

This toolkit is part of Congress' contribution to supporting trade unions in negotiating and developing Family Friendly and Work Life Balance initiatives at enterprise level. It is an outcome of the Congress Family Friendly project which was put in place to develop materials and guidelines for trade unions, and to increase awareness and availability of these options.

Reconciling work and family life is a key national and European policy area for the promotion of gender equality and the improvement of living and working conditions for men and women. To this end, the Programme for Prosperity and Fairness established a National Framework for the Development of Family Friendly policies at the level of the Enterprise. Through this framework trade unions, employers and government work to support options which enhance the opportunity to reconcile work and family life and contribute to the effective and efficient operation of the enterprise. At EU level, the Employment Guidelines and Council resolution highlight the importance of designing, implementing and promoting family friendly and work life balance policies.

Congress gratefully acknowledges the support and assistance received from the National Development Plan and the National Framework Committee. We would like to thank the project advisory group members, Marie Butler, Fiona Dunne, Mary Fogarty, Marian Geoghegan, Edna Hoare, Claire Keane, Paul Mac Sweeney, Tom McKeivitt and Clare Treacy. We would also like to thank Isobel Butler and Grainne Connolly who carried out research for the project '*Initiating Change: Unions and the Development of Work Life Balance.*'

Congress believes that this toolkit will be useful to unions in making progress at workplace level on this issue which is of crucial importance to quality of life and equality for workers.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Begg', with a large loop at the start and a stylized end.

David Begg
General Secretary
December 2002

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The experience and contribution of the Union officials and members who participated in the research focus groups, seminars and workshops was invaluable to the development of these materials and is also acknowledged.

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DISCLAIMER

The purpose of the material in this toolkit for trade unions is to provide information of a general nature only. It is not intended to address the specific circumstances of any particular individual, union or organisation. It is not exhaustive and should not be considered as legal advice.

The briefing notes on legislation provide information on key areas concerning workers' rights under the legislation covered. They do not cover all of the provisions of the legislation and do not purport to be legal interpretations of the various Acts covered. They are subject to amendments to the legislation and the development of case law at national and European level. The relevant legislation should always be consulted to ascertain the precise legal provision. If you need specific advice and/or legal advice you should always consult your Union.



INTRODUCTION TO TOOLKIT

Under the Programme for Prosperity and Fairness the Government, IBEC and Congress agreed to work together to identify actions that could be undertaken by them at national level, to support the development of family friendly policies in the workplace. The focus of the activity was to support and guide the voluntary development and implementation of family friendly policies at the level of the enterprise. A National Framework Committee was formed comprising representatives from Congress, IBEC, the Equality Authority, Department of Social & Family Affairs, the Department of Justice, Equality & Law Reform, the Department of Finance, and the Department of An Taoiseach and was chaired by the Department of Enterprise, Trade & Employment.

This toolkit is one of the outcomes of a Congress project supported by the National Framework Committee and funded under the NDP.

It is designed to provide you, the trade union negotiator, with information and resources to assist you in negotiating and developing workplace family friendly / work life balance policies. It is intended as a support and resource for trade unions and is not a legal document or interpretation. Relevant legislation and agreements must be consulted before taking action.

During the project Congress held a series of regional seminars for trade union officials and representatives, and a number of focus groups were held to assist Congress in finding out what Trade Unions need to assist them to move the family friendly / work life balance agenda forward. It is clear that the main stumbling blocks for employers and trade unions in making progress in this area are

- a lack of information on the options available and
- no clear method for beginning a process of developing family friendly / work life balance policies and arrangements.

This guide therefore, sets out to provide information, practical suggestions and examples in a concise, accessible format.

Firstly, it defines some of the family friendly and work life balance solutions that are currently operating successfully in Irish workplaces. This section includes background on how to deal with challenges associated with particular working arrangements.

Secondly, the toolkit outlines the basic legal entitlements for those with caring responsibilities, such as leave arrangements, the rights of part time workers and other relevant legislation.

Thirdly, this toolkit will provide you with resources which you can adapt and use, ideally in partnership with management and employers, to make real progress towards achieving work life balance / family friendly policies for members.

USING THIS TOOLKIT

While the toolkit is one complete publication, the individual sections can stand alone and are cross-referenced. Sections 2 and 3, *Rationale and Background* and *Principles* should, however, be read first for an overview of the need and rationale for these arrangements and the key trade union principles underpinning family friendly / work life balance policies and arrangements.

1. RATIONALE & BACKGROUND

This section details the rationale and benefits of family friendly / work life balance policies and also presents some recent research and policy.

2. PRINCIPLES

This section sets out the key trade union principles informing family friendly / work life balance policies and arrangements.

3. DEFINITIONS & CHALLENGES

This section describes the main non-statutory family friendly / work life balance working arrangements and outlines some of the challenges involved in negotiating them.

4. STATUTORY ENTITLEMENTS

This section provides an introduction to legislation specifically related to workers with family responsibilities.

5. GETTING STARTED

This section gives advice and an outline process on how to begin negotiating for the implementation of family friendly / work life balance policies at workplace level.

6. ASSESSING NEEDS

This section provides guidelines and sample questionnaires which can be used to ascertain the needs of members in your workplace.

7. MODEL AGREEMENT

This section contains a model workplace agreement between employers and trade unions that can be adapted or used as a base for your workplace.

8. MAINSTREAMING

To ensure that family friendly / work life balance policies become part of organisational culture, it will be necessary to incorporate a family friendly attitude into the everyday policy and action of the organisation. This section provides some information on the mainstreaming process.

9. NETWORKING

This section outlines the benefits of networking with other Unions and Branches on this topic and suggests ways of creating local Trade Union Family Friendly / Work Life Balance networks.

10. RESOURCES

This section contains back up information materials for developing the various family friendly / work life balance issues raised. It includes a Code of Practice on Teleworking, summaries of some relevant Irish legal cases, a checklist on pensions for negotiators, information on Social Welfare and Social Insurance and sources of further information.

11. GLOSSARY

Glossary of acronyms used throughout the toolkit.



PROGRAMME FOR PROSPERITY AND FAIRNESS

The Programme for Prosperity and Fairness recognised the need to develop appropriate measures to assist in reconciling work and family life. It was agreed that family friendly working arrangements are important to underpin economic, social and equality objectives. The programme established a national framework for the development of family friendly policies at the level of the enterprise to support and facilitate the development of such policies. (See *Resources* section).

I. WHAT ARE FAMILY FRIENDLY / WORK LIFE BALANCE WORKING ARRANGEMENTS?

These are policies and working arrangements that facilitate men and women to achieve a better balance between work and family life. They can also extend beyond family and other caring responsibilities to cover other areas of people's lives such as further education and training, participation in community activities and the pursuit of sporting and other leisure activities.

Family Friendly Working Arrangements are an essential part of work life balance, and are particularly those policies and practices that assist people with caring responsibilities for children and/or other dependants.

These working arrangements are relevant to all workers as they include the possibility for all Union members, both men and women, to make choices relating to their lives outside work

Women are increasingly challenging the roles assigned to them but it is still widely the case that they bear the main share of responsibility for caring in the family. Family friendly / work life balance arrangements are an important equality issue since they are often a necessity, rather than a choice, as they provide the only method for achieving continued labour market attachment, economic independence and equality.

Non-Statutory Options

There are many different non-statutory means of achieving a better work life balance. These continue to evolve as technology and the world of work change, but currently include:

Paternity Leave

Flexitime

Termtime working

Part Time working including: • Jobsharing • Worksharing • Regular reduced hours

Compressed working hours

Career breaks

Sabbaticals

Secondment

eWorking

Annualised hours

Legislation

Legislation exists to cover some aspects of the balance between caring and working life. This recognises workers' legitimate entitlement to remain in employment while combining family and other caring responsibilities. The legislative base in Ireland covers leave arrangements such as Maternity Leave, Carers' Leave, Adoptive Leave and Parental Leave. It also protects part time workers from discrimination. Other legislation provides protection against discrimination, gives entitlements, and regulates working time.

It is important to note that European Directives are the driving force for much Irish legislation in this area. Developments at European level continue to provide an impetus for the development of family friendly / work life balance arrangements.

II. WHY ARE TRADE UNIONS NEGOTIATING FOR WORK LIFE BALANCE / FAMILY FRIENDLY WORKING ARRANGEMENTS?

1. Demand from members

Research carried out as part of this project, *"Initiating Change: Unions developing work life balance"*, November 2002, confirms what union officials are experiencing on the ground. There is enormous demand from members for more control and positive flexibility about how and when hours are worked, and for access to family friendly / work life balance arrangements. This demand is not only from working parents, but from men and women in all sections of the workforce.

There are many reasons why demand is so strong. Work is organised on a more intensive basis and people no longer necessarily live near to other family members, who previously would have provided childcare or eldercare. People have to spend more time commuting, over longer distances. The biggest driver, however, is the growing participation of women at all levels in the workforce. Negotiating these arrangements ensures that workers who may otherwise be obliged to give up employment, are facilitated to remain in employment.

2. Benefits of Family Friendly / Work Life Balance Arrangements

Family friendly / work life balance policies support an increase in equality in the workplace and in society as they create greater potential for equality of opportunity between men and women. They can reduce the interruption to careers, most often women's careers, due to caring responsibilities and facilitate a more equal sharing of caring responsibilities between women and men. They also assist the accommodation in the workplace of those who are unable to work standard times or shifts due to caring responsibilities. They promote greater take up of education and training, and support life long learning. Finally, they assist workers, employers and organisations to move towards a culture of valuing people for the work that they do and not for the hours that they work. There are benefits for both employees and employers, e.g:

A. Benefits For Workers

Employment is a major element of people's lives from the perspective of its contribution to quality of life, self esteem, economic independence and social integration. These work practices help to achieve equal opportunities between women and men and facilitate them to remain in employment.

Other benefits for workers include

- a reduction in stress levels
- greater control over working hours
- more job satisfaction and improved morale
- more discussion on how work is carried out
- flexibility in hours worked
- more opportunity for education and training
- better balance between work and outside responsibilities and choices
- increased opportunity to participate in community and civic life
- time to care for family and others

B. Benefits for Employers

Work Life Balance and Family Friendly working conditions support competitiveness and provide a win-win situation for everybody. Recent research has shown significant benefits to organisations and companies that have implemented family friendly / work life balance. Research carried out for the Equality Authority in 2000¹ reports "improved productivity and motivation" as an employer-identified benefit of family friendly working arrangements. This is confirmed by the National Economic and Social Council, who have pointed out that a wider range of work life balance approaches are needed for the Irish economy to remain attractive to internationally mobile knowledge workers, and for companies to be able to attract and retain staff.

Some of the benefits of these arrangements for employers include:

- Greater retention of staff, with a corresponding reduction in costs of recruitment and re-training
- Reduction in workplace stress
- Lower absenteeism
- Improved morale, motivation and commitment

¹ Hugh Fisher, Investing in People: Family Friendly work arrangements in small and medium sized enterprises (June 2000)

III. RECENT RESEARCH ON THE NEED TO DEVELOP FAMILY FRIENDLY WORKING AND WORK LIFE BALANCE ARRANGEMENTS

Research into the area of family friendly / work life balance informs Government and European policy and legislation and it will help to keep you up to date on potential developments. This section summarises some of the most recent findings and recommendations of trade union and other research in Ireland and Europe.

Congress' recent survey (March 2002) on **Meeting Working Parents' Childcare Needs** establishes that Family Friendly Working Arrangements such as job-share, work-share or part-time work were not available to the majority of workers and teleworking was an option for less than 2% of all those surveyed.

In **Unions and Work** independent research commissioned for Congress Biennial Conference, July 2001, 87% of workers interviewed listed access to some form of family friendly working as important to them.

The FAS **Irish Labour Market Review 2002** states that "a greater commitment to flexible, family-friendly working arrangements, such as part-time work and teleworking, combined with adequate childcare provision are needed if female participation rates are to rise over the medium term".

The research **Off the treadmill: achieving work/life balance** (November 2002) carried out for the National Family Friendly Framework Committee by TCD/IPA and Goodbody, underlines that men are just as demanding of greater working time flexibility as women, but that there is a difference in the kind of flexibility they are looking for. Fathers want full-time work with more flexible hours, a compressed working week and the chance to work at home. Mothers also want flexitime but their first choices are for opportunities to work reduced hours and term time working.

Initiating Change - Unions Developing Work life Balance (November 2002), research carried out as part of the Congress Family Friendly project demonstrates a number of issues:

- there is a high level of demand for these arrangements in all sectors and regions surveyed;
- working arrangements that support work life balance are largely unavailable in the private sector, and in many companies where arrangements are available they are on an individual basis and are often limited to lower grades or to administrative sections;
- promotion can mean the loss of family friendly arrangements, so many workers (mainly female) are opting not to apply for or accept promotion, leading to gender inequality in the workplace;
- unions report a range of practical difficulties, including lack of information and resistance from employers as barriers to the development of these policies at workplace level.

The European Foundation for the Improvement of Living and Working Conditions in their research into **Working Time Preferences in Sixteen European Countries** has found that there is a mismatch between how long those in employment want to work and how long they have to work. It found that in Ireland many are tied to a working rhythm that diminishes their ability to integrate non-work activities into their working life.

As reported in the UK Work Foundation's research on father-friendly working, **Dad's Army** (October 2002), the consequences of women's labour market activity has meant not only an increase in demand for services and policies to support working mothers, but also that men need to balance work and family responsibilities more than before.

The Economic and Social Research Institute (ESRI) in their report **Getting out of the House - Women returning to employment, education and training** found that the majority of women returners (returning to work after a break in employment for child care or other reasons) take up part-time work. They also found that in 1999 when 88 % of returners were working part time only 1 % said they were looking for full time work. They did however note that given the lack of other supports such as affordable childcare these part time hours can not be seen purely as voluntary.

IV. EMERGING TRENDS IN NATIONAL POLICY SUPPORTING THE DEVELOPMENT OF FAMILY FRIENDLY / WORK LIFE BALANCE ARRANGEMENTS

The **National Economic and Social Council** in November 2002 recommended that progress in all these areas be accelerated rather than slackened because of its appreciation that women, family life and children are continuing to experience exceptional stress in Ireland arising from people's difficulties in balancing work and home responsibilities.

In addition the NESC points out that for the Irish economy to remain attractive to internationally mobile knowledge workers and for companies to be able to attract and retain workers with significant caring responsibilities, greater progress needs to be made in facilitating employees to balance their work and home lives.

NESC also recommends that at least one form of family friendly / work life balance working arrangement be available to all workers.

Ireland's **National Employment Action Plan** is prepared annually in response to the European Employment Strategy and European Employment Guidelines. The EAP guides government policy in creating and maintaining employment. The 2002 Action Plan lists as a priority "ensuring that firms and their staff are adapting to new ways of working and introducing Family Friendly practices such as tele-working, work sharing, annualised hours and childcare arrangements to ensure that they can be flexible and attract and retain employees, including females and older people".

The **National Development Plan** (2000 - 2006) lays the foundation for Ireland's continuing economic and social development. It reflects a broad consensus of Social Partners and regional interests as to the country's future development needs, and guides national investment. One of the objectives of its "Employment and Human Resources Development Operational Programme" is the reconciliation of family and working life, with accompanying investment. This ties in with the NDP priority of supporting an increase in female labour force participation.

National Social Partnership Agreements are negotiated between the social partners and provide an arena for trade unions to influence national policy on family friendly / work life balance policies. These agreements have increasingly included the development of equality policies, and the Programme for Prosperity and Fairness contains a specific section dealing with family friendly policies. (See the **Resources** section for details of the *PPF Family Friendly Framework Agreement*).

GOVERNMENT DEPARTMENTS AND AGENCIES

The equality functions of the Department of Justice, Equality and Law Reform include the general objective of supporting the reconciliation of work and family responsibilities. More specifically, the Department's Strategy Statement (2001 - 2004) "supports the mainstreaming of family-friendly practices in employment". The Equality Authority also supports this objective through its work and participation in the National Framework Committee, as does the Department of Enterprise, Trade and Employment, which chairs the National Framework.

PRINCIPLES INFORMING THE TRADE UNION AGENDA

For the effective implementation of family friendly / work life balance arrangements a comprehensive action plan is needed. This plan will need to be relevant and appropriate to each workplace and will require initiatives by both employers, employees and their union/s. It will need to recognise that many workers, men and women, are attempting to divide their time and energy between commuting, working, running a home and taking care of personal responsibilities.

In drawing up a plan for the workplace the trade union aim is to reach an agreement that meets the members needs within the organisation and which promotes fair, equitable and realistic solutions to work life balance issues.

To assist in negotiating a plan at the level of the workplace the PPF National Framework Committee for the Development of Family Friendly policies at Enterprise Level agreed a policy checklist to aid unions and employers when negotiating. IBEC are also recommending this policy checklist to their members.

