflow?

The results of the questionnaire should form the basis for discussion about why a job may or may not be suitable for flexible working. See [Appendix 1](#) for a sample questionnaire.

How are you going to draw up the policy?

Set up a task group with management, union or other employee representatives to plan, draw up and introduce your flexible working policy.

Research has shown that establishing trust between managers and employees is essential if flexible working is to succeed. You may also need to overcome the scepticism of line managers about the feasibility of introducing new working patterns.

Did you know?

- Women on maternity leave can agree with their employers to work up to 10 'Keeping in touch' days
- Carers of adults have the right to apply to work flexibly from 6 April 2007
- From 1 April 2007 Statutory Maternity Pay and Statutory Adoption Pay have increased from 26 to 39 weeks

For more information on legal rights and responsibilities see [Appendix 2](#)

Whatever kinds of flexible working your task group agrees is best you need to decide how you intend to manage:

- time off for religious observances
- time off for training
- career breaks
- bereavement leave
- jury service
- statutory and public holiday
- other special paid/unpaid leave

Any new pattern of flexible working will affect the way your business operates and the relationship between managers and employees.

Anticipate the impact of flexible working on production systems, staffing levels, monitoring and supervision of staff, and the systems you have for communication and consultation.

WARNING:

You must agree any variation in an employee's contract of employment with the employee – for more information see the Acas [Advice leaflet - Varying a contract of employment](#)

How are you going to put the policy in place?

You have researched your ideas, consulted with employees and set up a task group to draw up the policy.

However, have you thought how the system will work in practice? For example, if you are introducing flexitime are you going to record the time worked by employees by:

- manual time sheets?
- clocking systems using timeclock cards?
- computerised electronic systems using swipe cards?

If you have decided to introduce job sharing for certain posts how do you recruit the two people who seem most compatible with each other? It might be worth arranging a meeting between two job sharers before you make the final selection.

Case Study

Keeping in Touch (KIT) days

Sarah tells you she will be taking maternity leave. You explain the purpose of keeping in touch days to ensure she remains fully skilled and effective in her role ready for her return after her leave. You agree in advance the dates for the 10 days. You are both happy with this as you intend to introduce a new computer system and this will ensure Sarah is fully up to speed and able to contribute to developing the work.

You explain to Sarah that she will be paid her salary for these days.

During one of these KIT days, you hear a manager telling Sarah that it is so busy here that no one can even take a holiday and when will she be coming back? The sooner the better! You are aware that this may be perceived by Sarah as pressurising for her to return early and therefore harassing. You reassure her that while you are keen for her to come back to work, she must not feel that she is being pushed into returning before she is ready.

Reasonable contact

As with Sarah, you have a right as an employer to reasonable contact during her maternity leave. It is best practice to agree what this will look like before Sarah leaves. Contact might be:

- a phone conversation
- email
- sending regular in-house magazines
- personal notes updating staff changes, policy changes etc
- sending copies of all vacancies (allowing adequate time to apply!).

Where possible, trial any new system for flexible working before introducing it permanently. This can help to iron out any problems and overcome any fears or anxieties about how new working patterns might affect performance or output.

A well prepared policy still needs to be promoted. Your employees need to know that you regard the policy as a fundamental part of the culture of the business. For example, if you have drawn up a policy to improve the work-life balance of your employees communicate your commitment in writing for example:

We believe in helping everybody in the business to achieve a better balance between work and home life and:

- agree to consider all requests for changes to working arrangements that help support a better work-life balance (see Acas [Advice leaflet - The right to apply for flexible working. A short guide for employers, working parents and carers](#))
- recognise that there are potential benefits for individuals and the business when they are able to manage work and other areas in their lives
- continue to ask what staff need and how best to achieve it. This means consulting with managers, unions or employee representatives openly to find the best options
- provide a written policy that includes clear terms and procedures and working practices that reflect the needs of the business and employees
- provide training throughout the organisation to ensure everybody is clear about the purpose, aims, terms and procedures of the policy
- lead by example and encourage all employees to feel they can use the policy with confidence
- make changes to the policy so it continues to reflect the changing needs of the business and employees.

How well is it working and could it be improved?

Revisit the policy to ensure it's still achieving what it was designed for. If the circumstances of the business or those of your employees change the policy will need to be adjusted.

Consult with management, union or other employee representatives and reach agreements on any revised terms. Continue to encourage use of the policy by communicating its benefits and success.

An employee questionnaire can be a useful way of getting feedback on how the policy is working. You might also want to monitor:

- absence levels
- take-up of flexible working

All policies need to be reviewed from time to time. Team meetings and performance appraisals can be used to analyse how things are working and for coming up with new ideas.

Future trends

In the future there is likely to be increasing focus on the link between flexible working and:

- health and well-being
- diversity
- planning for retirement

Childcare schemes

Good quality and affordable childcare can help parents contribute fully at work in the knowledge that their children are being properly looked after.

Schemes include:

- childcare vouchers
- childcare payments
- buying into places at established nurseries
- workplace crèche/nursery

Further information at www.childcarelink.gov.uk and from Children Mean Business at www.cmb.org.uk

Employers have a 'duty of care' to protect employees from risks to their health and safety. These risks might include stress caused by working long hours or not being able to balance work and home life. Flexible working can help to improve the health and well-being of employees and, therefore, improve their levels of attendance.

Many employees have specific needs at work. These needs might relate to religious beliefs or to their role as a parent or carer. A diversity policy can help you to understand the individual needs of your employees – and to develop a culture which values the differences between individuals. For more information see the Acas [Advisory booklet - Tackling discrimination and promoting equality - good practice guide for employers](#)

The working population is getting older. There are currently 20 million people aged 50 and over in the UK. By 2030 this figure is expected to reach 27 million – an increase of 37%. Employers will have more older workers to recruit and manage and fewer younger workers. You are also more likely to have employees with caring responsibilities who work for you – and more reason than ever to consider introducing flexible working policies.