FAMILY FRIENDLY POLICY CHECKLIST – AS AGREED BY THE NATIONAL FRAMEWORK COMMITTEE

Family Friendly Policies should

- benefit the organisation and its employees;
- acknowledge that the needs of both the organisation and employees are not static, but change over time;
- highlight the need for management, unions/employee representatives and employees to discuss workable solutions;
- encourage a partnership approach to meeting the needs of both the organisation and the employees;
- operate in a fair and consistent manner;
- be economically feasible;
- value employees for their contribution to the business, not their working pattern;
- be carefully planned and agreed;
- include a monitoring and evaluation mechanism;
- take into account the equality implications of any policies introduced;
and
- be communicated to all employees in the organisation. Developments and changes to policies should also be communicated on a regular basis.

TRADE UNION PRINCIPLES

Negotiating for Family Friendly and greater Work Life Balance working arrangements and options needs to build on current trade union policy and approaches.

Trade unions should aim to ensure that family friendly / work life balance initiatives are developed and implemented for the benefit of both the employees and the organisation. Ultimately, including family friendly / work life balance working in collective agreements is the best way to embed and mainstream this crucial issue.

It is important to recognise that members may be concerned that the development of family friendly or other work life balance working arrangements might lead to a rise in insecure employment. However this should not be the case. The status of a worker's employment contract **IS NOT CHANGED** by opting to take family friendly leave or to use a different working arrangement. Her/his employment status remains the same. For example if a worker is a permanent full time worker and s/he changes the pattern of hours worked from full time to part time this does not change the permanent status of his/her employment, it only affects the time during which the duties are discharged. Similarly, a teleworker's change of location does not change the status of their employment contract.

In this area, as in any other, members need to be made aware of their legal entitlements. At all times it must be very clear that legislation confirms that an employee engaged in family friendly / work life balance working arrangements has the same employment rights and is protected by employment legislation in the same way as other employees.

Legislation provides minimum entitlements. Improved arrangements have to be negotiated between employers and unions at local level. Unions are free to negotiate improvements above the minimum entitlements. *(See sections from Acts on more favourable provisions permitted in the **Resources** section for examples of this).*

Current trade union practice in each organisation will determine the best method for placing this issue on the agenda for negotiations. However there are a number of common principles that inform trade union negotiations at the level of the enterprise in the area of work life balance and family friendly working arrangements.

The trade union agenda should address the following

- Involvement of employees at all stages in developing family friendly and work life balance initiatives.
- Development of policies that are suitable, transparent, and relevant to employees.
- Development of a clear and straightforward process for applying for the various working options
- Monitoring the take up and success rates of family friendly / work life balance options.

- Equal opportunities and encouragement for men and women to take up the various options
- The need to tackle aspects of organisational culture that may be inconsistent with being a family friendly organisation, such as a long hours culture.
- A clear mechanism for making decisions on applications, and an appeals process that can be followed where necessary.
- Implications of reduced hours for workload, i.e. a reduction of an individual's hours should not result in simply compressing the workload into a shorter space of time or in an unfair distribution of workload or responsibilities onto work colleagues.
- Written agreement on how, when or where work is carried out. This document should address the issue of returning to the original working arrangement, including notice requirements.
- Appropriate methods for reporting and communicating on all issues - goals, targets, responsibilities. This can be particularly relevant to teleworkers.
- Access to training- members availing of ANY form of family friendly working should continue to have access to training.
- Development of training opportunities in a manner consistent with the various working arrangements.
- Career progression and promotion: Those working on the various family friendly / work life balance options must not be held back in their career development.
- Access to promotional opportunities must be protected.
- Dissemination of information to members about the process and practices developed.

It takes more than introducing new working arrangements to make an organisation family friendly. To be successful it is important that trade unions identify the level of commitment to the development of family friendly / work life balance options at the level of the enterprise. In this regard trade unions should bear in mind that family friendly / work life balance options should be negotiated and implemented as part of their wider commitment to equal opportunities.

In addition it is essential that trade unions recognise that an organisation's family friendly / work life balance initiatives can be undermined if its culture puts an emphasis on working long hours, or through negative views or attitudes of some managers or workers. Trade unions must play their part to ensure that the organisational culture is such that all workers are confident enough to make use of the various initiatives developed.

DEFINITIONS

INTRODUCTION

This section describes the various forms of non-statutory family friendly / work life balance arrangements operating in Ireland. These are policies and working arrangements that facilitate men and women to achieve a better balance between their work and family life. They can also extend beyond family and other caring responsibilities to cover other areas of peoples lives such as further education and training, participation in community activities and the pursuit of other civic or voluntary activities.

Family friendly / work life balance arrangements lead to positive flexibility where changes are brought about by agreement between unions and employers. Flexibility can refer to either hours worked or location. The majority of arrangements to date have been time flexible, however the advent of ever more sophisticated technology has led to more possibilities for working from varied locations.

There are many ways for workers and employers to organise or re-organise how, when or where work is carried out to facilitate both employees and organisational needs. Any of these options should be negotiated and agreed. The agreement should also cover, for example, arrangements for returning to full-time work.

*(For information on the legislative rights and entitlements in relation to family friendly / work life balance please see the **Statutory Entitlements** section of this toolkit).*

TYPES OF NON STATUTORY ARRANGEMENTS

There are four main areas of non-statutory Family Friendly Working

1. Reduction in hours worked
2. Period away from work (leave)
3. Greater employee control over when hours are worked - flexibility
4. Change in location of work

The following section lists the most common current forms of non-statutory options. Others may, by agreement between workers, their union/s and employer, be developed in the future to facilitate greater work-life balance. It is possible to combine more than one arrangement, for instance it would be possible to work as a job sharer on flexitime.

1. REDUCTION IN HOURS WORKED

There are many variations in working arrangements that can facilitate a reduction in hours worked; the following is a list of the most common already negotiated and practised. This document addresses the issues that arise in relation to employees who alter their working patterns or reduce their working hours.

PART TIME WORK

Part time working is the most common variation on the standard full time work pattern which varies from employment to employment.. The Protection of Employees (Part Time Work) Act 2001 defines a part-time employee as someone whose normal hours of work are less than the normal hours of work of a comparable full time employee. While a 39 hour week may be considered standard there are many variations and in the circumstances it is not possible to define a part-time worker or indeed a full-time worker in relation to a specific set of working hours for either.

- **Fixed part time working:** This is the most commonly used form of part time work. This involves the employee working a reduced number of hours per day, or fewer days per week, or even alternate weeks.
- **Reduced work time:** This is a scheme whereby it is agreed that a worker will reduce their working hours for a limited period.
- **Job sharing**
An arrangement to divide one full-time job or to share work between two people with the responsibilities and benefits of the job being shared between them. The job can be shared in a number of ways. For example:
 - Split week (2 days one week/ 3 days the next)
 - Split day
 - Week on/ week off

The tasks to be shared and the division of the workload should be set out and time given for consultation between the sharers to ensure smooth handover.

- **Job splitting**
An arrangement similar to job-sharing except that specific tasks, rather than specific times, are divided between the partners. In this way, each has responsibility for a particular area. Working times may overlap.
- **Work sharing**
Work sharing is a recent development, which allows jobholders to work a variety of attendance patterns. These range from, for example, 8 hours a week to four days a week, or three weeks in a month. Tasks and responsibilities need to be clearly defined. Work sharing does not necessarily require a co sharer.

- **Regular reduced hours/regular reduced attendance**

This involves the employee working an agreed number of hours per week, usually to a specific schedule.

All forms of part time work are covered by the **Protection of Employees (Part Time) Act 2001**

(See **Statutory Entitlements** section).

ANNUALISED HOURS

In this type of agreement a worker is required to work a defined number of hours per year rather than per week. Working time can be scheduled to deal with seasonal variations and fluctuations in the demands of business throughout the year – for example an employee may work longer hours at one time of year and shorter at another. The system typically includes a core number of days/hours that must be worked and also rostered days where an employee must be available for work, but may not necessarily be called in. Both core and rostered hours are paid for in annual salary, whether or not the employee is called in for rostered hours.

Annualised hours agreements are sometimes included in the category of family friendly / work life balance schemes. However, annualised hours are not always family friendly.

2. PERIOD AWAY FROM WORK (LEAVE)

- **Annual Leave** (See also **Statutory Entitlements** section).

While annual leave is a legal entitlement, many unions negotiate periods over and above the legal requirements. Some organisations also grant extra leave to long serving staff members.

- **Paternity Leave**

Paternity leave is leave granted to male employees to allow them time off around the time of the birth of their child. A number of companies already provide this; with leave ranging from 3-5 days on the birth of the baby.

- **Parental Leave and Force Majeure Leave** (See also **Statutory Entitlements** section).

The Parental Leave Act entitles employees to fourteen weeks unpaid leave to care for children. Force Majeure Leave is a legal entitlement to paid emergency leave to cope with urgent family crises but is not restricted to parents.

Unions and management are free to negotiate and agree more favourable provisions than the provisions of the Act. For example, they may agree that parental leave could be taken on a more flexible basis such as separate blocks of weeks rather than a continuous block of fourteen weeks. (For information on more favourable provisions permitted, see **Resources** section).

DEFINITIONS AND CHALLENGES

- **Bereavement Leave**

Bereavement leave is given on the death of an immediate family member. The amount of leave given will depend on the closeness of the relative concerned.

- **Compassionate Leave**

This is leave given to an employee for personal reasons. For instance this leave may be given to an employee who has a sick family member but who is not entitled to take carer's leave. The amount of leave given will depend on the individual's situation.

- **Exam and Study Leave**

Where an employee is pursuing further education (this may or may not be job-related), an organisation may provide paid leave for the purposes of study and to enable the employee to sit exams. In the case of workers under 18, this may be mandatory as set out in the Education (Welfare) Act (2000).

- **Term-time Working**

Term-time working provides for term time leave for the purpose of allowing working parents or primary carers to match their working arrangements to the main school holidays of their children, or to care for a person who resides with them and who has a disability which gives rise to the need for care on a continuing or frequent basis. This type of working arrangement allows a worker to take unpaid leave of absence of between four and thirteen weeks. Although developed for caring requirements, term time working can be extended to cover other employees and for other periods. To ensure regular payments the employee's annual pay is averaged out over the yearly pay period.

Example	EURO
Annual Salary	€30,000
2 months unpaid term time leave	€(5,000)
	<hr/>
Total Pay	€25,000
	<hr/>
Divided by 12 to give monthly payment of	€2, 083

- **Career Breaks**

A career break is a period of leave agreed by both employer and employee for a specific duration. The duration varies in individual employments and can range from six months to as much as five years. The purpose of the break is for education, travel, childcare or other domestic reasons. It is not normally permitted to take up other employment. If an employee is found to be in breach of the terms of the career break then the career break may be terminated and the disciplinary procedure may be invoked. Many companies have a minimum service requirement which must be satisfied before an application for a career break will be considered.

- **Sabbatical**

This is a period of absence from work, which may or may not be on full pay, and duration is normally related to length of service. Sabbaticals provide an opportunity for employees to take a break from their work and are normally taken for educational purposes.

- **Secondment**

This is an agreement (usually for a fixed period) for an employee to take up work in another organisation. This can be for instance from the civil service to a state related agency or voluntary body. Arrangements are usually made for the continuation of pension and other payments. A person on secondment remains an employee of their original employer and retains continuity of service.

3. GREATER EMPLOYEE CONTROL OVER WHEN HOURS ARE WORKED - POSITIVE FLEXIBILITY

- **Flexitime**

Flexitime does not involve a reduction in the number of hours worked. Starting and finishing times can be varied within an agreed band, however employees must be at work during core hours. The following is an example of common time bands.

Flexible Hours	Core Hours
7.30 - 10.00	10.00 - 12.00
12.00 - 2.00	2.00 - 4.00
4.00 - 7.00	

(30 minutes break must be taken)

Flexitime also enables the 'banking' of hours, which means that if time is worked over and above the normal hours then at the end of the accounting period extra time can be taken as time off. The accounting period is typically 4 to 6 weeks and extra time owed/owing (flexi days/flexi hours) must be discharged within an agreed time limit.

- **Compressed Hours**

The standard amount of hours are worked over fewer days - e.g. instead of five eight hour shifts, an employee may work four ten hour shifts in a week. This is a Work Life Balance measure and cuts down on the time spent travelling to and from work. While it may suit some workers as a family friendly work arrangement it is not necessarily family friendly particularly if children have to be picked up from a creche or childminder at a set time each day.

- **Phased Return/Retirement**

The worker gradually builds up or down the amount of working time after a major life event or before retirement. This allows for training and familiarisation of their replacement and allows time for the worker to adjust to new circumstances effectively. Work sharing schemes can be used to facilitate this.

4. CHANGE IN LOCATION OF WORK

- **eWorking**

e-working, interchangeable with the term teleworking, describes new forms of flexible work organisation associated with working with technology outside the traditional office/workplace environment. This form of working is not suitable to all jobs or types of employment and is associated with work that can be undertaken independent of location. E-workers may be working from home or telecommuting. People working in Call Centres are not considered eWorkers.

The impact of such a flexible form of working is considerable. With proper safeguards workers can benefit from assuming more control over their work including working hours, reductions in commuting time and a better balance between work and family/home life. A **National Advisory Council on Teleworking** was established in 1998, to develop a strategic approach to the development and promotion of e-working in Ireland. As part of their work the Council developed a **Code of Practice on e-Working in Ireland** which was subsequently endorsed by Congress, IBEC and Government, as part of the Programme for Prosperity and Fairness.

*(A copy of this Code of Practice is included in the **Resources** section).*

CHALLENGES

This section should be read in conjunction with the Principles section of this toolkit.

INTRODUCTION

Negotiating family friendly / work life balance issues presents a number of challenges that the Union and its members have to address.

Changes in work practice are beneficial to those opting for such arrangements. Negotiators must bear in mind, however, that they may have implications for a worker's pension, holidays, social security entitlements, etc.

This section outlines some of the significant issues which need to be considered and addressed in relation to the negotiation of family friendly / work life balance agreements. They also need to be examined and addressed with regard to individual workers who apply for family friendly / work life balance arrangements.

NEGOTIATED AGREEMENTS

Unions and employers should aim to negotiate a family friendly / work life balance workplace agreement, or to include these options in the collective agreement. The decision to avail of any option is voluntary to the individual.

Each employment will have conditions and work practices specific to it. These may be part of custom and practice in the employment, or contained in collective agreements affecting the entire workforce, or other agreements specific to departments or sections, or categories of employees in that employment. Collective agreements, staff manuals etc. should therefore be consulted as part of the preparation for discussion and negotiations with Management.

Agreements will reflect the needs of individual workplaces and members.

In the absence of an agreement, if an individual opts for a reduction in hours or changes in their work patterns they should consult with their union representative and the changes should be negotiated with the employer.

ISSUES TO BE ADDRESSED IN RELATION TO WORKERS AVAILING OF FAMILY FRIENDLY / WORK LIFE BALANCE WORKING ARRANGEMENTS

The following list of issues to be addressed is not exhaustive or prescriptive. Some of the issues may only be relevant to specific groups such as job sharers.

DEFINITIONS AND CHALLENGES

As an absolute minimum all agreements must ensure that an individual's statutory entitlements are protected and must identify whether or not the work pattern will have implications for social welfare entitlements.

Agreements should also address the implications for individuals and work colleagues of any change in work pattern, working hours etc. These should be thought through and agreed before changes are made. Any agreement should address the following:

- replacement cover in the event of sickness or leave
- the distribution of workloads

LEAVE ENTITLEMENTS

- **Annual Leave Entitlements**
- **Public Holidays & Privilege Days**

Workers have a statutory entitlement to annual paid leave and to public holidays. These holiday entitlements are related to the entitlement arising under the collective agreement, and/or applicable to his/her grade or category of employment, subject to the minimum legal requirement under the Organisation of Working Time Act. (See the **Statutory Entitlements** section for further information).

In any reduced hours working arrangement, leave should be calculated in accordance with either the collective agreement or the Working Time Act, whichever is the greater.

The public holiday entitlement of any worker is related to the entitlement arising under the collective agreement, and/or applicable to his/her grade or category of employment, subject to the minimum legal requirement under the Organisation of Working Time Act.

It may be necessary for job sharers to vary their normal attendance regime from time to time to ensure that both jobsharing partners benefit equally from public holidays and privilege days.

The Organisation of Working Time Act, 1997 should be consulted for methods of calculation of holidays, pay and related issues. Statutory Instrument no. 475 of 1997 should be referred to also.

Where payment is made in respect of a public holiday, the rate of pay should be calculated as per the collective agreement and/or custom and practice in the employment, subject to the minimum legal requirements of S.I. 475 of 1997.

- **Sick Leave Entitlements**

Agreements negotiated should ensure that sick leave entitlements, where these exist, are covered. Details of conditions attached to sick leave and any associated procedures or benefits may be included in the contract of employment and/or collective agreement, and/or staff manual and these should be consulted.

The sick leave entitlements of a worker availing of family friendly / work life balance options should relate to the equivalent entitlements of a full time worker. Care should be taken to ensure that no discrimination occurs when a worker is availing of a reduced hours option.

OCCUPATIONAL PENSION SCHEME

The Protection of Employees (Part Time Work) Act, 2001 makes it illegal to discriminate against part time workers, in any way, including access to and benefits of an occupational pension scheme¹.