Your questions answered

Q: I have just received a request for flexible working from an employee who wants to care for a relative. However, the relative they wish to care for is their mother-in-law. Do I need to take this request seriously, and can I ask for proof of the need to care for the relative?

A: Employees can apply to work flexibly to look after a 'relative'. This definition covers parents, parent-in-law, adult child, adopted adult child, siblings (including those who are in-laws), uncles, aunts, grandparents or step-relatives. See Appendix 6 for more details. Your employee does not have to prove the need to care for the mother-in-law. You should follow the procedure set out in [Appendix 6](#).

Q: I run a small firm. One employee has just gone on maternity leave for 52 weeks. How am I supposed to cope?


A: As an employer you will know well in advance that an employee is preparing to take maternity leave. This is the time to make plans for covering the work of the absent colleague. Explore areas of the pregnant colleague's work to see what can be reasonably shared with others or held back until she returns.

Do this before automatically recruiting a temporary replacement. Remember that the employee has a right to take maternity leave for her health. She should not be made to feel as though she is causing difficulties to other colleagues or in any way 'letting the company down'. Showing support now is important and will help to ensure an enthusiastic and committed worker on her return.

As part of the Work and Families Act 2006, you and your employee can agree that she works up to 10 'keeping in touch' days during her maternity leave period. If these are done during the Statutory Maternity Pay (SMP) period she does not lose the right to her SMP for that week. You will need to agree what work will be done and what she will be paid. It is a good idea to put this agreement in writing, preferably before she leaves on maternity leave.

Q: I want to introduce shiftwork in my company so we can expand and meet customer demands. However, the new working pattern does not fit in with some of my employees because of religious observances. What can I do?

A: This is an area for consultation wherever possible. As an employer, you have a right to run your business effectively and your workers have rights protecting them from discrimination because of their beliefs.

Talk openly to your employees and see if they can carry out their religious observance at different times. This may resolve the difficulty as many religions are flexible about the timing of observances. For more information see the Acas  [Guidance on Religion or belief and the workplace \[565kb\]](#).

Also view a SHAP calendar of religious festivals, available at www.shap.org. Alternatively, involve workers and their representatives in reviewing your current shift patterns. There may be a suitable compromise that suits everyone and helps you build goodwill and commitment amongst your employees.

Q: Having agreed to flexible working for an employee to care for a relative, I've now received another request from the same person six months later. Is this covered by the flexible working legislation?

A: Although we would recommend you consider the request, it is not covered by the flexible working legislation which restricts requests to one per year. Consider using trial periods for new requests from employees until their caring responsibilities are better defined.

Q: I have had two requests for flexible working under the 2007 legislation. After careful consideration I can only approve one. How do I choose?

A: There are no hard and fast rules here: the key thing to bear in mind is that the outcome you want is a fair and reasoned decision in the circumstances and taking into account the possible consequences for the business. Throughout the process, you must be careful not to express your own views on who is the more deserving, as it would be no more than your own value judgement.

As a starting point, could one request be more easily accommodated than the other in terms of the impact on the business? You are likely to be able to justify agreeing to the request that will have less impact. If you cannot choose between the two on this basis, then it would be good practice to meet each applicant separately to see if a solution can be found: it may be, for example, that the employees will be willing to compromise in a way that enables you to agree to both their requests.

Failing that, it would be a question of weighing up all the circumstances and using your judgment as an employer. You could take into account such factors as job performance, willingness to compromise and the future requirements of the business. But you should be careful to avoid any suggestion of discrimination, whether direct or indirect. For example, unless you can justify it objectively, you should avoid favouring the request of a full-time employee over that of a part-time employee where, in all other respects, their circumstances are identical.

As a last resort, there are two possible approaches. Firstly, you could apply the principle of 'firstcome, first-served', ie grant the request which you received first, provided it is clear that this was the case. Or, you could explain to both applicants that, if there is no solution, you will seek their agreement to randomly select one of the two (pick one name out of the hat). Although such an approach may not be perceived to be fair by an employee whose request as a result is not granted, it is not likely to be discriminatory.

You would be well-advised to keep a record of all your discussions.

Q: My business has seasonal peaks best met by using temporary staff. Are there any legal considerations to bear in mind?

A: Temporary workers have rights under the Employment Rights Act which cover terms and conditions of service. These depend on length of service. However, most employees (and even applicants for your jobs) are covered by discrimination legislation. Temporary staff also have many other rights from day one – such as those relating to the Working Time Regulations and the National Minimum Wage. It is good practice to treat all your employees in the same fair way, whether permanent or temporary.

Q: Does job sharing mean less accountability and more training?

A: It certainly does not mean any less accountability. There may be marginally more training but this should be seen as an investment in your company.

Job sharing can take many forms and give you greatly increased flexibility. For example, during periods of absence you may be able to use the skills of the other sharers to cover the work.

Many employers find that it encourages closer cooperation between the job sharers by making it their responsibility to divide tasks and handover updates. This way, the job-share manages itself and you reap the benefits of greater staff retention and loyalty.

Q: If I allow my employees to work from home how can I trust them?

A: There are two key elements to a successful home working arrangement. Firstly, determine what you want the homeworker to do. In other words, set targets, outputs or objectives for the worker. Secondly, ensure you keep in touch with all homeworkers, updating them with ongoing developments and training to ensure they feel part of the company.