The European Court of Justice (ECJ) has also ruled in cases where women represent the greatest proportion of part time workers, that they cannot be discriminated against under EU equality legislation. (*For relevant EU case law, see **Statutory Entitlements** section*).

The main consideration with regard to pension entitlements and the negotiation of family friendly / work life balance arrangements is to ensure that employees retain their membership of any existing occupational pension scheme and to protect against a break in pensionable service.

Because of the complexity and possible permutations of pension schemes, it is crucial to consult the relevant pension booklet and pensions administrator, or request information from the pension trustees to ascertain what implications, if any, family friendly / work life balance arrangements such as jobsharing may have on pension entitlements. As schemes vary, the implications also vary depending on the method of calculation.

Arrangements to top up schemes to improve pensions (AVCs) and also to 'buy back' years to make up for any shortfall should be explored. (*For a checklist of some relevant questions see the **Resources** section*).

ACCESS TO EMPLOYMENT, PROGRESSION & PROMOTION

- **Promotion**

A change in working pattern should not alter an employee's entitlement to apply for and obtain promotion. The same selection criteria must be applied to all workers, whether part time or full time.

Where seniority is a factor in promotion, how this will be dealt with in relation to workers availing of family friendly / work life balance options should be addressed in any agreement on family friendly / work life balance.

¹ A part-time employee who normally works less than 20% of the normal hours of a comparable employee may be treated less favourably than a comparable full-time employee in relation to pensions only.

The ECJ Gerster case explored the relationship between the nature of work performed, the experience gained from the performance of that work, and the relevance of the number of hours worked to the experience gained (See **Resources** section).

- **Recruitment / Job Selection**

Potential employees should be advised of the existence of family friendly / work life balance options. A recent Equality Officer's Decision recommended that " advertisements for posts state quite clearly whether full-time attendance is necessary, where that is relevant. It is a fact that many employers... now allow flexible attendance patterns, and the employer cannot just assume that potential candidates will be aware that full-time attendance is required unless it is specifically stated." (See *ODEI decisions in the Resources Section, Leon v IPA and Burke v NUI Galway*).

- **Redundancies**

Selection for redundancy should not discriminate against these workers.

The UK Employment Appeals Tribunal case (Clarke & Powell v - Eley Kinoch Ltd) firmly establishes the legal principle that the same selection criteria be applied to all workers, whether part time or full time.

The Protection of Employees (Part Time Work) Act, 2001 is also relevant. See Equal Opportunities Commission website (see **Resources** section) to access UK cases.

REMUNERATION

- **Increments / Service Pay**

Progression up the incremental scale should apply on the same basis as full time workers. For example a year's shared service should count as a year's service for progression purposes. Of course the worker would only benefit on a pro rata basis in relation to the cash value of the increment while jobsharing. (See *Hill Stapleton Case in EU Case Law in Statutory Entitlements* section for further detail).

- **Bonus**

The application of bonus schemes to family friendly / work life balance workers must be done in an equitable and achievable manner.

- **Shift pay**

Shift arrangements are complex, however the principle that these workers should not be disadvantaged applies. They should benefit from appropriate premia, including those for unsocial hours etc.

- **Overtime**

If overtime is paid in the employment, then these workers are entitled to overtime payment at the same rate as other workers in the same grade or category.

The position on overtime payments for these workers should be clear in any agreement and should address the following issues:

- how will hours worked before normal start time be paid?
- how will hours worked after normal finish time be paid?
- how will hours worked on non-rostered days be paid?
- how will additional "unsocial" hours worked be paid?
- how will equity between part time and full time workers in relation to overtime payment be achieved?

The ECJ Lengerich case deals with the issue of overtime. (See **Statutory Entitlements** section).

TRAINING

Workers availing of family friendly / work life balance options must continue to have access to and be provided with all relevant training. Where possible, training should be organised during the worker's normal hours of work. The employee is entitled to be paid for such training time. This has been established as a principle by the ECJ. (See *European Case Law in Statutory Entitlements* section).

OTHER ISSUES

Other relevant issues in your workplace which may require examination and agreement include

- piece work
- expenses
- fringe benefits
- benefit in kind

(See the *Code of Practice on eWorking in the Resources* section which may be relevant for these topics).

SOCIAL INSURANCE CONTRIBUTIONS

Where a worker avails of part-time work, and in particular jobsharing or worksharing, care must be taken to ensure that their working pattern enables them to maintain the minimum required social insurance contributions or credits to be entitled to relevant social welfare payments.

The social insurance contribution week varies from year to year and this issue must be considered before each new calendar year.

For further information on dealing with this, consult the SW105 Worksharing booklet in the Resources Section.

RETURNING TO ORIGINAL WORK PATTERN / TERMINATION OF AGREEMENT

In all cases the employee's right to return to their original work pattern must be included in any agreement, and how this will be done.

Where the arrangement is for a specific length of time, the beginning and end dates should be specified. In addition, a mechanism for the termination of the family friendly / work life balance arrangement must be included in any agreement. This should cover notice period and reasons for termination by employee / employer, and the appeals procedure to be used.

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INTRODUCTION

The documents covered in this Section are Briefing Notes only and are not legal interpretations of the Acts. Neither do they cover all of the provisions of the Acts. The Acts themselves should be consulted for the precise legal provisions.

What follows is a brief introduction to the law as it relates to family friendly working arrangements. There are a number of pieces of legislation that are directly relevant and under which the legal rights and entitlements of employees are established.

Four of these Acts cover leave arrangements i.e. Maternity Leave, Adoptive Leave, Parental Leave and Carer's Leave. The Protection of Employees (Part-time Work) Act, 2001 is relevant to any type of family friendly work arrangement that involves a reduction in working hours e.g. job sharing; work sharing; part-time work.

The Employment Equality Act, 1998 is relevant in the context of its provision in relation to prevention of discrimination both direct and indirect across 9 grounds.

The Maternity, Parental, Part-Time Work, and Equality legislation transpose EU Directives. The situation is affected by the on-going development of case law at national and European level. Some of the key judgements are attached, and other milestone judgements will arise in the future. (*See EU Case Law in Statutory Entitlements section*).

MATERNITY PROTECTION¹ ACT, 1994

- Maternity Leave
- Additional leave
- Health & Safety Issues including Health & Safety Leave
- Fathers Leave (in the event of the death of the Mother)
- Attendance at Ante Natal and Post Natal examinations

ADOPTIVE LEAVE ACT, 1995

- Adoptive Leave (mother or sole male adopter)
- Additional Leave
- Father's Leave (in the event of the death of the Mother)
- Use of Additional Leave in the case of Foreign Adoptions

¹ EU Council Directive 92/85/EEC of 19 October 1992

PARENTAL LEAVE² ACT, 1998

- Parental Leave
- Force Majeure Leave

CARER'S LEAVE ACT, 2001

- Carer's Leave to personally provide full-time care to a person assessed as requiring full-time care and attention

PROTECTION OF EMPLOYEES (PART-TIME WORK)³ ACT , 2001

- Prohibits discrimination against part-time workers solely because they are part-time workers. A part-time employee may not be treated less favourably than a comparable full-time employee
- Part-Time employee means an employee whose normal hours of work are less than the normal hours of work of a comparable full-time employee
- The Act covers conditions of employment including remuneration and occupational pension schemes where they exist. There is one exception permitted in relation to pension schemes i.e. the principle of equal treatment does not apply to a part-time employee whose normal hours of work constitute less than 20% of the normal hours of work of a comparable full-time employee.

EMPLOYMENT EQUALITY ACT 1998

- The scope of the Act is comprehensive and prohibits direct and indirect discrimination, victimisation, dismissal, harassment and sexual harassment on nine grounds – gender, marital status, family status, disability, age, race, religion, sexual orientation, or membership of the traveller community.
- The Act provides for positive action in relation to gender, age i.e. over 50, disability and membership of the traveller community.
- The Act permits employers to provide benefits to employees in respect of certain family matters.

²EU Council Directive 96/34/EC of 3 June 1996

³EU Directive 97/81/EC of 15 December 1997

MATERNITY PROTECTION ACT 1994

This is a Briefing Note only and is not a legal interpretation of the Act. Neither does it cover all of the provisions of the Act. The Act should be consulted for the precise legal provisions.

PURPOSE

The Maternity Protection Act 1994 was enacted to give effect to the EU Directive (92/85/EC) on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

KEY PROVISIONS

The Act provides for:

- the right to **eighteen consecutive weeks maternity leave**
- the right to **eight weeks additional maternity leave**
- the right to **time off from work without loss of pay to attend ante-natal and post-natal medical care appointments**
- the right to **health and safety** leave during the pregnancy and up to to 26 weeks after the birth if the mother is breastfeeding
- the right of the **employed father to leave where the death of the mother occurs within twenty two weeks of the birth**
- the **protection of certain employment rights** while on leave under the Act
- the **right to return to work**
- **protection against dismissal** from the beginning of pregnancy to the end of maternity leave (if the dismissal results from pregnancy or connected matters)

WHO IS COVERED BY THE ACT?

There is no service qualification for any of the rights given under the Act.

The Act applies to all female employees who have notified their employer in writing, of their pregnancy, for the period of the pregnancy to the end of maternity leave¹. The employee must provide a medical certificate indicating the week during which it is expected the baby will be born. This notice must be given to the employer at least four weeks before the beginning of maternity leave i.e. 8 weeks before the expected date of confinement.

Father's entitlement - In certain circumstances fathers are entitled to leave in the event of the death of the mother.

¹ Mothers who are breastfeeding (up to 26 weeks after the birth) are also covered by the Act and are entitled to Health & Safety Leave if a risk to their health or the health of the baby exists in the workplace.

Fixed Term Contract Worker - Where a pregnant woman is employed on a fixed term contract and the contract ends while the woman is on maternity leave the maternity leave ends on the same day.

MATERNITY LEAVE

The Act entitles a pregnant employee to eighteen consecutive weeks maternity leave². She must take a minimum of four weeks leave before the last day of her expected week of confinement. She must also take four weeks leave after the last day of her expected week of confinement.

PROTECTIVE LEAVE

Protective Leave means:

- (a) Maternity Leave
- (b) Additional Maternity Leave
- (c) Leave to which a father is entitled, or
- (d) Health & Safety Leave

LATE BIRTHS

If the baby's late birth means an employee has less than four weeks maternity leave remaining after the week in which her child is born then she may extend her maternity leave to ensure she has a full four weeks following the week of the birth. (Note: statutory maternity leave can never exceed twenty two weeks.)

The employee must notify her employer in writing of such an extension as soon as possible, stating the duration of the extension.

EARLY BIRTHS

In the event of a pregnant employee's date of confinement occurring more than four weeks before it is expected and if the employee has not already commenced maternity leave, she is entitled to take 18 weeks maternity leave from that point.

The employee must notify her employer in writing of her maternity leave within two weeks of the confinement. Another person can provide this notice on her behalf.

² The 18-week period of maternity leave attracts a social welfare benefit subject to qualifying conditions.

STILLBIRTHS

In the event of a stillbirth occurring after the twenty-fourth week of pregnancy, the mother is still entitled to eighteen weeks maternity leave. Check also Social Welfare Acts 1993 & 1994.

PAID TIME OFF FOR ANTE-NATAL AND POST-NATAL MEDICAL CARE³

Pregnant employees and employees who have recently given birth are entitled to time off from work without loss of pay, for ante-natal and post-natal medical visits. The employee must give notification to her employer so that she may take time off work for such visits.

After the first appointment an employee must provide a medical certificate confirming both the visit and her pregnancy.

There is no maximum or minimum time off specified for these visits.

ADDITIONAL MATERNITY LEAVE

If an employee wishes she may take up to **eight consecutive weeks additional maternity leave** immediately following her maternity leave, even where that has been extended for a late birth. She does not need to specify a reason to her employer for taking this leave. This leave does not attract a social welfare benefit.

LEAVE TO WHICH A FATHER IS ENTITLED IN THE EVENT OF THE DEATH OF THE MOTHER

In the event of the mother's death occurring within 22 weeks of the birth, the father is entitled to leave⁴.

In the event of the mother's death occurring within 14 weeks of the birth, the father will be entitled to leave up to the end of the 14th week.

In the event of the mother's death occurring after the end of the 14th week, but before the end of the 22nd week after the confinement the father is also entitled to the further/additional leave.

Leave to which the father is entitled must begin within seven days of the mother's death.

³ Regulations SI 18 of 1995 set down the notification procedures required.

⁴ The father's leave usually attracts a social welfare payment subject to qualifying conditions

NOTIFICATION REQUIRED UNDER THE ACT

- **Maternity Leave:** A woman must submit a written notification to her employer of her intention to take maternity leave, a minimum of four weeks before the leave begins, i.e. 8 weeks before the date of confinement. The employee must also submit a doctor's certificate confirming her pregnancy and the expected week of confinement.
- **Additional Maternity Leave:** A woman wishing to take the eight weeks additional maternity leave must ensure that her employer is notified in writing. She must do this at least four weeks before the day on which her additional maternity leave is due to commence. This may be given at the same time as her notice of maternity leave.
- **Ante-natal and Post-natal Medical Care:** The employee must give at least two weeks notice in advance of a scheduled medical visit. The notice must state the date and time of the visit. If it is impossible for an employee to give two weeks notice, she must provide a medical certificate in respect of the visit.
- **Fathers Leave:** Written notice of father's leave must be given no later than the day the leave is due to commence. The father must also notify his employer if he wishes to take further/additional father's leave. This notice should either be given at the same time as the notice of father's leave or, if that is not possible no later than four weeks before the end of father's leave.
- **Health & Safety Leave:** If a woman on Health and Safety Leave ceases to be pregnant or ceases breastfeeding she must give written notice to her employer straight away.

If the health risk to a woman is removed while she is on Health and Safety Leave the employer must immediately notify the woman of this. The employer is also obliged to notify an employee who is on health and safety leave should suitable alternative work become available. The woman must return to work within seven days of receiving such notice.

- **Returning to Work:** Prior written notice of an employee's intention to return to work, following her maternity leave or her additional maternity leave, must be given to the employer no later than four weeks before the date on which she expects to return. It is very important that a woman sends in proper notice before the four week deadline laid down by the Act.

HEALTH AND SAFETY PROVISIONS

Apply to:

- (a) Pregnant employees
- (b) Employees who have recently given birth; and
- (c) Employees who are breastfeeding

Health and Safety Leave may be provided to women, who are pregnant, have recently given birth or are breastfeeding.

The Safety, Health and Welfare at Work (Pregnant Employees etc.) Regulations⁵ 2000 require an employer to conduct a risk assessment of the workplace in relation to women who are pregnant, have recently given birth or are breastfeeding. If a risk is established the employer must put in place measures to remove the risk. If it is not possible for the employer to do this the employee must be granted suitable alternative work. If it is not possible for the employer to transfer the woman to suitable alternative work⁶, or the work to which the employee is being transferred is not suitable to her, then she must be granted health and safety leave.

The Regulations also provide that if an employee is certified by her medical practitioner as unfit for night work during the pregnancy or for 14 weeks following childbirth, she is not obliged to perform night work⁷. The employer must supply alternative daytime work or grant health and safety leave.

An employee who is granted health and safety leave must be paid her usual wage by her employer for the first **twenty-one days** of her leave. Thereafter, health and safety leave is paid by the Department of Social Community and Family Affairs subject to her PRSI contributions.

An employee who goes on health and safety leave must be granted a certificate by her employer if she asks for one.

ENDING HEALTH AND SAFETY LEAVE

Health and safety leave for pregnant women ends either if the risk is no longer an issue, suitable alternative work becomes available or maternity leave commences.

Health and safety leave for a breastfeeding mother ends if she ceases to breastfeed her child. If she has not ceased breastfeeding her child by the end of the twenty-sixth week following the birth then her leave ends after that week.

⁵ S.I. No 218 of 2000

⁶ suitable alternative work is defined as being "appropriate to the employee in all circumstances"

⁷ "night work" is defined in Section 5(3) of the Safety, Health & Welfare at Work (Pregnant Employees, etc.) Regulations, 2000

PROTECTION OF EMPLOYMENT RIGHTS

- During maternity leave, health and safety leave, and father's leave and during natal care absences, an employee is deemed to be in the employment of the employer. The period of maternity leave is reckonable service and employment rights and benefits that employees might be entitled to by virtue of being in work are preserved, e.g. annual leave, increments, seniority etc.
- An employer is not obliged to pay an employee during maternity leave, additional maternity leave, father's leave of any kind or after the first 21 days of health and safety leave.
- Public Holidays - During maternity leave or father's leave employees are entitled to be credited for any public holiday that occurs during their leave.
- An employee absent on health and safety leave does not have an entitlement to benefit in lieu of public holidays that occur during such leave, although they retain their entitlement to annual holidays.
- During additional maternity leave and additional/further father's leave an employee's employment relationship continues to exist and there is no break in service. However these absences **do not** count as reckonable service.
- Probation, Training and Apprenticeship - Any periods of probation, training and apprenticeship that are interrupted by protective leave are suspended until the end of the period of leave.