Monitoring and assessing the performance of home workers is perhaps the most significant managerial challenge. It can be helpful to measure an employee's effectiveness in terms of output rather than the hours they work.

Give feedback promptly and sensitively if things go wrong. If you find yourself unhappy with the output of your employee then you will need to discuss whether homeworking is suitable for them.

Q: If I went along with every piece of good practice in this booklet I'd have no one at work at all. Flexible working – what's in it for me?

A: What's in it for you is retention of existing skilled and valued staff. By offering flexible working you create a workforce that is reliable (because their other commitments are being met) and committed to the success of your business.

Employees are less likely to leave their jobs if they are happy and well motivated. This means you get a proper return on your investment of training and development.

Q: I want to be fair to all my employees – helping them balance their work and home lives – but there are so many regulations for so many different people. How can I be both fair and consistent in the way I introduce flexible working?

A: The basic principle of fairness is for you to create a working environment that enables each employee to give of their best to the company.

There are some areas where the law specifies what you must do, for example around maternity, carers and working parents (for more information on your legal requirements see [Appendix 2](#)).

The key to a successful flexible working policy is to involve all your staff and any representatives.

Together you can design working patterns that deliver your business objectives and allow your employees a degree of influence over their working environment.

Remember, as the employer you are still in control.

Appendix 1

Example of a Job suitability questionnaire for employers and employees

ICI are committed to supporting employees achieve flexible working arrangements wherever possible. They have produced a questionnaire which looks at how suitable a particular job might be if operated differently and have found that it helps to guide both manager and employee through the process in a highly effective manner. The questions below are examples of the type you may ask but should be varied according to the nature and demands of your business. It is not meant to provide a definitive answer but help employers and employees identify potential problem areas and find workable solutions where possible. The employer/manager and employee will both need to complete the questionnaire separately. By circling the answer to the option that best describes the job, the numerical rating is then transferred onto a summary grid. If a question is not applicable to the job it should be left blank.

The scoring system is based on a rating of 1-5 (1 being the highest):

- 1-2 more likely to be suitable for flexible working arrangement
- 4-5 more likely to be unsuitable for flexible working arrangement (where there are only a few areas that have scored 4/5, there may be ways to find solutions, eg reallocation of work, delegation).

The results of both questionnaires will form a basis for discussion. It will help to clarify each other's perception of the post and provide a clearer understanding of why a particular job may or may not be suitable for flexible working arrangements.

Job Suitability Questionnaire

Employee details

Name:.....

Date:.....

Current post:.....

Please tick if you are the:

post holder

manager

employer

2 10%

3 20%

4 33%

5 over 50%

Job description

Please provide a summary in your own words of the main tasks and responsibilities of this job.

Managing others

1. Is the job holder managing other people? If so, how many?

1 None

2 One person

3 2-4 people

4 5 or more

5 more than 10

2. What percentage of the job holder's time is spent managing others apart from the rest of your workload?

1 None

Dependency on others

3. Who mainly controls the job holder's workload and priorities?

1 They do

2 The client

3 The supervisor/manager

4 Determined by production process

4. How frequently does the job holder need to liaise with manager/supervisor to report or for direction?

1 Weekly or less

2 Several times a week

3 Once a day

4 Continually throughout the day

5. How frequently does the job holder need to liaise with colleagues?

- 1 Weekly or less
- 2 Several times a week
- 3 Once a day
- 4 Continually throughout the day

Time management

6. How much of the work needs immediate attention as opposed to long-term deadlines?

- 1 Majority is longer-term
- 2 Approximately one-third is immediate
- 3 About half is immediate
- 4 About three-quarters is immediate
- 5 Majority is immediate

7. Does the post need to be covered when the job holder is absent?

- 1 No
- 2 Yes, if more than a week
- 3 Yes, even after a few days
- 4 Yes, always would need to be covered

8. Who would do the job holder's work in their absence?

- 1 A colleague
- 2 The supervisor/manager
- 3 No one or other (please state)

Duplicated skills

9. Are other people in the section doing a similar function to the job holder?

- 1 Yes, lots of people doing exactly the same job
- 2 Yes, a few people doing exactly the same job
- 3 Yes, a few people doing a similar job but with different clients and other tasks
- 4 Nobody has a similar job

10. How much of the work in this job can be done by someone else?

- 1 All
- 2 Most
- 3 Some
- 4 None

Workplace dependent

11. Is the equipment needed to do this job only available in the workplace?

- 1 No, rarely uses such equipment
- 2 Yes, sometimes uses the equipment
- 3 Yes, often uses the equipment

12. Does the job holder need access to files and other paperwork only held in the workplace?

- 1 Rarely
- 2 Sometimes
- 3 Often

Confidentiality

13. Is the work highly confidential/sensitive?

- 1 No
- 2 Yes

Workflow

14. Does the job holder have control over the flow of their work?

- 1 Yes, they have main control
- 2 Some control
- 3 Minimum control
- 4 No control

15. Is the job holder able to predict how busy they will be?

- 1 Always, the workflow is generally consistent
- 2 Most of the time
- 3 Sometimes
- 4 No, it varies a great deal

16. Does the job holder know when peak periods in this job are going to happen?

- 1 Always, busy periods are always at the same time
- 2 Usually
- 3 Some of the time
- 4 Rarely, unpredictable

17. When there is a peak period how long does it usually last?

- 1 A few hours
- 2 A couple of days
- 3 Up to a week
- 4 Several weeks or longer

Availability

18. Can the job holder be contacted by colleagues/manager when away from the workplace site?

- 1 Usually
- 2 Sometimes
- 3 Rarely
- 4 Never

19. What percentage of the job holder's time is spent in meetings?

- 1 Less than 10%
- 2 About a quarter
- 3 About one-third
- 4 More than a half
- 5 Most of the time