RIGHT TO RETURN TO WORK

An employee is entitled to return to work after protective leave. She is entitled to return to work with the same employer or, if the workplace has changed ownership, the new owner. She is entitled to return to the same job that she had before her protective leave.

She is entitled to the same contract of employment she possessed before her protective leave. If the employment is under new ownership, she is entitled to an identical contract with the new employer to the one she had prior to the protective leave. If she was not performing her usual work immediately before her protective leave began she is entitled to return to her usual work on return from leave.

If it is not reasonably practicable for the employer or successor employer to permit the employee to return to work in accordance with the above she is entitled to "suitable alternative work" under a new contract of employment. This should be suitable and appropriate for the employee concerned and the terms and conditions of employment should not be substantially less favourable to her than those of her contract of employment immediately before the start of the protective leave.

PROTECTION AGAINST DISMISSAL

An employee who is on protective leave under the Act, cannot be dismissed, made redundant or suspended while on such leave.

Notice of dismissal, redundancy or suspension given prior to maternity leave, additional maternity leave, time off for natal care or father's leave, that is due to take effect during such leave, is extended to the end of the period of leave.

An employee cannot be dismissed on grounds of pregnancy, for having recently given birth or for breastfeeding or any matters connected therewith. An employee cannot be dismissed because she availed of rights allowed to her under the Maternity Protection Act, 1994 including the right to protective leave or natal care absence. The Maternity Protection Act, 1994 amends the Unfair Dismissals Acts, 1977 to 1993 to that effect.

DISPUTES

Any dispute concerning entitlement under the Act may be referred to a Rights Commissioner within six months of the dispute. Either party may appeal a decision of the Rights Commissioner to the Employment Appeals Tribunal within four weeks.

Disputes concerning dismissal are proper to the Unfair Dismissals Act 1977-1993. Disputes concerning health and safety risks should be referred to the Health and Safety Authority.

MORE FAVOURABLE PROVISIONS

Nothing in the Act prohibits any agreement from containing a provision that is more favourable to an employee than any provision in Parts II to VI of the Maternity Protection Act, 1994.

PRSI CREDITS

If additional unpaid maternity leave is taken immediately following paid Maternity leave the employee will be entitled to a PRSI credit in respect of each week taken up to a maximum of 8 weeks. This will ensure that existing cover for social welfare benefits is fully maintained. Employees should ensure that the employer completes the application form for maternity leave credits and returns it to the Department of Social and Family Affairs.

ADOPTIVE LEAVE ACT 1995

This is a Briefing Note only and is not a legal interpretation of the Act. Neither does it cover all of the provisions of the Act. The Act should be consulted for the precise legal provisions.

The Adoptive Leave Act, 1995 provides for:

- a minimum of fourteen¹ consecutive weeks of adoptive leave commencing on the day of placement of a child
- up to eight weeks additional adoptive leave

WHO IS ELIGIBLE?

Adoptive leave is available to:

- an employed adopting mother
- an employed sole male adopter
- an employed adopting father - where the adopting mother has died

ADOPTIVE LEAVE

An eligible employee adopting a child is entitled to fourteen consecutive weeks of adoptive leave from the date of placement. An employee must give notice to the employer, at least four weeks prior to the expected date of placement.

POSTPONEMENT OF ADOPTIVE LEAVE

In a case where the day of placement is postponed, commencement of the period of adoptive leave is also postponed subject to the employed adopting mother or sole male adopter notifying his/her employer of the expected new day of placement as soon as is reasonably practicable.

¹ The 14 week period of adoptive leave attracts a social welfare benefit subject to qualifying conditions.

ADDITIONAL ADOPTIVE LEAVE

An employee, who has taken adoptive leave, is also entitled to eight weeks additional adoptive leave which is unpaid. An employee must notify the employer at least four weeks before the end of the fourteen weeks adoptive leave if s/he wishes to take additional leave.

Foreign Adoptions - In the case of 'foreign' adoptions, some or all of the additional 8 weeks adoptive leave may be taken immediately before the placement date.

ENTITLEMENTS OF ADOPTING FATHERS IN CERTAIN CIRCUMSTANCES

- **Adoptive Leave**

If the adopting mother dies the adopting father is entitled to adoptive leave for one of the following periods as appropriate:

- (a) 14 weeks, or
- (b) in a case where the adopting mother dies on or after the day of placement, 14 weeks less a period equivalent to the period beginning on the day of placement and ending on the date of her death, or
- (c) such other period as the Minister may, with the consent of the Minister for Social Welfare and the Minister for Finance, by order prescribe.

- **Additional Adoptive Leave**

If the adopting mother dies the adopting father is entitled to additional adoptive leave, if he so requests for one of the following periods as may be appropriate

- (a) 8 weeks, or
- (b) in the case where the adopting mother dies on or after the expiration of 14 weeks from the day of placement, 8 weeks less a period equivalent to the period beginning on the day immediately following the expiration of 14 weeks from the day of placement and ending on the date of the mother's death, or
- (c) such other period as the Minister may, with the consent of the Minister for Social Welfare and the Minister for Finance, by order prescribe

- **Additional Adoptive Leave before the day of placement**

In the case of a foreign adoption, where the adopting mother dies some or all of the additional adoptive leave may be taken immediately before the day of placement.

PLACEMENTS OF LESS THAN 14/18 OR 22 WEEKS DURATION

Section 12 (1) of the Act has been amended by SI No. 30 of 2001.

NOTIFICATION OF ADOPTIVE LEAVE

Adequate notice, in writing, must be given to the employer. An employee must inform the employer, in writing, of the expected date of placement as soon as is reasonably practicable. The minimum advance notice in writing is 4 weeks before the expected date of placement and 4 weeks before the commencement of additional leave. 4 weeks noticed in writing is also required of the date of return to work.

Evidence of placement must be furnished as soon as is reasonably practicable: in the case of an Irish adoption not later than 4 weeks after the day of placement. In the case of a foreign adoption, an employee must give the employer a copy of the declaration of eligibility and suitability before the commencement of adoptive leave or additional adoptive leave (whichever is the earlier), and details of the placement must be furnished as soon as is reasonably practicable after that.

EMPLOYMENT RIGHTS

All employment rights, other than remuneration, are preserved during the 14 weeks adoptive leave.

Employment rights during the eight weeks additional adoptive leave will be frozen, i.e. the period of employment before the leave will be regarded as continuous with the period of employment following the adoptive leave.

RIGHT TO RETURN TO WORK

The employee has a right to return to work after a period of adoptive leave or additional adoptive leave. S/he has the right to return to:

- (a) the job which she or he held immediately before the start of the period and
- (b) under the contract of employment under which he or she was employed immediately before the start of that period, (or where there is a change of ownership has occurred to an identical contract of employment with the successor) or
- (c) where the job held by the employee immediately before the start of the period of adoptive leave or additional leave was not the normal or usual job, the employee is entitled to return to either the normal or usual job or to that job as soon as is practicable.

If it is not reasonably practicable for the employer or the successor to permit the employee to return to work in accordance with (a), (b) and (c) above, the employee shall be entitled to be offered suitable alternative employment in accordance with a new contract of employment. This should be suitable and appropriate for the employee concerned and the terms and conditions of employment should not be substantially less favourable to the employee than those of the contract of employment immediately before the start of the protective leave.

An employee must give four weeks written notification to the employer before the end of adoptive leave or additional adoptive leave.

DISPUTES

A dispute concerning an employee's entitlement, under the Adoptive Leave Act 1995, may be referred within six months to a Rights Commissioner.

Either party may appeal the decision of a Rights Commissioner within four weeks of the date of the decision of the Rights Commissioner.

The Rights Commissioner and/or the Employment Appeals Tribunal may make an award of compensation, not exceeding twenty weeks remuneration.

Disputes concerning dismissal are dealt with under the Unfair Dismissals Acts 1977-1993.

MORE FAVOURABLE PROVISIONS

Nothing in the Act prohibits the inclusion in an agreement of an additional provision that is more favourable to an adopting parent than the provisions of the Adoptive Leave Act.

The inclusion of an additional provision in an agreement does not confer any right on an employee who is not an adopting parent.

PRSI CREDITS

If additional unpaid adoptive leave is taken immediately following paid Adoptive Leave the employee will be entitled to a PRSI credit in respect of each week taken up to a maximum of 8 weeks. This will ensure that existing cover for social welfare benefits is fully maintained. Employees should ensure that the employer completes the application form for adoptive leave credits and returns it to the Department of Social and Family Affairs.

PARENTAL LEAVE ACT 1998

This is a Briefing Note only and is not a legal interpretation of the Act. Neither does it cover all of the provisions of the Act. The Act should be consulted for the precise legal provisions.

PURPOSE

The Parental Leave Act 1998 was enacted on 3rd December 1998 to give effect to the EU Directive (96/34/EC) on Parental Leave.

The Act was amended by Regulation i.e. European Communities (Parental Leave) Regulations, 2000, which deleted Section 6 (2) of the Act. This amendment was necessary when, in response to a complaint by Congress, the EU Commission found that the date of birth provision in the original Act i.e. that a child had to be born on or after 3rd of June 1996, was in breach of the provisions of the Directive.

The Act provides for

- Fourteen weeks parental leave to each parent to take care of their children
- Force Majeure Leave (paid by the employer) to enable employees to deal with family emergencies arising from an injury or illness of a family member, i.e., three days in any period of twelve months or five days in any thirty-six month period

ENTITLEMENT TO PARENTAL LEAVE

- Each parent is entitled to **fourteen weeks parental leave** and it is non-transferable between parents.
- The leave must be taken not later than the day on which the child reaches the age of 5 years except in certain circumstances in the case of an adopted child. In the case of a child who is under 3 years at the time of the adoption the leave must be taken before the child reaches 5 years of age. However, if the child is aged between 3 years and 8 years at the time of the adoption, the leave must be taken within 2 years of the adoption order.

SERVICE REQUIREMENT

The employee must have one year's continuous service with the same employer before s/he becomes entitled to parental leave.

However, where a child is reaching **five years** of age and the employee has more than three months service with the employer, s/he is entitled to pro-rata parental leave. In such cases the employee is entitled to one week's leave for each month of employment at the time of taking the parental leave.

HOW CAN PARENTAL LEAVE BE TAKEN?

The leave must be taken

- as a continuous period of fourteen weeks

or

- with the agreement of the employer, the leave may be broken down i.e. individual days or weeks or taken as reduced working hours. (*For more information see **Resources** section*)

If the Leave is taken in a broken manner, the entitlement is calculated in relation to the number of hours during which, but for the leave, the employee would be working in the employment concerned.

There are two ways of calculating the entitlement:

(i) Where there is agreement on the reference period

Where an employee and employer agree on a particular period of 14 continuous weeks worked by the employee before the leave commences as a reference period, the total number of hours worked by the employee during the period represents the total number of hours leave to which the employee is entitled (irrespective of how the leave is spread).

(ii) Where there is no agreement on the reference period¹

Where an employee and employer are unable to agree on a particular period of 14 continuous weeks to be used as a reference period (e.g. where the employee does not work a fixed number of hours per week), then a different formula should be applied. In such circumstances the total number of hours of parental leave to which an employee is entitled is continually re-evaluated to reflect the fluctuations in the hours worked.

When determining the 14 week reference period/s mentioned above, absences as a result of parental leave during a reference period are treated as if the employee was at work, and other absences from work on sick leave, maternity leave, adoptive leave, or force majeure leave are excluded and a corresponding number of days immediately before the commencement of the reference period should be included.

Where an employee has more than one child, s/he may not take more than fourteen weeks parental leave in any twelve month period, without the consent of the employer. The exception is in cases of multiple births (twins, triplets etc.)

¹ See **Resources** section for an example of how "broken" leave should be calculated, drafted by the Equality Authority as part of their explanatory booklet on the Parental Leave Act, 1998.

NOTIFICATION OF PARENTAL LEAVE

An employee must give six weeks written notice to the employer. The notice should contain

- the date the employee intends to commence the leave
- the duration of the leave
- the manner in which the employee proposes to take the leave

Both the employer and the employee must sign a 'confirmation document', not later than four weeks before the leave is due to commence setting down the date of commencement of the leave, its duration and the manner in which it will be taken.

POSTPONEMENT OF PARENTAL LEAVE BY THE EMPLOYER

An employer has a right to postpone the parental leave only in circumstances where the granting of the leave would have a substantial adverse effect on the operation of his/her business. The postponement may be for a period not exceeding six months to a date agreed on by both the employer and employee.

The employee must be notified at least four weeks before the proposed commencement of the leave. The notice must specify the grounds for the postponement.

If, because of postponement, the child reaches the age limit, the employee retains his/her entitlement to parental leave.

ABUSE OF PARENTAL LEAVE

An employer may terminate Parental Leave, if s/he has reasonable grounds to believe that the leave is being used for a purpose other than taking care of the child concerned.

Before terminating the leave an employer must notify the employee, in writing, of his/her intention to do so and must afford an opportunity to the employee to make representations within seven days.

Where an employer proceeds to terminate the leave, the employee must be notified in writing. The notice must specify the grounds and date of termination. In such cases the employee shall return to work.

FORCE MAJEURE LEAVE

An employee is entitled to leave with pay from his/her employment for urgent family reasons, owing to the injury or illness of a family member where the immediate presence of the employee is indispensable.

A family member can be any of the following

- (a) a person of whom the employee is the parent or adoptive parent
- (b) a spouse/or a person with whom the employee is living as husband or wife
- (c) a person to whom the employee is in loco parentis
- (d) a brother/sister
- (e) a parent/grandparent
- (f) other persons as may be prescribed.

Force Majeure leave consists of

- three days in any period of twelve months
- or
- five days in any thirty-six month period

Absence on Force Majeure Leave for part only of the working day is deemed to be one day of Force Majeure Leave.

An employee retains all his/her employment rights while on force majeure leave

An employee must, as soon as is reasonably practicable after his/her return to work, notify the employer that s/he has taken force majeure leave.

EMPLOYMENT RIGHTS PROTECTED

While an employee is absent from work on Parental Leave, s/he is regarded for all purposes (other than the right to remuneration or superannuation benefits or any obligation to pay contributions) as being in the employment of the employer and none of his or her other rights relation to the employment are affected by the leave.

Parental Leave counts as reckonable service for the purposes of annual leave, public holidays, increments, seniority, promotion etc.

Periods of probation, training or apprenticeship may be suspended while an employee is on parental leave.

ANNUAL LEAVE AND PUBLIC HOLIDAYS

Annual leave, which accrues to an employee while on parental leave, will be granted by the employer in accordance with Section 20 of the Organisation of Working Time Act, 1997.

An employee retains his/her right to any public holiday falling during a period of Parental Leave, and the Act provides that a day in lieu should be added to the period of Parental Leave in respect of each such Public Holiday.

RETURN TO WORK

When the period of Parental Leave ends the employee is entitled to return to work

- (a) with the employer with whom he or she was working immediately before the start of the period or, where during the employee's absence from work there was a change of ownership of the undertaking, the successor,
- (b) in the job that the employee held immediately before the commencement of the period, and
- (c) under the contract of employment under which the employee was employed immediately before the commencement of the period or, where a change of ownership has occurred, under an identical contract of employment with the successor, and in either case under terms or conditions no less favourable to the employee than those that would have been applicable if he or she had not taken Parental Leave.

Where the job held by the employee immediately before the commencement of a period of Parental Leave was not the employee's normal or usual job, he or she shall be entitled to return to work, either to his or her normal or usual job or to that job, as soon as is practicable without contravention by the employee or the employer of any legal provisions

Where it is not reasonably practicable for the employer to permit the employee to return to work in accordance with above, the employee shall be entitled to be offered suitable alternative employment under a new contract of employment. This should be suitable and appropriate for the employee concerned and the terms and conditions of employment should not be substantially less favourable to him or her than those of the contract of employment immediately before the start of the protective leave.

DISPUTES

Both the employer and employee are entitled to refer a dispute to a Rights Commissioner within six months of the occurrence of a dispute. Either party may appeal the decision of a Rights Commissioner to the Employment Appeals Tribunal. Such an appeal must be made within four weeks from the decision of the Rights Commissioner.

The Rights Commissioner and/or the Employment Appeals Tribunal may order redress, of either or both of the following:

- the granting of parental leave
- the payment of compensation, not exceeding twenty weeks remuneration

Disputes concerning dismissal are dealt with under the Unfair Dismissals Acts 1977 to 1993.

MORE FAVOURABLE PROVISIONS

Nothing in the Act prohibits the inclusion in an agreement of a provision more favourable to an employee than the provisions contained in the Act.

PRSI CREDITS

While on unpaid parental leave the employee will be entitled to a PRSI credit in respect of each week taken up to a maximum of 14 weeks. This will ensure that existing cover for social welfare benefits is fully maintained. Employees should ensure that the employer completes the application form for parental leave credits and returns it to the Department of Social and Family Affairs.

CARER'S LEAVE¹ ACT 2001

This is a Briefing Note only and is not a legal interpretation of the Act. Neither does it cover all of the provisions of the Act. The Act should be consulted for the precise legal provisions.

KEY FEATURES

PURPOSE OF LEAVE:

- The leave is for the purpose of personally providing full-time² care to a person (relevant person) who is objectively assessed by the Department of Social, Community & Family Affairs (Deciding Officers) as being in need of full-time care and attention.

LEAVE PERIOD

- The Leave Period is a maximum of 65 weeks in respect of any one relevant person. The 65 weeks leave may be taken as a continuous period, or in separate unit periods, the aggregate duration of which does not exceed 65 weeks.
- An employer may refuse to allow an employee to take carer's leave for a period of less than 13 weeks. Such refusal must be based on reasonable grounds and the employer must specify the reasons in writing to the employee.
- The Minister may make regulations, applicable to a particular class or classes of employee, in respect of the form in which carer's leave may be taken, where it is proposed to take the leave in a form other than a continuous period of 65 weeks.
- Agreements between employer and employee, that are more favourable to the employee than the entitlements under the Act, are permitted under the Act³.
- Subject to certain exceptions, the leave terminates when the employee ceases to personally provide the full-time care and attention to the relevant person.

¹ The Social Welfare Act, 2000 introduced the Carer's Benefit and certain of its provisions are relevant to provisions of the Carer's Leave Act, 2001. See **Resources** section.

² Under Regulations by the Minister for Social, Community and Family Affairs an employee may work for up to 10 hours per week while on Carer's Leave.

³ See **Resources** section.

CONDITIONS

- The employee must have been in the continuous employment of the employer from whom the leave is taken, for at least 12 months, before he or she can commence the leave. (There is no 'hours' threshold in the Act.)
- An employee must give at least 6 weeks prior notice in writing to the employer of the intention to take the leave and must provide his or her employer with a decision from a Social, Community & Family Affairs Deciding Officer.
- At any one time only one employee may be on carer's leave in respect of the same person.
- Subject to certain exceptions; an employee may not be on carer's leave in respect of two or more relevant persons at any one time. The exception relates to a case where the two relevant persons reside together. This exception may only be exercised once.
- There must be a gap of 6 weeks between periods of carer's leave taken by an employee in respect of a particular relevant person.
- An employee who has taken carer's leave in respect of a relevant person, cannot commence a period of carer's leave in respect of another relevant person until a period of 6 months has elapsed from the date on which leave in respect of the first relevant person terminated.
- By agreement between the employee and employer the leave may be postponed, curtailed or varied, in which case it may be taken at another time.
- Entitlement to Carer's Benefit is not a condition for entitlement to Carer's Leave.

EMPLOYMENT RIGHTS

- An employee on carer's leave is treated as if he/she had not been absent so that all employment rights are unaffected during the leave with the exception of the right to remuneration, certain annual leave and certain public holidays⁴, superannuation benefits, and any obligation to pay contributions in or in respect of the employment.
- Periods of carer's leave are not treated as part of any other type of leave e.g. sick leave, annual leave, adoptive leave, maternity leave, parental leave or force majeure leave.
- When the carer's leave terminates an employee is entitled to return to the same work, or if it is not reasonably practicable for the employer to permit the employee to return to the same work as he or she did prior to the leave, suitable alternative work on terms and conditions not less favourable than those applicable to his or her previous employment must be provided by the employer.
- Continuity of service is preserved.
- Employees are protected from penalisation by employers for exercising or proposing to exercise their entitlement to carer's leave.

RETURN TO WORK

When the period of Carer's Leave ends the employee is entitled to return to work:

- (a) with the employer with whom he or she was working immediately before the start of the period or, where during the employee's absence from work there was a change of ownership of the undertaking, the successor,
- (b) in the job that the employee held immediately before the commencement of the period, and
- (c) under the contract of employment under which the employee was employed immediately before the commencement of the period or, where a change of ownership has occurred, under an identical contract of employment with the successor, and in either case under terms or conditions no less favourable to the employee than those that would have been applicable if he or she had not taken Carer's Leave.

Where the job held by the employee immediately before the commencement of a period of Carer's Leave was not the employee's normal or usual job, he or she shall be entitled to return to work, either to his or her normal or usual job or to that job, as soon as is practicable without contravention by the employee or the employer of any legal provisions

⁴ Annual leave and Public Holidays entitlements accrue only in respect of the first 13 weeks of Carer's Leave for each and any relevant person.

Where it is not reasonably practicable for the employer to permit the employee to return to work in accordance with above, the employee shall be entitled to be offered suitable alternative employment under a new contract of employment. This should be suitable and appropriate for the employee concerned and the terms and conditions of employment should not be substantially less favourable to him or her than those of the contract of employment immediately before the start of the Carer's leave.

DISPUTES

Issues arising in relation to the following are decided by a Social, Community & Family Affairs Deciding Officer:

- whether the person in respect of whose care the leave is taken, is a "relevant" person for the purposes of the Act; and
- whether an employee is providing the full time care and attention as required by the Act.
- There is a right to appeal a decision of a deciding officer under the Social Welfare (Consolidation) Act, 1993.

Any dispute between an employee and the employer relating to any other entitlement of the employee under this Act is referable to a Rights Commissioner with a right of appeal to the Employment Appeals Tribunal.

REVIEW OF ACT

- **Section 34** provides that between two and three years after the commencement of this Act, the Minister, after consultation with employee and employer representatives, will conduct a review of the operation of the Act, and will prepare a report in writing of the findings of the review and will lay the report before both houses of the Oireachtas.

PROTECTION OF EMPLOYEES (PART TIME WORK) ACT, 2001

This is a Briefing Note only and is not a legal interpretation of the Act. Neither does it cover all of the provisions of the Act. The Act should be consulted for the precise legal provisions.

INTRODUCTION

The Protection of Employees (Part-time Work) Act, 2001 came into operation with effect from 20th December 2001.

KEY FEATURES:

PURPOSE OF ACT

The purpose of the Act is to:

- implement the provisions of **EU Directive 97/81/EC concerning the Framework Agreement on Part-time Work**.¹
- provide for the removal of discrimination against part-time employees; improve the quality of part-time work;
- provide that a part-time employee may not be treated less favourably than a comparable full-time employee;
- facilitate the development of part-time work on a voluntary basis; contribute to the flexible organisation of working time in a manner that takes into account the needs of employers and workers.
- implement the provisions of **EU Posted Workers Directive 96/71/EC**
- clarify the effect of certain legislative provisions in relation to Posted Workers (within the meaning of EU Directive 96/71/EC) and in relation to other persons having an employment relationship in the State.

¹ Workers Protection (Regular Part-Time Employees) Act, 1991 is repealed.

RIGHTS OF PART-TIME WORKERS

- **"Conditions of Employment" (Section 3)** - include conditions in respect of remuneration and matters related thereto (and, in relation to any pension scheme or arrangement, includes conditions for membership of the scheme or arrangement and entitlement to rights thereunder and conditions related to the making of contributions to the scheme or arrangement).
- **"Remuneration" (Section 3)** includes:
 - any consideration, whether in cash or in kind, which the employee receives, directly or indirectly, from the employer in respect of the employment, and
 - any amounts the employee will be entitled to receive on foot of any pension scheme or arrangement.
- **"Full-time employee" (Section 7)** - means an employee who is not a part-time employee
- **"Part-Time employee"(Section 7)** - is defined as an employee whose normal hours of work are less than the normal hours of work of an employee who is a comparable employee in relation to him or her.
- **"Comparable employee" (Section 7(1) (2) & (3))** - in relation to a part-time employee, is defined in terms similar to the definitions in the Employment Equality, Act, 1998 in relation to "like work".

An employee is a comparable employee:

- (a) if both are employed by the same employer or associated employers;
- (b) in case paragraph (a) does not apply, the employee is specified in a collective agreement;
- (c) in case neither paragraph (a) nor (b) applies, the employee is employed in the same industry or sector of employment as the relevant part-time employee.

and if one of the following conditions is met:

- (a) both employees perform the same work under the same or similar conditions, or each is interchangeable with the other in relation to the work,
- (b) the work performed by one of the employees concerned is of the same or a similar nature to that performed by the other and any differences between the work performed or the conditions under which it is performed by each, either are of small importance in relation to the work as a whole or occur with such irregularity as not to be significant, and
- (c) the work performed by the relevant part-time employee is equal or greater in value to the work performed by the other employee concerned, having regard to such matters as skill, physical or mental requirements, responsibility and working conditions.

- **"Agency Worker" (Section 7(1)&(4))** - comparable worker compares to another agency worker only.
- **"Normal Hours of Work" (Section 7(1))** means the average number of hours worked by the employee each day during a reference period.
- **"Reference Period" Section 7(1)** means a period of not less than 7 days nor more than 12 months duration; is the same period by which the normal hours of work of the other employee is determined, and the number of hours worked constitutes the normal hours of work in a period of that duration.
- **Less favourable treatment - Section 9**
it is not permitted to treat a part-time employee **less favourably** than a comparable full-time employee ² in respect of his/her conditions of employment, including remuneration.
 - in respect of a particular condition of employment, a part-time employee may be **treated less favourably** than a comparable full-time employee if that treatment is based on **objective grounds**.
 - **occupational pensions** - a part-time employee who normally works less than 20% of the normal hours of a comparable worker **may be treated less favourably** than a comparable full-time employee **in relation to pensions only**.
- **Pro-Rata Principle (Section 10 (1)&(2))**.-provide that a condition of employment, (the amount of the benefit of which in the case of a monetary nature or the scope of the benefit in any other case) is dependent on the number of hours worked by the employee, will be related to the proportion which the normal hours of work of that employee bears to the normal hours of work of the comparable full-time employee concerned.
 - Nothing in this section or any other provision of the Act affects the operation of Part III of the Organisation of Working time Act, 1997.

² References in Section 9 to a comparable full-time employee covers an employee either of the opposite sex to the part-time employee concerned or of the same sex as him or her.

PART-TIME WORKER WHO WORKS ON A CASUAL BASIS (SECTION 11)

- A part-time employee who works on a casual basis **may be treated less favourably than a comparable full-time employee if objective grounds exist to justify such less favourable treatment.** A part-time employee who works on a casual basis is defined as follows:
 - he or she has been in the continuous service of the employer for a period of less than 13 weeks, and
 - that period of service and any previous period of service by him or her with the employer are not of such a nature as could reasonably be regarded as regular or seasonal employment, or
 - by virtue of his or her fulfilling conditions specified in an **approved collective agreement**³ that regards him/her for the purposes of that agreement as working on such a basis.
- **Objective ground (Section 12)** must be based on considerations other than the part-time status of the employee. The less favourable treatment involved for the employee must be for the purpose of achieving a legitimate objective of the employer and such treatment must be appropriate and necessary for that purpose.

REVIEW OF OBSTACLES TO PART-TIME WORK (SECTION 13)

- In order to identify obstacles to a person being able to perform part-time work, the Labour Relations Commission may, and at the request of the Minister shall, study every industry and sector of employment and make recommendations as to how any obstacles identified in such a study could be eliminated. The Commission will invite organisations representative of employees and employers to make submissions and will have regard to such submissions.
- **Clause 5(3)** of the EU Directive/Framework Agreement provides that employers at enterprise level, as far as possible, **should give consideration** to a number of matters including:
 - requests by workers to transfer from full-time to part-time work and vice versa,
 - the provision of timely information on the availability of part time and full time positions;
 - measures to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions;
 - where appropriate facilitate access by part-time workers to vocational training to enhance career opportunities and occupational mobility; and
 - the provision of appropriate information to existing bodies representing workers about part-time working in the enterprise that becomes available in the establishment.

³ "approved collective agreement" means a collective agreement that stands approved by the Labour Court under the Schedule to the Act

- **Section 13(5)** provides that the Labour Relations Commission, after consultation with organisations and bodies representing employers and employees, may determine the extent to which the preparation **of a code of practice** would be of practical benefit to employees and employers, and may prepare such a code of practice.

PROHIBITION OF PENALISATION OF EMPLOYEES BY EMPLOYER (SECTION 15)

- Employers are prohibited from penalising an employee for:
 - Invoking rights under the Act;
 - Opposing by lawful means an unlawful act under the Act;
 - For refusing to transfer from full-time to part-time work or vice versa, or
 - For giving evidence in any proceedings under the Act
- Action by an employer in respect of an employees refusal to transfer from full-time to part-time work or vice versa, does not constitute penalisation of the employee if
 - there are substantial grounds both to justify the employers request and action if the employee refuses to transfer, and
 - the action is in accordance with the employee's contract of employment and the provisions of employment law

COMPLAINTS TO RIGHTS COMMISSIONERS & APPEALS TO LABOUR COURT (SECTIONS 16 & 17)

- Complaints in connection with the provisions of the Act may be made to the Rights Commissioner with the right of appeal to the Labour Court.
- Complaints to the Rights Commissioner **must be made within 6 months beginning on the date of the contravention to which the complaint relates or the date of termination of employment, whichever is the earlier.** The 6 month period may be extended by the Rights Commissioner (subject to a maximum of period of 12 months) if s/he is satisfied that the failure to present the complaint was due to reasonable cause.
- An appeal to the Labour Court must be lodged within 6 weeks of the date on which the Rights Commissioner decision was communicated to the party.

ENFORCEMENT OF LABOUR COURT DETERMINATIONS (SECTION 18)

- If within 6 weeks from the date on which a Labour Court determination is communicated to the parties, the employer fails to carry out the Labour Court's determination, an application may be made to the Circuit Court and the Circuit Court will make an order directing the employer to carry out the determination.

OTHER LEGISLATION

The Act provides that the provisions of the following legislation applies to part-time employees in the same manner, and subject to the like exceptions, as it applies to any other employee:

- Carer's Leave Act, 2001
- Minimum Notice & Terms of Employment Acts 1973-1984
- Protection of Employees (Employers' Insolvency) Acts, 1984 and 1990
- Redundancy Payments Acts, 1967 to 1990
- Terms of Employment (Information) Act, 1994
- Unfair Dismissals Acts, 1977 to 1993
- Worker Participation (State Enterprises) Acts, 1977 to 1993

POSTED WORKERS & OTHER PERSONS HAVING AN EMPLOYMENT RELATIONSHIP IN THE STATE - PART 3 (SECTION 20)

- **"Directive"** means Directive 96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services
- **"Rights of employment"** - every enactment⁴ that confers rights or entitlements on an employee applies and is deemed always to have applied to:
 - a **posted worker** within the meaning of the Directive, and

⁴ Enactments arising from the principal functions vested in the Minister or Minister of State at the Department of Enterprise, Trade & Employment, or the Minister or Minister of State at the Department of Justice, Equality & Law Reform.

- a person, irrespective of his or her nationality or place of residence, who:
 - has entered into a contract of employment that provides for him or her being employed in the State,
 - works in the State under a contract of employment, or
 - where the employment ceased, entered into a contract of employment referred to above
- in the same manner as it applies and applied to any other type of employee.

NOTE: The above provisions of the Protection of Employment (Part-time Work) Act, 2001 have no particular bearing on family friendly/work life issues but they are included in the legislation.

EMPLOYMENT EQUALITY ACT¹, 1998

This is a Briefing Note only and is not a legal interpretation of the Act. This was compiled for the purpose of these Guidelines and covers only the provisions of the Act that have a relevance to family friendly / work life balance issues. There are many other provisions not covered in this briefing note. The Act should be consulted for the precise legal provisions.

PURPOSE

The purpose of the Act is to make provision for the promotion of equality between employed persons and to outlaw discrimination in relation to employment. The scope of the Act is comprehensive and prohibits direct and indirect discrimination, victimisation, dismissal, harassment and sexual harassment on the following nine grounds:

- **Gender Ground** - (one is a woman and the other is a man)
- **Marital Status** - (they are of different marital status)
- **Family Status** - (one has family status and the other does not)
- **Sexual Orientation** - (they are of different sexual orientation)
- **Religion** - (one has a different religious belief from the other, or one has a religious belief and the other has not)
- **Age** (between age 18 to 65) - (they are of different age)
- **Disability** - (one is a person with a disability and the other either is not or is a person with a different disability)
- **Race** - (they are of different race, colour, nationality or ethnic or national origins)
- **Membership of the Traveller Community** - (one is a member of the traveller community and the other is not.)

¹ EU Council Directive No. 75/11/117/EEC re Equal Pay for Men and Women and EU Council Directive No. 76/207/EEC on the implementation of Equal Treatment for Men and Women

All aspects of employment are covered:

- Equal Pay/Remuneration²
- Access to Employment
- Vocational Training
- Conditions of Employment
 - Including overtime, shift work, short time, transfers, lay-offs, redundancies, dismissals and disciplinary measures.
- Training or Experience
 - Including employment counselling
 - Promotion or re-grading
 - Classification of Posts

Discrimination is outlawed by employers, employment agencies, trade unions, professional bodies, vocational training bodies or newspapers advertising jobs in its appointments pages. Employees must be employed by the same employer, or an associated employer as defined in the Act.

Discrimination is defined as less favourable treatment. Discrimination is taken to occur where, on any of the grounds, one person is treated less favourably than another is, has been, or would be treated.