20. Does the nature of the work mean they sometimes will be unable to be contacted?

- 1 Never
- 2 Rarely
- 3 Sometimes
- 4 Often

Customer relations

21. Does the job holder have to respond to customer demand immediately or is it longer-term?

- 1 Most longer-term
- 2 About a third immediate
- 3 About a half immediate
- 4 About three-quarters immediate
- 5 Most immediate

22. Is the work with the customer short or longer-term?

- 1 Always longer-term
- 2 Mostly longer-term
- 3 Mostly shorter-term
- 4 Always shorter-term

23. Is the work undertaken for the same customers on a repeat business?

- 1 No
- 2 Yes, occasionally
- 3 Yes, sometimes
- 4 Yes, usually

24. Is it important for the job holder to know the customers well?

- 1 Not essential
- 2 Sometimes
- 3 Definitely

25. Does most of the communication with customers take place:

- 1 Mostly in writing
- 2 Both in writing and verbally
- 3 Mostly verbally by phone
- 4 Mostly in person

Transfer the numerical scores for each question on to the grid by putting a tick in the appropriate box.

Question	Job Specification	Score					Comments / Action
		1	2	3	4	5	
1	Managing others						
2							
3	Dependency on others						
4							
5							
6	Time management						
7							
8							
9	Duplicated skills						
10							
11	Workplace dependent						
12							
13	Confidentiality						
14	Workflow						
15							
16							
17							
18	Availability						
19							
20							
21	Customer relations						
22							
23							
24							
25							

Appendix 2

Flexible working and the law

Rights for working parents and carers

The Work and Families Act 2006 has made several changes to the employment rights affecting parents. These are summarised in the table below.

Other rights for working parents

The Work and Families Act 2006 has made several changes to the employment rights affecting parents. These are summarised in the table below. For more details go to the Department for Trade and Industry website at www.dti.gov.uk

	Babies due on or after 1 April 2007	Babies due before 1 April 2007
Ordinary Maternity Leave (OML) and	26 weeks OML	26 weeks OML
Additional Maternity Leave (AML)	26 weeks AML - qualifying condition removed. All women are entitled to one year's maternity leave in total	26 weeks AML - but qualifying condition applies: 26 weeks' service by the end of the 15 th week before the expected week of childbirth
Notice of early return	A woman must give eight weeks notice before returning early from OML or AML	A woman must give 28 days notice before returning from OML or AML
Changing an early return date	Eight weeks notice required before the new date	
Working during maternity leave - 'keeping in touch' days	A woman can do up to 10 days' work during her maternity leave without losing any SMP. The employer and employee should agree on payment for time worked.	
Reasonable contact	Employer and employee are allowed reasonable contact during maternity leave - this does not constitute work. An employee should be kept informed about workplace issues - such as job vacancies and training opportunities	
Removal of small firm exemption	Small firm exemption removed for 'automatically unfair dismissal'	If an employer who employs five or fewer staff does not allow an employee back to work after AML because they did not feel it 'reasonably practicable' to hold her job open this will not be found to be 'automatically unfair dismissal'.
Statutory	39 weeks SMP - six weeks paid at 90%	26 weeks SMP - six weeks paid at

maternity pay (SMP)	of average weekly earnings and 33 weeks at a flat rate (£112.75 a week from April 2007 - reviewed annually). A woman can start to receive SMP on any day of the week	90% of average weekly earnings and 20 weeks at a flat rate (£112.75 a week from April 2007 - reviewed annually). A woman starts to receive SMP on a Sunday
Maternity allowance (MA)	39 weeks MA payable by Jobcentre Plus	26 weeks MA payable by Jobcentre Plus
Statutory adoption pay (SAP) and Adoption leave (SAL)	SAP extended to 39 weeks for adopters who expect the child to be placed with them for adoption on or after 1 April 2007. The changes made to maternity leave - in terms of notice of return to work early, keeping in touch days, reasonable contact and the small firm exemption - also apply to adoption leave (see above)	26 weeks SAP. Also, 26 weeks SAL and 26 weeks Additional Adoption Leave (AAL)

Other rights under the Work and Families Act:

Flexible working	<p>Under the Employment Rights Act 2002 parents of children under the age of six and parents of disabled children under the age of 18 have the right to apply to work flexibly and their employers have a duty to consider such requests seriously.</p> <p>The Work and Families Act 2006 extends this right to apply to work flexibly to carers of adults. For further information see the Acas Advice leaflet - The right to apply for flexible working, A short guide for employers, working parents and carers</p>
Annual leave	<p>Most workers - whether part-time or full-time - are entitled to four weeks' paid annual leave. There is no statutory right to have bank holidays off as paid leave.</p> <p>However, under the Work and Families Act 2006 the Government plans to make paid leave for Bank Holidays additional to the current statutory entitlement to four weeks paid holiday. If you work a five-day week, your holiday entitlement will increase from 20 days to 28 days (pro rate for part-time staff). If you already get four weeks' leave plus time off for Bank Holidays your leave entitlement will not change.</p> <p>The first four days extra paid leave will be introduced from 1 October 2007 and the next four days from 1 April 2009. For further information see the 'Holidays' section of the Department of Trade and Industry website at www.dti.gov.uk</p>
Paternity leave	<p>Currently, one or two consecutive weeks' leave. However, the Government plans to give employees (generally fathers) a new entitlement to take a maximum of 26 weeks Additional Paternity Leave (APL). For more details visit the 'Work and Families' section of the Department of Trade and Industry website at www.dti.gov.uk</p>

Other employment rights for parents and carers include:

Parental leave	Employees with at least one year's service with their employer are entitled to 13 weeks' unpaid parental leave for each child born or adopted up to the child's fifth birthday. Employees with disabled children can take eighteen weeks unpaid leave up to the child's eighteenth birthday.
Time off for dependents	All employees are entitled to reasonable time off without pay to deal with family emergencies.
Time off for antenatal care	All pregnant employees are allowed time off with pay to attend antenatal care appointments.