- **Direct Discrimination** – a direct comparison must be made between people e.g.
 - **gender discrimination case** - the comparison is between a man and woman
 - **sexual orientation** - the comparison is between people of different sexual orientation
 - **Disability** - one person has a disability and the other either has not or is a person with a different disability
- **Indirect Discrimination** – occurs when practices or policies that may not appear to discriminate against one group more than another actually do discriminate or where a requirement of a job adversely affects a particular group or class of persons. If these practice/s, policies or requirement/s are such that the proportion of employees who are disadvantaged by the term or criterion is substantially higher in the case of one group or class of persons compared to another group or class of persons then indirect discrimination exists.

² For the purposes of the Act remuneration includes any consideration whether in cash or in kind that the employee receives, directly or indirectly, from the employer in respect of the employment. Occupational pensions are not covered by the Act because it is intended to cover equal treatment in relation to occupational pensions across the 9 grounds under specific Pensions legislation, the publication of which is awaited. Under EU law the issue of non discrimination in relation to pensions on the Gender Ground is already covered. The new EU Directives in relation to Race, Disability, Age, Religion and Sexual Orientation, due to be transposed into Irish law in 2003, will also prohibit discrimination in the case of pensions.

EQUAL PAY

Equal remuneration for 'like work' applies across the nine grounds. Like work is defined as the same, similar or work of equal value and each of these is defined in the Act.

In certain circumstances special provisions apply in relation to a person with a disability.

POSITIVE ACTION

- **Gender** - positive action is permitted in relation to equal opportunities for men and women, in particular by removing existing inequalities which affect women's opportunities in the areas of access to employment, vocational training and promotion and working conditions.

Positive action measures intended to reduce or eliminate the effects of discrimination against any of the persons referred to below at a) b) or c) are permitted in order to facilitate their integration into employment, either generally or in particular areas of a particular workplace.

- a) **Persons aged 50 or over,**
- b) **Persons with a disability or any class or description of such persons,**
- c) **Members of the Traveller Community**

EXEMPTIONS IN RELATION TO FAMILY

Nothing in the Act makes it unlawful for an employer

- to arrange for or provide treatment which confers benefits on women in connection with pregnancy and maternity (including breastfeeding) or adoption.
- to provide
 - a) a benefit to an employee in respect of events related to members of the employee's family
 - b) a benefit to an employee in relation to an event occasioning a change in the marital status of the employee, or
 - c) to an employee who has family status a benefit intended directly to provide or assist in the provision, during working hours, of care for a person for whom the employee has responsibility.

In relation to discrimination on the marital status ground nothing in the Act renders unlawful any act done in compliance with any provision of the Maternity Protection Act, 1994 or the Adoptive Leave Act, 1995.

EXEMPTIONS & EXCLUSIONS

In certain circumstances the Act allows for exemptions and exclusions, e.g.:

- **Occupational Requirements** e.g., grounds of authenticity for the purposes of entertainment
- **Residence, Citizenship & Proficiency in the Irish Language Requirements** permitted in respect of certain sectors of employment
- **Religious Purposes/Ethos/Environment**
- **Age**
- **Race**
- **Disability**

REDRESS

Unresolved cases of discrimination may be referred to the Director of Equality Investigations, and may be appealed to the Labour Court. In a dismissal case, the case may be referred directly to the Labour Court. A person who considers that he/she has been discriminated against on the gender ground may apply to the Circuit Court for redress.

EQUALITY AUTHORITY

The Equality Authority was established under the Employment Equality Act. The Authority has the statutory remit to work towards the elimination of discrimination and the promotion of equal opportunities in employment.

The Authority provides an information service to the public on the Equality legislation and the Parental leave Act, 1998, the Adoptive Leave Act, 1995 and the Maternity Protection Act, 1994. The Equality Authority also provides advice to anyone who believes that she or he may have experienced discriminatory treatment in relation to employment or vocational training. Decisions regarding representation by the Authority are made by them in accordance with established criteria and priorities.

OTHER RELEVANT EMPLOYMENT LEGISLATION

This Section contains a number of brief explanations of each of the Acts covered. They are not legal interpretations of the Acts. Neither do they cover all of the provisions of each Act. The Acts themselves should be consulted for the precise legal provisions.

There are a number of other pieces of legislation that, while not directly related to family friendly / work life balance issues, should be referred to when negotiating a family friendly / work life balance policy or agreement to ensure that employees are fully protected.

CONTRACT OF EMPLOYMENT

Anyone who works for an employer for a regular wage or salary has automatically a contract of employment whether written or not. Section 23 of the Industrial Relations Act, 1990, states that a contract of employment, for the purposes of the Industrial Relations Acts, 1946 to 1990, may be "expressed or implied, oral or in writing". Many of the terms of a contract of employment may emerge from the common law, statutes or collective agreements made through trade unions or may be derived from the custom or practice in a particular industry.

See Terms of Employment (Information) Act, 1994 and 2001 re requirement of employer to provide an employee with a written statement of certain particulars of the terms of employment.

See Unfair Dismissals Act, 1977 to 2001 re requirement on employer to give a notice in writing to each employee setting out the procedure that the employer will observe before, and for the purpose of dismissing the employee.

See Payment of Wages Act, 1991 re the right of every employee to a written statement every pay day of wages and with every deduction itemised.

ORGANISATION OF WORKING TIME ACT¹, 1997

The Organisation of Working Time Act, 1997 sets out statutory rights for employees in respect of rest periods, maximum working time and holidays.

¹ EU Directive 93/104/EC of 23 November 1993

A number of categories of employees are excluded from the rest and maximum working time rules², i.e. Members of the Defence Forces, the Garda Síochána, Junior Hospital Doctors, Transport Employees, Workers at Sea, those who control their own working hours or family employees working on a farm or private house.

The following provisions are relevant for the purposes of these Guidelines:

- **Rest Periods³**

- 11 hours daily rest per 24 hours
- 1 period of 24 hours rest per week preceded by a daily rest period (11 hours)
- Rest breaks – 15 minutes (up to 4½ hours worked); 30 minutes (up to 6 hours worked which may include the first break)
- Shop Employees whose hours of work include the hours 11.30 a.m. to 2.30 p.m. must be allowed a break of one hour after 6 hours work, which must commence between 11.30 a.m. and 2.30 p.m.

These rest breaks may be varied if there is a collective agreement in place approved by the Labour Court or by Regulation for a particular sector. In either situation equivalent compensatory rest must be available to the employees.

- **Night Workers**

- **Night time** is defined as between midnight and 7 a.m. the following day.
Night Workers are employees who normally work at least 3 hours of their daily working time during night time and the annual number of hours worked at night equals or exceeds 50% of annual working time.
- **Maximum Night Working time** – the Act stipulates the limits imposed on night working.

² EU Directives on Working Time will be implemented over the coming years i.e. Directives 1999/95/EC and 1999/63/EC on shipping vessels; Directive 2000/34/EC amending the working time directive; Directive 2000/79/EC on civil aviation, and Directive 2002/15/EC on road transport sector.

³ In addition to the provisions of the Organisation of Working Time Act, S.I No. 44 of 1998 (Code of Practice on Compensatory Rest & Related matters) (Declaration) Order, 1998 should be consulted.

- **Holidays⁴** - the Act provides for minimum statutory annual leave for all employees.

Holiday Pay is earned against time worked. All employees, full-time, part-time, temporary or casual earn holiday entitlements from the time work is commenced.

The Act provides that most employees are entitled to four weeks' annual holidays for each leave year with pro-rata entitlement for periods of less than a year.

Depending on time worked, employees' holiday entitlements should be calculated by one of the following methods:

- a) **4 working weeks** in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment)
- b) **1/3 of a working week per calendar month** that the employee works at least 117 hours.
- c) **8% of the hours an employee works in a leave year** (but subject to a maximum of 4 working weeks)

As the Maternity Leave, Adoptive Leave, Parental Leave and Carer's Leave legislation preserve employment rights any absence from work on Maternity Leave, Adoptive Leave, Parental Leave or the first 13 weeks of Carer's Leave (Section 13) is counted towards annual leave entitlement. (See the provisions of the relevant Act)

- **Public Holidays⁵** - the Act also sets out employees' entitlement to public holidays. There are 9 Public Holidays covered by the Act. In respect of each public holiday an employee is entitled to:
 - (a) a paid day off on the holiday, or
 - (b) a paid day off within a month, or
 - (c) an extra day's annual leave, or
 - (d) an extra day's pay

All whole-time employees are entitled to public holidays, regardless of length of service. In the case of part-time employees, entitlement is contingent on the employee having worked for at least 40 hours for the employer during the period of 5 weeks ending on the day before the public holiday.

The Maternity Leave, Adoptive Leave, Parental Leave and Carer's Leave legislation preserve employee's rights to public holidays during the period of the leave (in the case of Carer's leave this entitlement is restricted to the first 13 weeks of Carer's Leave (Section 13). See the provisions of the relevant Act.

⁴ In addition to the provisions of the Organisation of Working Time Act, S.I. No.475 of 1997 "Organisation of Working Time (Determination of Pay for Holidays) Regulations, 1997" should be consulted in relation to the calculation of 'holiday pay'.

⁵ In addition to the provisions of the Organisation of Working Time Act, S.I. No 475 of 1997 "Organisation of Working Time (Determination of Pay for Holidays) Regulations, 1997" should be consulted in relation to the calculation of pay.

- **Sunday Premium** - If not already included in the rate of pay, employees are entitled to supplementary payment for Sunday that will be equivalent to the closest applicable collective agreement that applies to the same or similar employment and that provides for a Sunday premium.
- **Zero hours** - Employees are entitled to a payment for 25% of the time that they are required to be available or 15 hours whichever is the lesser.

UNFAIR DISMISSALS ACTS 1977-2001

The Unfair Dismissals Acts 1977-2001 protect employees (including part-time employees) from unfair dismissal from their job by laying down criteria by which dismissals are judged as unfair and by providing an adjudication system and redress for an employee whose dismissal is found to be unfair. In general the Acts apply to any person who is working under a contract of employment or apprenticeship, or employed through an employment agency.

In general the Acts apply to employees who have had at least a year's continuous service with the same employer.

Following the introduction of the Protection of Employees (Part-Time Work) Act, 2001 there is no 'hours worked' threshold required.

Employers are required to give a notice in writing to each employee setting out the procedure that the employer will observe before, and for the purpose of dismissing the employee. This must be given not later than 28 days after entering into a contract of employment.

The Act provides that every dismissal of an employee is presumed to have been unfair unless the employer can show substantial grounds justifying the dismissal. In order to justify a dismissal, an employer must show that it either results from one or more of the following causes:-

- (i) the capability, competence or qualifications of the employee,
- (ii) the employee's conduct,
- (iii) the redundancy of the employee,
- (iv) the fact that continuation of the employment would contravene another statutory requirement or that there were other substantial grounds for dismissal.

An employer who has dismissed an employee must, if asked, furnish in writing within 14 days the reason for the dismissal.

Dismissals are unfair under the Acts where it is shown that they have result wholly or mainly from a number of matters covered by the Act as follows: (see Act for full details)

- On grounds of pregnancy, for having recently given birth or for breastfeeding or any matters connected therewith, for exercising or proposing to exercise the rights allowed to her under the **Maternity Protection Act, 1994** including the right to protective leave or natal care absence.
- The exercise or contemplated exercise of an employee of the right to Adoptive leave or additional adoptive leave by the employee under the **Adoptive Leave Act, 1995**.
- The exercise or proposed exercise by the employee of the right to Parental Leave or to Force Majeure leave under the **Parental Leave Act 1998**.
- The exercise or proposed exercise by the employee of the right to **Carer's Leave Act, 2001**.
- The race, colour, sexual orientation, age, religious opinion, or membership of the traveller community, of the employee.
- The employee's trade union membership or activities, either outside working hours or at those times during working hours when permitted by the employer.
- Legal proceedings against the employer where the employee is a party or a witness.
- The unfair selection of the employee for redundancy.
- The employee's rights or proposed exercise of rights under the National Minimum Wage Act, 2000.

Employees claiming dismissal due to any of the above may bring an unfair dismissal claim even if they do not have a year's continuous service with the employer.

If a person's conditions of work are made so difficult that he or she feels obliged to leave this can also be construed as dismissal i.e. constructive dismissal.

Note:

- The provisions of the Employment Equality Act, 1998 Section 77 covers the forum for seeking redress including cases of dismissal in circumstances amounting to discrimination in contravention of the Employment Equality Act, 1998. See the provisions of that Act.
- The provisions of the Protection of Employees (Part-Time Work) Act, 2001 Section 15 prohibit penalisation of employees including dismissal. In such circumstances relief may be granted to the employee in respect of that penalisation under one or other of the Acts, but not both.

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 – 2001

This legislation requires employers to provide employees with a written statement of certain particulars of the employee's terms of employment (including part-time workers)

An employee must be in the continuous service of the employer for at least a month.

The written statement must be provided by the employer within two months of the date of commencement of employment.

The written statement, which is not, of itself, a contract must include particulars of the terms of employment relating to:

- The full name and address of the employer and employee,
- the place of work,
- job title/nature,
- date of commencement of employment,
- in the case of a temporary contract of employment the expected duration and if the contract of employment is for a fixed term, the date on which the contract expires,
- rate or method of calculation of employee's remuneration,
- intervals between payment of remuneration e.g. weekly, monthly or other interval,
- terms and conditions relating to hours of work (including overtime),
- terms and conditions relating to hours of work (including overtime),
- times and duration of rest periods and breaks (OWT Act),
- terms or conditions relating to:
 - (i) incapacity for work due to sickness or injury and paid sick leave, and
 - (ii) pensions and pension schemes,
- period of notice that the employee is required to give and entitled to receive (whether by or under statute or under the terms of the employee's contract of employment),
- reference to any collective agreements that directly affect the terms and conditions of the employee's employment, including, where the employer is not a party to such agreements, particulars of the bodies or institutions by whom they were made,

- pay reference period for the purposes of the National Minimum Wage Act 2000, and employees entitlement to ask for a statement of the employee's average hourly rate of pay for any reference period falling within the previous 12 months as provided for in section 23 of the national Minimum Wage Act, 2000.

As an alternative to providing some of the details in the statement, an employer may use the statement to refer the employee to certain other documents containing the particulars provided that the document is reasonably accessible to the employee.

An employer is also required to notify an employee of any changes to the particulars contained in the written statement within 1 month after the change takes effect.

WAGES

Pay rates are normally determined by contract of employment. Rates of pay where specified in collective agreement between trade unions and employers may also be incorporated expressly or by implication in the individual worker's contract of employment.

The following are relevant:

- National Minimum Wage Act 2001
- Legal minimum rates of pay laid down through Joint Labour Committees (JLCs)
- Registered Employment Agreements
- Payment of Wages Act, 1991

PAYMENT OF WAGES ACT, 1991

Every employee has the right to a readily negotiable mode of wage payment including: cheque, credit transfer, cash, post/money order and bank draft.

Employers must give each employee a written statement of gross wages and itemise each deduction, with every wage packet. If wages are paid by credit transfer, the statement of wages should be given to the employee soon after the credit transfer has taken place.

Employers may not make deductions from wages or receive payment from their workers unless:

- required by law, such as PAYE or PRSI;

- provided for in the contract of employment, for example, certain occupational pension contributions, or to make good such shortcomings as bad workmanship, breakages or till shortages, or for the provision of goods and services necessary for the job such as the provision or cleaning of uniforms;
- made with the written consent of the employee, for example VHI payment or trade union subscriptions;

Special restrictions are placed on employers in relation to deductions (or the receipt of payments) from wages which:

- arise from any act or omission of the employee or
- arise in respect of the supply to the employee by the employer of goods or services that are necessary to the employment.

NATIONAL MINIMUM WAGE ACT 2000

This Act became law on 1st April 2000 and the Minister, in accordance with the provisions of the Act introduced a minimum hourly rate of £4.40 (€5.59) per hour, which was adjusted upwards with effect 1st July 2001 and 1st October 2002, as negotiated under the PPF.

The Act applies to full-time, part-time, temporary and casual employees.

The National Minimum hourly rate of pay is €6.35 with effect 1st October 2002. Experienced adult workers must be paid an average hourly rate of pay that is not less than €6.35 per working hour in a week, a fortnight or no longer than a month (known as a pay reference period for the purposes of the Act).

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973-2001

Employees in continuous service with the same employer for at least 13 weeks are entitled to a minimum period of notice before the employer may dismiss them.

The Act covers employees irrespective of the hours they work.

The period of notice varies according to the length of service of the employee i.e.:

Length of Service	Minimum Notice
13 weeks to 2 years	1 week
2 years to 5 years	2 weeks
5 years to 10 years	4 weeks
10 years to 15 years	6 weeks
More than 15 years	8 weeks

STATUTORY ENTITLEMENTS

The Act also provides that employers are entitled to at least one week's notice from employees who have been employed by them for thirteen weeks or more.

Note: Entitlements under the contract of employment may exceed the minimum periods set down in the Act, however any shorter period of notice has no effect.

The Acts do not affect the right of an employer or employee to terminate a contract of employment without notice due to misconduct of the other party.

EUROPEAN LAW – CASE LAW

BACKGROUND

There are a range of international instruments and agreements relating to the reconciling of working and family life, in particular in the context of the United Nations, the Council of Europe and the International Labour Organisation.

Article 16 of the Community Charter of the Fundamental Social Rights of Workers on equal treatment for men and women provides, inter alia, that measures should also be developed enabling men and women to reconcile their occupational and family obligations.

EUROPEAN TREATY

The European Treaty as amended by the Amsterdam Treaty provides that the Commission has as one of its tasks the promotion of equality between men and women. Articles, 2,3, 137 and 141 of the Treaty establishing the European Community are particularly relevant.

Article 137 states that the Community will support and complement the activities of the Member States in a number of areas including equality between men and women with regard to labour market opportunities and treatment at work.

Article 141 (was 119) of the European Treaty states that:

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
2. For the purpose of this Article 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his/her employment from his/her employer.

Equal pay without discrimination based on sex means:

- (a) That pay for the same work at piece rate shall be calculated on the basis of the same unit of measurement;
 - (b) That pay for work at time rates shall be the same for the same job
3. The Council will adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principal of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under represented sex to pursue vocational activities or to prevent or compensate for disadvantages in professional careers.

The principle of equality between men and women makes it essential to offset the disadvantage faced by women with regard to conditions for access to and participation in the labour market and the disadvantage faced by men with regard to participating in family life, arising from social practices that still presuppose that women are chiefly responsible for work related to looking after a family and that men are chiefly responsible for work in the labour force.

EU EMPLOYMENT GUIDELINES

These Guidelines provide for strengthening policies for equal opportunities for men and women, paying particular attention to the need to introduce measures for reconciling work and family life. The Lisbon Council also recognised the importance of furthering all aspects of equal opportunities including reducing occupational segregation, and making it easier to reconcile work and family life.

COUNCIL RESOLUTION

In June 2000 the Employment and Social Affairs Council gave political agreement to a Resolution on the balanced participation of women and men in family and working life. The Resolution acknowledged that the balanced participation of women and men in both the labour market and in family life, which is an advantage to both men and women, is an essential aspect of the development of society, and that maternity, paternity and the rights of children are current social values to be protected by society, the Member States and the European Community.

The Resolution encourages Member States to develop strategies to promote this objective, which coupled with that of balanced participation of men and women in the decision-making process, constitute two particularly relevant conditions for achieving gender equality. The Resolution called on the Commission to take into account the resolution in both the Community initiative programmes and in the framework strategy on gender equality for the years 2001-2005. It also calls on the Social Partners to step up their efforts to ensure a better participation of men and women in family and working life.

Men and women, without discrimination on the grounds of sex, have a right to reconcile family and working life.

INDIRECT DISCRIMINATION

Work arrangements or patterns that adversely affect employees with caring responsibilities could lead to indirect discrimination under the provisions of the Employment Equality Act, 1998. For example this could

arise on the gender ground if the proportion of employees disadvantaged was substantially higher for one sex compared to the other. As women are in the main the employees that also perform the caring responsibilities for children and older people they may be the disadvantaged group. Of course this could also apply to men with caring responsibilities, if the proportion of employees disadvantaged was substantially higher for men compared to women.

EUROPEAN CASE LAW

Attached hereto are some examples of European Case law that may be useful in relation to family friendly / work life balance issues.

Please note that following ratification of the Amsterdam Treaty Article 119 (Equal Pay between Men and Women) is now Article 141.

EXAMPLES OF RELEVANT EU CASE LAW - EUROPEAN COURT OF JUSTICE (ECJ) CASES

The following are only brief extracts from a number of European Court Cases. The exact European Court finding should be consulted where necessary.

The extracts produced herein are summarised versions of the cases covered in the Congress European Case Law and Equality Guides for Negotiators and cover the period to 31 December 1998. Most cases are contained in the European Court Reports (ECR), the Common Market Law Reports (CMLR) or in the Industrial Relations Law Reports (IRLR). The Congress Guides were prepared by the Irish Centre for European Law (covering period to 1994) and by Niamh Hyland BL and Brian Barrington BL (covering the period to 1998).

CASE (170/84) BILKA-KAUFHAUS GMBH v. WEBER VON HARTZ (1986) ECR 1607

Case - The case covered the issue of a part-time worker's access to an occupational pension scheme.

Conclusion - ECJ held that an occupational pension scheme constituted pay for the purposes of Article 119 of the Treaty and that the exclusion of part-time workers from an occupational pension scheme was in breach of the equal pay principle contained in Article 119 and EU Directive 75/117, where that exclusion affected a far greater number of women than men.

Objective Justification to achieve a legitimate objective

The Court identified a three stage test that must be met by an employer to show that the objective was legitimate and not discriminatory. The means used to achieve the legitimate objective must:

- (a) correspond to a real need
- (b) be appropriate
- (c) be necessary for the achievement of that objective

CASE (C-262/88) BARBER v. GUARDIAN ROYAL EXCHANGE (1990) ECR 1 -1989

Case - This case covers contracted out pensions as pay under Article 119. The case involved a man who was made redundant at the age of 52 and while entitled to certain benefits such as redundancy, he was not entitled to an immediate retirement pension, although a woman in the same situation would have been entitled to an immediate retirement pension.

Conclusion - The Court ruled that pensions paid under contracted out schemes constituted pay and were covered by Article 119. The Court also ruled that payments in relation to redundancy were also covered by Article 119 of the Treaty.

CASE (C-57/93) VROEGE v. NCIV INSTITUUT VOOR VOLKHUISVESTING BV (1994) ECR I-4541

Part-time worker right to join a pension scheme

Case - In this case the pension scheme rules of the company where Mrs. Vroege worked provided that married women and part-time workers could not be members of the scheme. After 1991 part-timers were permitted to join the scheme and were also permitted to purchase additional years of membership provided that they had reached age 50 by a certain date. Mrs. Vroege did not meet the age criterion and she challenged the scheme.

Conclusion – The Court found that Article 119 covered not only entitlement to benefits paid by an occupational pension scheme but also the right to be a member of such a scheme. As a result excluding married women from membership was in breach of Article 119. The exclusion of part-time workers would also be a breach if the exclusion affected a much greater number of women than men unless the employer could objectively justify the difference.

Similar to Fisscher case the Court held that Article 119 could be relied upon in order to retroactively claim equal treatment in relation to the right to join an occupational pension scheme from 8 April 1976, which was when the Court first held that Article 119 had direct effect.

Note: In the Fisscher case (a married woman excluded from a pension scheme) the Court ruled that Mrs. Fisscher would have to pay the same contributions as she would have paid had she been permitted to be a member of the pension scheme.

CASE (C-243/95) HILL AND STAPLETON v. REVENUE COMMISSIONERS, - COURT OF JUSTICE JUDGEMENT OF 17 JUNE 1998

Job Sharers

Case - This case related to a scheme established by the Irish Civil Service for calculating the remuneration of workers who had moved from job-sharing to full-time work. The reasons other than sex defence was invoked.

Under the system for classifying workers converting from job-sharing to full-time, their position on the incremental pay scale fell, resulting in an overall reduction in hourly wages. Ms. Hill & Ms. Stapleton claimed that this constituted indirect sex discrimination contrary to Article 119 in view of the fact that over 98% of job-sharers in the Irish Civil Service were women.

Conclusion – The Court held that a system for classifying workers converting from job-sharing to full-time employment to determine the progression of pay due to them was pay under Article 119. The Court also held there was indirect sex discrimination in the Irish system. The Court added that discrimination could not be justified simply because its avoidance would involve increased costs.

CASE (C-100/95) GERSTER v. FREISTAAT BAYERN (1997) ECR I-5253

Indirect Discrimination - Part-Time Workers – right to Promotion

Case - This case covers the definition of pay, the issue of part-time work in relation to eligibility for promotion, indirect discrimination and the "reasons other than sex" defence.

Under German law, eligibility for promotion in the public sector was based on merit and length of service. For the purpose of calculating length of service of part-time workers, periods of employment during which the hours worked were between a half and two thirds of normal working hours were calculated as two thirds of normal working hours.

Mrs. Gester was a part-time public sector employee. 87% of part-time employees in her department were women. When she applied for a vacancy at a higher grade she requested that her part-time employment should be treated as full-time employment and not as two thirds of normal working hours.

Conclusion - Court found that the German promotion system was not pay. Article 119 and Directive 75/117 were therefore not applicable. However the Court held that there was indirect discrimination contrary to Article 3(1) of Directive 76/207 since far more women were affected than men.

However it remained open to the employer to show in its defence that the rule was justified by factors unrelated to any discrimination on grounds of sex. In assessing whether such objective factors existed, all the circumstances in each individual case had to be taken into account and, in particular, the relationship between the nature of the work performed and the experience gained from the performance of that work upon completion of a certain number of working hours.

CASE (C-360/90) ARBEITERWOHLFAHRT der STADT BERLIN v. BOTEL (1992) 3 CMLR 446

Overtime pay/paid leave for attending training course

Case - Ms. Botel was employed as a part-time nurse. She took part in a staff training course organised by her employer, and set up in accordance with statutory provisions. She was paid for her normal weekly working hours but no more. Full-time workers on the same course were paid for the full amount of time they spent on the course. The claim was for compensation for the outstanding hours spent on the course by way of overtime pay or paid leave on the grounds of indirect discrimination as a far greater proportion of part-time workers were women.

Conclusion – The Court held that overtime pay or paid leave for participating in a training course provided by the employer, and set up under statute, was pay within the meaning of Article 119. Discriminating against part-time workers by not paying them for the full time spent on a training course was indirect sex discrimination contrary to Article 119 where a far greater proportion of part-time workers were women.

CASE - C-278/93 FREERS v. DEUTSCHE BUNDESPOST (1996) ECR 1-1165**Part-Time Worker Compensation for loss of earnings while attending training courses**

Case - Under German law, all employees had to be compensated for any working hours missed while attending similar training courses. This meant that part-time employees received less compensation than full-time employees did for attending the same course.

Conclusion - The Court held that compensation provided under a statutory scheme by an employer for loss of earnings due to attendance at a staff training scheme was pay within the meaning of Article 119. Discriminating against part-time workers by not paying them for the full time spent on a training course was indirect sex discrimination contrary to Article 119 where a far greater proportion of part-time workers were women.

CASE (C-457/93) KURATORIUM für DIALYSE und NIERENTRANSPLANTATION e.V.v. LEWARK (1996) ECR 1- 243**Payment of part-time workers for their attendance at a training course**

Case – This case concerns a part-time worker (Mrs. Lewark) who was employed by the local council. She was also on the local staff council and she attended a full-time training course to assist her in carrying out her functions for the staff council. She had to attend the course on a day when she would not otherwise have been at work but she was not compensated for so doing. Under German law a full-time worker would have been compensated. The vast majority of part-time workers were women and the case was one of indirect discrimination.

Conclusion – The Court found that although the compensation did not derive from the contract of employment, it was paid by the employer by virtue of legislative provisions and under a contract of employment and therefore should be regarded as pay under Article 119. It concluded that there was a difference in treatment between full-time and part-time workers since where training courses were organised on days when part-time workers did not normally work, they were indisputably being paid less than full-time workers who would be compensated by their employers for attending the course. As 93.4% of all part-time workers were women and 6.6% were men the court agreed that there was indirect discrimination against women in this case.

CASE (C-399/92) LENGERICH v. HELMIG (1994) ECR I -5727

Overtime supplements for part-time workers

Case - A group of women working part-time claimed that they were entitled to overtime supplements for hours worked in addition to their individual working hours at the same rate as that applicable for overtime worked by full-time employees in addition to their normal full-time working hours. Under the collective agreements in force, overtime supplements were restricted to overtime worked in excess of the normal full-time working hours.

Conclusion - The Court held that the fact that part-time employees only received overtime supplements when they exceeded normal full-time working hours was not differential treatment. Unequal treatment existed whenever the overall pay of full-time employees was higher than that of part-time employees for the same number of hours worked on the basis of an employment relationship. In this case, part-time employees received the same overall pay as full-time employees for the same number of hours worked, since if they exceeded normal full-time working hours they would receive the same overtime supplements as a full-time worker. As a result there was no discrimination between full-time and part-time workers.

NOTE RE PART TIME WORKERS

Please note that all of the above cases arose under EU Gender Equality legislation including the provisions of the Treaty and EU Directives. In the cases affecting part-time workers the fact that a greater proportion of part-time workers were women was a necessary element to support a claim of indirect discrimination against part-time workers.

The EU Directive on Part-Time Work 97/81/EC of 15 December 1997 prohibits discrimination against a part-time worker solely because s/he is a part-time worker and when compared to a comparable full-time worker. The Irish legislation covers same sex comparators and opposite sex comparators (Section 9 (5)). In the circumstances proof of gender discrimination is not necessary.

European case law under the EU Directive on Part-Time Work has not yet developed.

A situation may arise where a decision has to be made as to whether the case under consideration by the trade union is one of discrimination against a part-time worker solely because he or she is a part-time worker or is one of indirect discrimination on the grounds of gender.

GETTING STARTED

Outlined in this section is a possible process for developing a joint workplace family friendly / work life balance agreement. Such agreements ensure that there is clear, equitable and transparent access to these arrangements for all workers.

There is no one size fits all policy that can be immediately implemented in any workplace. Needs will vary depending on the type of work, the make up of the workforce, the local situation and the existing collective agreement/s.

Union/s should endeavour to negotiate at the level of the workplace with the employer, the introduction of appropriate family friendly / work life balance arrangements and a workplace agreement.

This can be done through the normal direct negotiation process or a joint working group could be set up, representative of management and union/s and reflecting the different types of worker in the organisation. Where a joint equality or partnership group already exists, it might take on this role. See over for a sample terms of reference for such a group.

SAMPLE TERMS OF REFERENCE FOR JOINT FAMILY FRIENDLY / WORK LIFE BALANCE WORKING GROUP

1. The working group will work to ensure the introduction and proper application of family friendly / work life balance policies.
2. It will develop the different options that have the potential to meet the many diverse needs of NAME OF ORGANISATION and its employees with the objectives of
 - Enhancing the opportunity to reconcile work and family life
 - Contributing to the effective and efficient operation of NAME OF ORGANISATION
 - Promoting equal opportunities policies
3. The working group will:
 - a) Identify relevant options for NAME OF ORGANISATION in relation to policies and practices.

The following is a non-exhaustive list of practices which are appropriate for consideration.

 - job sharing
 - work sharing
 - part-time work
 - flexitime
 - flexi-place/teleworking/e-Working
 - term-time working
 - child care
 - career break/ special leave
 - b) Assess the impact (cost/benefit) of family friendly / work life balance policies and practices with particular regard to the objectives outlined at 1 above.
 - c) Identify any potential barriers and impediments to the provision of family friendly / work life balance policies that meet the needs of NAME OF ORGANISATION and its employees and identify possible solutions.
 - d) Report and make recommendations to NAME OF APPROPRIATE GROUP for implementation.

Whichever route to negotiating a family friendly / work life balance agreement is appropriate, an essential first step is to ascertain and assess the potential needs of staff. See the **Assessing Needs** section for guidance in this regard.

Following on from the assessment, the employees' identified needs can be considered in the context of the organisational needs. Union/s and management should identify and agree the working arrangement/s that might best suit staff. See the **Definitions and Challenges** section for an overview of various options.

NEGOTIATED AGREEMENT

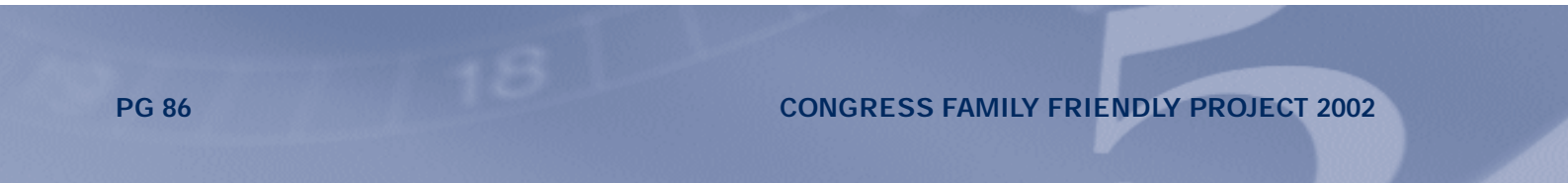
The outcome of these or other steps relevant to your workplace should be a negotiated agreement between the union/s and the employer. See the **Model Agreement** section and the **Definitions and Challenges** section, where issues for consideration are outlined.

PILOTING

It may be beneficial to pilot an option or options for a period of time in a department or section where the development of family friendly working arrangements is most suitable and relevant.

The pilot will need to be reviewed to assess what practical issues are arising and what supports and adjustments may be required - e.g. changing core hours, implementing a communication system, balancing employee's pay needs.

When the trial period is over and any changes have been agreed with management, the next step, in consultation with all staff and union/s, is to extend the policy beyond the pilot group.