Other relevant legislation

If an employee considers that a disputed application to work flexibly also breaches other legislation, a complaint to an employment tribunal can include all alleged infringements. Employers should, therefore, be aware of other relevant legislation when determining an application for flexible working. This includes:

Sex Discrimination Act 1975

It is unlawful for an employer to discriminate against an individual, either directly or indirectly, on the grounds of sex or marital status. In relation to employment it covers discrimination, victimisation and harassment on the grounds of gender, marriage, pregnancy, maternity leave and gender reassignment (trans-sexualism).

Equal Pay Act 1970

Individuals have the right to receive the same contractual pay and benefits as a person of the opposite sex in the same employment where the man and woman are performing like work, equivalent work or work of equal value.

Race Relations Act 1976

It is unlawful to discriminate, either directly or indirectly, against an individual on grounds of race, colour, nationality (including citizenship) or ethnic or national origin. Individuals are protected from discrimination, victimisation and harassment.

Disability Discrimination Act 1995 (DDA)

It is unlawful to discriminate on the grounds of disability and employers have a duty to make reasonable adjustments to practices, policies, procedures and premises in order to ensure that a disabled person is not at a substantial disadvantage. Individuals are protected from discrimination and victimisation in recruitment, terms and conditions of employment, training, promotion, transfer and dismissal.

Employment Equality Regulations

These regulations provide protection against discrimination on the grounds of religion or belief, age and sexual orientation.

Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002

Employees on fixed-term contracts should not be treated less favourably than comparable permanent employees. Also, employees who have been employed on successive fixed-term contracts (that is, they have had the contract renewed previously or have been employed on more than one) for a period of four continuous years, will be able to ask their employer for a statement confirming that they are permanent and/or no longer on a fixed term contract.

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

Part-time workers have the same employment rights as full-time workers. Less favourable treatment of part-time workers has long been seen as potentially unlawful indirect sex discrimination - more women than men are likely to be affected.

The regulations cover rights on pay, pensions, training and holidays and extend to homeworkers and agency workers. The regulations include rights for part-timers to:

- receive the same hourly rate as comparable full-time workers
- receive the same hourly rate of overtime as comparable full-time workers, once they have worked more than the normal full-time hours
- not be excluded from training simply because they work part-time
- have the same entitlements to annual leave and maternity/parental leave on pro rata basis as full-time colleagues.

The regulations are available on the Department of Trade and Industry (DTI) website at www.dti.gov.uk/employment/balancing-work-familyresponsible/part-time/page12080.html

Sunday working

The Employment Rights Act 1996 gives shop workers in England and Wales (except those who are employed to work only on Sundays) the right to choose not to work on Sundays. The Act also includes measures designed to protect workers who refuse to work on Sundays.

The Department of Trade and Industry leaflet *Sunday Trading Act 1994* contains details of the law on Sunday working. Visit www.dti.gov.uk/publications

Temporary workers

UK employment law makes no distinction between 'permanent' and 'temporary' employees. To qualify for various employment rights, however, employees must have served a minimum period of continuous employment with their employer. Most temporary workers will have insufficient service but in certain circumstances, temporary workers may accrue enough continuous employment to qualify for employment rights, even when they have short breaks in their employment. Some employment rights - such as those relating to protection against discrimination, working time and the National

Minimum Wage - have no minimum service qualifications. Many temporary employees are supplied by employment agencies and therefore their contractual terms may vary from those of permanent employees working in the same company. For further information visit the Employment Relations section of the Department of Trade and Industry website at www.dti.gov.uk/employment/index.html

Employees on fixed-term contracts have the right to be paid the same rate as similar permanent employees working for the same employer and in general terms should not be treated less favourably than permanent employees. This means that employees on fixed-term contracts will have broadly the same rights to statutory redundancy payments, written reasons for dismissal and the right not to be unfairly dismissed as permanent employees (subject to the same qualifying periods).

Organisations who are unsure of the law should seek legal advice when framing contracts.

Zero hours contracts

Under the National Minimum Wage Regulations 1998 workers on 'stand-bytime', 'on-call time' and 'downtime' must be paid the National Minimum Wage provided they are at the place of work and required to be there.

Similarly, such time is likely to count as working time under the Working Time Regulations 1998 if the worker is required to be on-call at the place of work.

Appendix 3

Planning a shift rota

- hours the shift system covers
- Working Time Regulations 1998 (see Appendix 5 on p45)
- average weekly hours to be worked by each person
- type of shift system
- is the shift fixed or rotating? If shifts rotate, decide whether the direction should be 'backwards' (nights, afternoons, mornings) or 'forwards' (mornings, afternoons, nights)
- the frequency of shift changes
- the length of shifts
- the number of crews required

then

- plan rest periods
- work out the rota for one crew
- slot in the other crews to cover the whole cycle
- check the system gives the same amount of pay to all crews.

Appendix 4

Types of shift system

The Working Time Regulations 1998 affect the hours people can work – see Appendix 5 for brief details.

Double day shifts

Double day shifts allow two crews to cover any daily period between 16 and 24 hours. The hours commonly worked are 6am to 2pm and 2pm to 10pm.

Only two crews are required and employees normally rotate on the basis of one week on an early shift and the following week on a late shift as follows:

<i>Key: M = Morning A = Afternoon R = Rest day</i>							
	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Week 1	M	M	M	M	M	R	R
Week 2	A	A	A	A	A	R	R
<i>The length of the shift cycle is two weeks.</i>							

What are the advantages of double day shifts?

Increasing hours through overtime can give flexibility at the beginning or end of double day shifts.

Within each 24-hour period there is opportunity for maintenance, restocking of supplies, resetting of equipment and other necessary work.

Effective communication is possible between shifts, each of which has daily contact with senior management and support services.

For employees nightwork is avoided.

What are the disadvantages?

Problems with equipment tends to occur soon after start-up. With double day shifts there are five start-ups per week.

Capital equipment is used less than with continuous shift systems.

Work on the early shift (usually 6am to 2pm) can disrupt employees' sleep patterns leading to increased tiredness and stress.

Work on the later shift (usually 2pm to 10pm) can be socially disruptive for employees.

Day and nights

Two crews alternate day and night shifts, weekly or fortnightly. The most common pattern is:

<i>Key: D = Day N = Night R = Rest day</i>							
	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Week 1	D	D	D	D	D	R	R
Week 2	N	N	N	N	N	R	R
<i>The hours of the day shift are 8am to 6pm and those of the night shift are from 10pm to 8am.</i>							

What are the advantages of days and nights?

Responding to changes in demand is possible by increasing hours through overtime.

Maintenance, rectification work or restocking of supplies can take place between shifts.

What are the disadvantages

Employees spend half their working time on nights and the constant shift change between days and nights can lead to stress and health problems.

Permanent night shifts

There are many varieties of permanent night shifts.

What are the advantages of permanent night shifts?

For employees the main advantage is financial. Some employees prefer the greater sense of comradeship and independence on nights.

Night work also allows time off during the day to pursue other activities. Workers on four 10-hour night shifts benefit from a long weekend break.

Fixed day and night shifts allow employers the same flexibility for overtime and varying numbers as the alternating day and night shift.

What are the disadvantages?

Some experts believe that the health and safety problems associated with shift work are exacerbated on the night shift. Night workers sometimes feel isolated and that their interests and views are neglected.

Three shift discontinuous system

Under this system, three shift crews provide 24-hour cover for five days, normally Monday to Friday, with the last shift finishing on Saturday morning. The most common starting times are 6am to 2pm (morning shift), 2pm to 10pm (afternoon shift) and 10pm to 6am (night shift). The simplest example of this shift has a three-week cycle:

Key: M = Morning A = Afternoon N = Night R = Rest day							
	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Week 1	M	M	M	M	M	R	R
Week 2	A	A	A	A	A	R	R
Week 3	N	N	N	N	N	R	R

What are the advantages of three shift discontinuous working?

Where interruption of processes is expensive, there is only one close-down and restart per week. Weekend periods can be used for maintenance and cleaning.

Except for employees on overtime, the weekends are left free.

What are the disadvantages?

Stopping and starting over the weekend may cause substantial time to be lost in comparison with continuous systems.

Either Friday or Sunday night is usually included in the schedule. Both are unpopular, higher absenteeism may result.

Seven-day continuous working

Organisations with high capital investment in machinery operate these systems, especially if, for economic reasons alone, they should work such machinery intensively. Another reason for preferring this shift system to others is consumer demand. For example, service industries such as water, electricity and gas need to be in continuous operation.

'Traditional' four crew shift continuous systems

This system requires one week of mornings, one week of afternoons and one week of nights – with rest days in between:

What is the advantage of 'traditional' four crew shift continuous systems?

The system is easy to understand and administer.

What are the disadvantages?

Some employees find the long periods on similar shifts increase fatigue. Employees have two successive weeks on afternoons and nights, allowing little opportunity for social life.

Four crew 'continental' continuous shift systems

This system uses four crews to provide 168 hours per week (that is: 4 x 39 plus 12 hours overtime). Under the continental system seven shifts are still worked in one run. However, the shifts are broken up so that crews do not work seven consecutive nights, afternoons or mornings.

Key: M = Morning A = Afternoon N = Night R = Rest day

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Week 1	M	M	M	M	M	M	M
Week 2	R	R	A	A	A	A	A
Week 3	A	A	R	R	N	N	N
Week 4	N	N	N	N	R	R	R

Length of cycle – four weeks. Two rest days follow seven morning and seven afternoon shifts. Three rest days follow seven night shifts.

What are the advantages of four crew continental shift systems?

A 24-hour break between shift changes gives ample time for rest. Rapidly changing rotas reduce the monotony of six or seven shifts in a row. The changes mean that there is some free time in normal hours every week.

What are the disadvantages?

Rotas can become extremely complicated and difficult to understand and may take many weeks or months to complete. Employees should therefore be provided with shift calendars.

Reductions in basic hours to below 39 a week can result in persistently high levels of overtime.

Five crew continuous shift system

The general reduction in hours of work has encouraged some employers to abandon four crew continuous shiftworking in favour of five crew working.

Four crew working usually involves quite substantial levels of overtime and covering absence and holidays can be difficult. Five crew shift systems are often linked with annual hours arrangements.

Key: M = Morning A = Afternoon N = Night R = Rest day

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Week 1	M	M	A	A	N	N	N
Week 2	R	R	M	M	A	A	A
Week 3	N	N	R	R	M	M	M
Week 4	A	A	N	N	R	R	R

What are the advantages of five crew shiftworking?

Five teams generate significantly more weekends off per shift cycle than their four crew counterparts.

Five team rotas allow for more rest days than four crew rotas.

Providing greater cover for absenteeism is possible and the need for increased staffing and overtime is reduced.

Although employees' overtime earnings will be reduced, overall earnings are often maintained because five crew working is more flexible and therefore more productive.

What is the disadvantage?

Building holiday periods into the rota, can be difficult so long periods of free time may occur during the winter months.

12-hour continuous shift systems

Ten or 12-hour continuous shifts are often introduced where a lot of regular overtime is worked. Three, four or five crew systems can use 12-hour shifts.

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Week 1	D	D	R	R	N	N	N
Week 2	R	R	D	D	R	R	R
Week 3	N	N	R	R	D	D	D
Week 4	R	R	N	N	R	R	R

Key: M = Morning A = Afternoon N = Night R = Rest day

*Day shift: 8am to 8pm.
Night shift: 8pm to 8am.*

What is the advantage of 12-hour continuous shift systems?

Some employees prefer long shifts because the extended break between shifts provides more time at home and for social life.

What is the disadvantage?

Employers should avoid 12-hour shifts where the work is particularly heavy and/or monotonous. They should provide suitable regular breaks where there are known health risks, where employees need a degree of concentration where the activity is rapid and repetitive.

Appendix 5

The Working Time Regulations 1998

The Working Time Regulations (1998) govern the hours people can work.

This appendix provides basic information only and is not an authoritative statement of the law. The full regulations and further guidance are in the ['Employment Matters'](#) section of the Department of Trade and Industry website.

Main provisions of the Working Time Regulations

Maximum weekly working time

A worker's average working time must not exceed 48 hours for each seven day period unless the worker has agreed with an employer in writing that the limit should not apply. Employers are required to take all reasonable steps to ensure that workers do not exceed the 48 hour limit. Such steps might include enquiring whether a worker has a second job and, if they have, adjusting working arrangements accordingly.

There are special regulations for young workers, which restrict their working hours to eight hours per day or 40 hours per week.

Length of night work

A night worker's average normal hours of work must not exceed eight hours for each 24-hour period. Night workers are entitled to receive free health assessments.

Except in certain specific circumstances young workers cannot work between the hours of 10pm to 6am or 11pm to 7am.

Health assessment for night workers and transfer of night workers to day work

Night workers must have the opportunity of free health assessment before taking up night work and at regular intervals. Whenever possible a night worker should be transferred to suitable day work if a medical practitioner confirms to the employer that they are suffering health problems connected with doing night work.

Pattern of work

Where the pattern of work involves uninterruptible or monotonous activities which puts the health and safety of a worker at risk (for example a single task on a continuous production line), an employer needs to consider granting regular breaks in order to reduce these risks.

Daily rest

An adult worker is entitled to not less than 11 consecutive hours rest (12 hours for young workers) in each 24-hours.

The minimum rest period for young workers may be interrupted in the case of activities involving periods of work that are split up over the day or of short duration.

Weekly rest

An adult worker is entitled to:

- an uninterrupted rest period of not less than 24 hours in each seven days, or
- two uninterrupted rest periods each of not less than 24 hours in each 14-day period, or
- one uninterrupted rest period of not less than 48 hours in each 14-day period

A young worker is entitled to a rest period of not less than 48 hours in each seven-day period. The rest period for a young worker may be interrupted if the activities involve periods of work that are split up over the day or are of short duration or reduced where this is justified by technical or organisation reasons, but not to less than 36 consecutive hours.

Rest breaks

An adult worker is entitled to a rest break where the working day is more than six hours. The details of the rest break are to be set out in any collective or workforce agreement which applies. If no such agreement applies the rest break should be an uninterrupted period of not less than 20 minutes which the worker is entitled to spend away from the work station – and not at the end of the shift.

A young worker is entitled to a rest break of at least 30 minutes where their daily working time is more than four and a half hours. If possible this should be spent away from the work station.

Holidays

Workers are entitled to four weeks paid annual leave and this begins from day one of employment. This entitlement is not in addition to any annual leave given to a worker under an employment contract, nor additional to bank holidays which are governed by the contract of employment.

However, the government proposes to increase the current statutory minimum holiday entitlement from four weeks to 5.6 weeks (maximum 28 days) , making paid time off for bank holidays additional to the current four week holiday entitlement. See the '[Holidays](#)' section of the Department of Trade and Industry website for more information.

Workers are entitled to payment in lieu of holiday which is untaken on the date on which termination of employment takes effect.

Exceptions

The application of certain regulations may be excluded or modified by a collective or workforce agreement. In addition certain categories of workers are excluded from all or particular regulations including those:

- engaged in the activities of doctors in training, or specific activities of the armed forces, police or other civil protection services
- engaged in domestic service
- whose activities are such that their place of work and place of residence are distant from one another or whose different places of work are distant from one another
- engaged on security or surveillance activities requiring a permanent presence – for example, security guards
- who may be subject to a foreseeable surge of activity such as in agriculture, tourism and postal services
- affected by an unusual and unforeseeable occurrence beyond the employer's control, exceptional events or an accident or risk of accident

Enforcement

Employees not granted entitlements under the regulations or who suffer certain detriments (for example, for refusing to exceed the weekly working limit) may make a complaint to an Employment Tribunal.

The weekly limit on working time and certain limits on the activities of night workers – as well as the issue of health assessments – are enforced under health and safety legislation.

Appendix 6

How to apply for flexible working

Who can apply for flexible working?

The applicant making a request for flexible working must be an employee – agency workers or members of the armed forces are not eligible. The employee must:

- have a child under six or a disabled child under 18, or
- be the carer for an adult in need of care as defined by the Department for Trade and Industry (DTI)

The employee must also:

- have worked for their employer for 26 weeks continuously at the date that the application is made
- not have made another application to work flexibly under the right during the past 12 months

Parents

To qualify the employee must have parental responsibility for the child. This includes biological parents, legal guardians, adoptive and foster parents and spouses of these, including same sex partners as long as they have parental responsibility for the child.

Carers

A carer is an employee who is or expects to be caring for an adult who:

- is married to, or the partner or civil partner of the employee
- is a relative of the employee
- falls into neither category but lives at the same address as the employee.

The definition of 'relative' covers parents, parent-in-law, adult child, adopted adult child, siblings (including those who are in-laws), uncles, aunts, grandparents or step-relatives.

How must the application be made?

The employee must comply with the following requirements:

- the application must be made in writing, stating that it is being made under the statutory right to apply for flexible working
- the application must confirm the employee's relationship to the child or adult
- the application must set out the employee's proposal and explain what effect the employee thinks this will have on the employer's business and how this may be dealt with
- the application must specify a start date for the proposed change giving the employer reasonable time to consider the proposal and implement it This may take 12-14 weeks
- the application must state whether a previous application has been made and if so the date on which it was made
- the application must be dated

Employees should be aware that if the employer approves their application, the variation in contractual terms is a permanent one and the employee has no automatic right to change back to their previous pattern of work, unless the application seeks the variation for a specified time period only. A trial period may be agreed. Model forms to help employees make a request for flexible working can be found at the ['Work and Families'](#) section of the Department of Trade and Industry website.

How must the employer respond to the applicant?

In order to comply with the procedural requirements the employer must:

- arrange a meeting with the employee within 28 days of receiving the application to discuss the request. This meeting is not required if the employer agrees to the terms of the application and notifies the employee accordingly within 28 days of receiving the application
- allow the employee to be accompanied by a work colleague if they so wish
- notify the employee of their decision within 14 days of the date of the meeting. This notification will either:
 - accept the request and establish a start date and any other action or
 - confirm a compromise agreed at the meeting or
 - reject the request and set out clear business reasons for the rejection together with notification of the appeals process
- arrange to hear the employee's appeal within 14 days of being informed of the employee's decision to appeal. The employee must be allowed to be accompanied by a work colleague if they so wish
- notify the employee of the decision on the appeal within 14 days after the date of the meeting. The notification will either:
 - uphold the appeal, specify the agreed variation and start date or
 - dismiss the appeal, state the grounds for the decision and contain a sufficient explanation of the refusal.

The employer and the employee can agree to extend any of these time limits. The employer must record this agreement in writing, specifying the period to which the extension relates and the date on which the extension is to end. A copy of this record must be sent to the employee. Model forms to help employers respond to requests for flexible working can be found in the '[Work and Families](#)' section of the Department of Trade and Industry website and in the '[Employing People](#)' section of the Business Link website.

On what grounds can applications be refused?

Applications for flexible working arrangements can be refused only for the following reasons:

- the burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to re-organise 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.

What can an employee do if an employer refuses an application for flexible working?

Wherever possible it is better to reach agreement on flexible working within the workplace. There are a number of options open if the employer refuses the application at the appeal stage of the procedure including:

- informal discussions with the employer – there may be some simple misunderstanding of the procedure or facts which can be resolved by an informal route
- use of the employer's internal grievance procedure
- assistance from a third party such as a trade union representative or some other suitably experienced person
- ask Acas to help find a solution – by providing information or where appropriate through a process of conciliation.

Where agreement cannot be reached other options are:

- referral to the Acas Arbitration Scheme
- complaint to an employment tribunal

Referral to the Acas Arbitration Scheme

If both parties agree the Acas Arbitration Scheme can be used to resolve the dispute. This scheme is designed to be a speedy, informal, confidential and non-legalistic alternative to an employment tribunal. An arbitrator hears the case and makes a decision which is binding on both parties. There is no right to go to an employment tribunal if the parties have opted to use this scheme instead. The remedies and compensation which an arbitrator can award are the same as those at an employment tribunal. The agreed reference to arbitration must be made within three months of the notification date of the employer's appeal decision or, in complaints about procedural breaches, three months from the date of the alleged breach.

Complaints to employment tribunals

Employees must present their complaint to an employment tribunal within three months of the date that the employer's decision is notified on appeal or in complaints relating to procedural breaches, three months from the date of the alleged breach. Complaints can be made to an employment tribunal on the following grounds:

- the employer's failure to comply with the statutory procedure
- the employer's use of an incorrect fact to explain why the application has been refused and which the employer failed to address at the appeal
- the employer's refusal to allow the employee to be accompanied

Remedies and compensation

If a decision is made against an employer by an employment tribunal or an Acas arbitrator, the employer may be ordered to reconsider the employee's application for flexible working and may also be ordered to pay the employee compensation.

The actual amount of compensation will be determined by the tribunal or the Acas arbitrator on the basis of what is considered to be just and equitable given the circumstances of the case. The maximum level of compensation is eight weeks' pay subject to the statutory limit on a weeks' pay, which is reviewed annually (£310 from 1 February 2007).

If a complaint of refusal to allow the employee to be accompanied is upheld, the tribunal or arbitrator can award two weeks pay in compensation.

Dismissal and detriment

Employees are protected from suffering dismissal or detriment in the exercise of their right to apply to work flexibly. Complaints may be made to an employment tribunal if:

- the employee has suffered detriment as a result of exercising or seeking to exercise the right to apply to work flexibly
- the employee has been dismissed as a result of exercising or seeking to exercise the right to apply to work flexibly
- a person has suffered detriment or been dismissed as a result of accompanying or seeking to accompany an employee in the exercise of the right to apply to work flexibly

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