ASSESSING THE NEEDS IN YOUR WORKPLACE

INTRODUCTION

As outlined in the **Getting Started** and **Model Agreement** sections of this toolkit, a workplace policy on family friendly / work life balance should be wide ranging and commit management, staff and unions to supporting positive attitudes and practices.

The specific arrangements required in a workplace, in a section or department, however, will vary greatly depending on the type of work done and the profile of the workers (numbers, male/female, age, etc)

One way of ascertaining the needs and preferences of your members is through a workplace survey.

WHO CARRIES OUT THE SURVEY?

If a joint union - management working group has already been established or mandated to consider the issue, it should initiate a survey to ascertain employee needs

In the absence of a joint group, your union/s could also carry out a survey of members. The results of this will demonstrate the level of demand among staff, and will also help the union/s to prioritise their requirements.

HOW IS IT ORGANISED?

There are several methods of surveying people. These can be quantitative (results are number based) or qualitative (results are attitude and opinion based), or a mixture of both.

Initial consultation is the key to knowing what information you need to gather. Then you can decide how to collect the information. It is useful to establish a representative steering group to oversee the process.

Two options in surveying members are **focus groups** and use of **questionnaires**.

1) FOCUS GROUPS

Focus groups bring together a representative group of people to ascertain the main issues of relevance to a particular larger group in relation to a given issue. In this case, the focus group could be used to gauge employee or member requirements, concerns and suggestions about family friendly / work life balance policies. Focus groups are potentially a very powerful method for conducting research and for communicating within organisations. They can ensure that all employees and their union/s have input into developing a family friendly / work life balance policy.

The composition of the group is vital. Care must be taken to ensure that focus groups are genuinely balanced and representative of the workforce and of the people potentially concerned with family friendly / work life balance working arrangements. The group must reflect the views of the staff or members that it is representative of. Care must be taken to ensure that in mixing various grades of staff, less senior members are not inhibited from fully participating and expressing their views.

There are generally about ten participants in a focus group, and discussion should last for about 90 minutes. Participants should be briefed in advance to ensure that they know why they are being asked for their opinion. It will also need to be clear that comments will remain confidential or will not be attributed to individuals.

The outcomes from the focus group/s should be written up and presented to the appropriate group for action.

2) QUESTIONNAIRES

Designing a questionnaire usually involves the production of several drafts which are progressively revised and refined. Two examples of questionnaires are included in this section. The first is longer and includes several possibilities and issues, while the second is a shorter questionnaire which would be useful for clarifying priorities.

A typical questionnaire is likely to have separate sections for collecting factual information and sections designed to establish staff working time preferences, business need and any mismatch between them. A questionnaire should take no more than 20 minutes for staff to complete. An open-ended section for additional comments provides staff with the opportunity to stress specific points or voice individual concerns. It would also provide illustrative materials and quotes. As with the analyses of findings, staff should be assured of the confidentiality of this additional information.

The shorter questionnaire can be used to assess members' priorities. The members' statutory entitlements are not included, as these will already be in place. It is important to remember that the legislation is **MINIMUM** entitlement, and many collective agreements may improve upon length of leave, method of taking leave (*see sections from Acts on more favourable provisions permitted in the **Resources** section*) or include further common options such as Paternity Leave.

The results of this type of survey can be presented to management, your branch committee or joint working group on developing workplace family friendly / work life balance policies in the form of a report or with charts or graphs, which immediately and graphically highlight the areas of pressure for members.

HOW IS IT CARRIED OUT?

Agreeing on what the survey is designed to do and how it will be done is a key stage. A successful survey will take account of the following points:

- the qualitative stage of the research gives an opportunity to draw on staff views and to design a questionnaire that reflects their preoccupations and is expressed in their language
- the interviews and group discussions can also act as a briefing for staff and serve to establish ownership of the exercise as staff co-operation is sought to design the questionnaire
- the piloting stage increases the number of people consulted before the survey is launched and ensures that the questionnaire is understood by all and easy and quick to complete
- the presentation of the questionnaire in a user friendly booklet format further encourages the staff to participate, and the covering letters are useful to give guidelines
- the pre-publicity through staff newsletters, internal briefings and intranet further raises the level of awareness
- it is also important to tell staff at that time when and what sort of feedback they will be given and to stress the commitment of the organisation to act on their views
- it may also be useful for publicity to specifically target business groups or departments and/or groups of staff to encourage them to reply. On the other hand, it is important to balance the need for a high response rate with the need to get good data. If staff feel coerced into responding, the data collected may suffer, or alternatively they may return blank or unusable questionnaires
- make sure the analysis is rigorous and clearly presented to the joint working group and to managers and staff.

ACKNOWLEDGEMENT

Information in this section is adapted from the TUC Changing Times guide to work-life balance with kind permission. The first sample survey is based on work carried out for that guide by the Institute for Employment Studies for the Inland Revenue/PCS Our Time project.

SAMPLE QUESTIONNAIRE (1)

FAMILY FRIENDLY / WORK LIFE BALANCE SURVEY

All staff are being asked to complete this confidential survey.
Please tick the appropriate box(es) in response to each section

A. ABOUT YOU

The first part of the survey deals with you as an individual and its purpose is to give a greater understanding of your views and needs.

1. In which Department are you currently based ?

Customer Services Administration Other

2. What is your Current Grade ? _____

3. Do you Manage any Staff ? Yes No

4. Gender ? Male Female

5. Age ? 18-30 31-40 41-50 >50

6. How many Dependent children do you have ? (please fill in number)

Pre-School Age Full time Primary education Secondary education

7. Do you have anyone sick/elderly/disabled to whom you look after/give special help to ?

Yes No

8. If you live with a Spouse or Partner, how does your income compare with theirs ?

Higher Lower Same

B. YOUR CURRENT WORKING HOURS

10. What are your current CONTRACTED working hours? _____

11. Please tick which days, including part days, you usually work ?

Monday Tuesday Wednesday Thursday Friday Saturday Sunday

12. What are your current usual Start and Finish times ?

START TIME		FINISH TIME	
Before 07.00am	08.30- 09.00am	Before 2.00pm	4.00-4.30pm
7.00-7.30am	9.00-9.30am	2.00-2.30pm	4.30-5.00pm
7.30-8.00am	9.30-10.am	2.30-3.00pm	5.00-5.30pm
8.00-8.30am	After 10am	3.00-3.30pm	5.30-6.00pm
		3.30-4.00pm	After 6pm

13. Do you work rotating shifts ? Yes No

14. Do you do work that you don't get paid for? Yes No

15. Have you worked at the week-end, including overtime during the last three years ?
Yes No

16. Do you feel obliged to work over-time ? Yes No

17. How well do your current working hours patterns meet your needs ?
Fully Mostly Adequately Poorly Not at all

C. ALTERNATIVE WORKING PATTERNS

18. What would your preferred working hours/patterns be? (Please specify, e.g. Mon-Fri, 7.30 am to 3.30 pm, Job Share, Term Time only, eWork, etc)

19. In principle are you interested in a voluntary unpaid option to avail of time off? Yes No

20. Which of the following would encourage you to work an alternative pattern of hours?

Please tick	Yes	No
No core time	<input type="checkbox"/>	<input type="checkbox"/>
Ability to organise your own working time within team to suit yourself	<input type="checkbox"/>	<input type="checkbox"/>
Enhanced payments	<input type="checkbox"/>	<input type="checkbox"/>
A guarantee that these would remain voluntary	<input type="checkbox"/>	<input type="checkbox"/>
Workplace based childcare	<input type="checkbox"/>	<input type="checkbox"/>
E-Working	<input type="checkbox"/>	<input type="checkbox"/>
Condensed working week	<input type="checkbox"/>	<input type="checkbox"/>
Childcare subsidy	<input type="checkbox"/>	<input type="checkbox"/>
Other/comment (please specify)		

21. In which ways might greater flexibility of working hours affect you?

(Please tick all that apply)

- Not at all
- To help me manage childcare
- To help me spend time with my family
- To help my travel arrangements
- to/from work
- for Work
- To help me care for a dependent relative
- To improve my quality of life
- To help me work more efficiently
- To allow me carry out voluntary/community work
- To help me with lifelong learning/training etc
- To allow me enjoy my leisure
- To improve my Health

Other *(please specify)*

D. WORK LIFE BALANCE

22. How well are you able to juggle the demands of your work and your life outside work? Indicate the extent to which you agree or disagree with the following statements.

(Please circle one number on each line)

- 1 = Strongly Disagree
- 2 = Disagree
- 3 = Neither Agree nor Disagree
- 4 = Agree
- 5 = Strongly Agree

One of the reasons I work in this organisation is because of the opportunity to work flexible hours

1 2 3 4 5

This organisation is happy to allow flexible working

1 2 3 4 5

Staff with family commitments have equal opportunities here

1 2 3 4 5

Too much is done for staff with family commitments

1 2 3 4 5

This organisation is a "family friendly" employer

1 2 3 4 5

Requests to change work patterns are received positively here

1 2 3 4 5

All staff have equal access to flexible working arrangements

1 2 3 4 5

Part-time staff have equal access to career progression

1 2 3 4 5

This organisation doesn't do enough for people without children

1 2 3 4 5

This organisation doesn't do enough to enable people to pursue education or training opportunities

1 2 3 4 5

I find core flexi-time restrictive

1 2 3 4 5

If I work extra hours, I would like to take the time due later in the year

1 2 3 4 5

This organisation cares about its staff

1 2 3 4 5

23. What could this organisation do to improve your work/life balance ?

24. Can you suggest any changes to hours that would match the needs of staff and of the organisation ?

E. OTHER COMMENTS

25. Please use the space below to provide any other comments you would like to make about working hours, work life balance. Please be assured that your comments will be treated in the strictest confidence.

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS SURVEY

SAMPLE QUESTIONNAIRE (2)

This questionnaire is being used to assess what work life balance arrangements would be most useful for you. These are separate from your legal entitlements. Please list the items under each heading in order of your preference, i.e. 1 for most useful initiative.

QUESTIONNAIRE

Please list in order of preference:

Flexible working:

- 1. Flexitime
- 2. Flexiplace
- 3. Part-time Working
- 4. Term-time Working
- 5. Job Sharing
- 6. Other options

Breaks:

- 1. Employment breaks
- 2. Sabbaticals
- 3. Secondments
- 4. Education Leave
- 5. Other breaks

Leave Arrangements:

- 1. Paternity Leave
- 2. Eldercare Leave
- 3. Care for people with Disabilities
- 4. Other options

Other Initiatives:

- 1. Childcare support
- 2. Parenting workshops
- 3. Family days
- 4. Health care
- 5. Other initiatives

MODEL AGREEMENT

This section contains a **Model Workplace Agreement** on family friendly / work life balance that can be adapted to reflect the specific workplace needs and circumstances.

This agreement reflects the process described in this toolkit for negotiating a family friendly / work life balance agreement, including:

- committing to the implementation of family friendly / work life balance arrangements
- ascertaining needs
- deciding on suitable options
- piloting
- revising/adapting
- agreeing a policy
- monitoring implementation and take up
- reviewing agreement/policy regularly and adapting if required

This kind of agreement can become part of the mainstream collective agreement at the workplace. See **Mainstreaming** section.

AGREEMENT ON THE PROVISION OF FAMILY FRIENDLY WORKPLACE ARRANGEMENTS

1. Preamble

(Name of Company) recognises the importance of ensuring that the organisation and its work practices facilitate the development of family friendly work arrangements.

In recognition of this and jointly with employees and their union/s (names of Organisation and Unions) are committed to working together to ensure the introduction and proper application of family friendly / work life balance policies. The aim of these policies is to benefit both the organisation and the employees.

(Name of Company and Union/s) are committed through a joint process to ensure that the needs of both the employees and organisation are taken into account and to implement workable solutions. These policies apply to both male and female employees in employment with us and will operate in a fair and consistent manner.

2. Family Friendly Workplace Arrangements – Defining the Need and Establishing the Policy

As a first step in developing this agreement a joint union/management working group will be established in order to conduct an audit and assess the potential needs of staff. Following this audit the identified needs will be considered in the context of the employee and organisation's needs and within the context of the equal opportunities policy of the company. Unions and management will then identify and agree the family friendly / work life balance working arrangement/s that will be available to staff.

The Agreement will spell out in detail each of the options and how they will operate in practice including the procedures to be followed by employees, unions and management as set out in this agreement.

Once agreed a copy of the organisation's family friendly / work life balance policy including information on the various working arrangements and procedures will be made available to all staff and all new staff will be advised of these arrangements when they join the company.

3. Procedures For Requesting Family Friendly Working Arrangements

In order to ensure consistency in how all applications are treated the following procedure will be followed. In all cases this company will make a realistic effort to find a workable solution and facilitate the employee's request.

Stage One

The first stage of the process requires the employee to make a formal application to management to be facilitated with an alternative work arrangement under this agreement. In order to facilitate the processing of the application the employee will be required to fill in the form attached in appendix X¹ of this agreement. Any request under this agreement will only be considered following receipt of this form. This requirement will allow for a consistent approach to the processing of applications.

Stage Two

In considering the application, management will have regard to the following issues:

- The personal and family needs of the employee making the request.
- The urgency of the request.
- The period of time covered by the request for family friendly / work life balance work arrangement.
- The employee's legal rights and entitlements.
- The equal opportunities policy of the organisation.
- How the employee's request fits with the options available under this agreement.
- How the employee's proposed revised hours/location will fit with the tasks of their job and how these tasks will be performed during the period of family friendly / work life balance work arrangement.
- The implications, if any, for the employee's conditions of employment.
- The effect, if any, on the staffing needs of the organisation.
- Procedure for reviewing the arrangement.
- Implications for Social Welfare entitlements and Occupational Pensions.

As part of the process of considering the application management will arrange to meet with the employee concerned in order to discuss the request. An employee may request a union representative to make representations to management on his or her behalf and management will facilitate such representations before making a final decision on any application.

This part of the procedure will be completed within ten working days of the application being received by management.

Stage Three

Management will issue a decision in writing to the applicant.

If the application is successful details of how the arrangement will work will be discussed with the employee concerned and their union representative. Following these discussions a formal agreement will be drawn up, signed by the parties and placed on the personnel file of the employee concerned.

¹ The group should design a simple form reflecting the policies agreed.

If a request is refused or deferred, the employee will be informed in writing of the reasons for the refusal or deferral, and a record will be kept of the date, the reason and the circumstances in the employee's file so that it can be reviewed at a later date.

Stage Four

In the event that a member of staff makes a request to avail of a provision of a new working arrangement, and is unsuccessful, then they can raise the matter through the normal agreed and established grievance procedures in the company.

4. Implementation

The management and union/s are fully committed to the fair and full implementation of this agreement. Both sides recognise that the implementation of the agreement requires both unions and management to recognise their responsibilities.

Management accept that they have responsibility to:

- Agree and introduce policies with clear guidelines
- Communicate the working arrangements to all staff
- Provide training and development that will facilitate new working practices
- Monitor and review the new practices on a regular basis

Employees and their Unions have responsibility to:

- Work within the policy guidelines agreed for family friendly / work life practices
- Consider implications of change for the individual worker in consultation with workplace representative or relevant manager
- Make requests for change in working arrangements in accordance with agreed policy.
- Attend training designed to raise awareness and explain family friendly / work life balance policies
- Apply for work life balance / family friendly arrangements within the timetable agreed in the family friendly / work life balance policy

5. Monitoring and Reviewing

In order to monitor the implementation of the various options, unions will be advised on an annual basis of applications made, overall numbers granted, and reasons for any refusals. This information will include details of take up of the various options across departments, sections and grades and between men and women.

MAINSTREAMING

Mainstreaming family friendly / work life balance means the organisation, improvement, development and evaluation of policy processes, so that a friendly/work life balance perspective is integrated into everyday work at the outset by those involved in decision making.

It involves the incorporation of family friendly / work life balance considerations into all policies, programmes, practices and procedures so that at every stage, an analysis is made of the effects on workers; women and men, parents and those with care responsibilities. It is about putting people and their family friendly / work life balance needs at the heart of policy making.

Mainstreaming is a way to get everyone, from administrators, managers, clerical workers, technical staff, negotiators, supervisors and leaders, including trade union activists, to put on family friendly / work life balance 'lenses' to enhance these practices in the everyday life of the organisation.

To promote family friendly / work life balance options within organisations, changes may be needed in a number of areas, including:

- The systems of reporting, mentoring and evaluating
- The language and attitudes of managers, leaders and negotiators
- The choice of strategies used
- Identification of a set of commonly defined family friendly / work life balance objectives
- Establishing a family friendly / work life balance network or working group
- Training/capacity building

MAINSTREAMING AND COLLECTIVE AGREEMENTS

For trade unions the major context for mainstreaming is including these issues in new agreements and adapting existing agreements where necessary. Strong and effective agreements are the key to trade unions' protection of members' rights and interests.

Trade Unions also need to work towards ensuring these issues are included as a matter of course in collective agreements. In this way family friendly / work life balance is clearly established as a core issue for unions, members and employers. Although specific arrangements may change over time, by including facilitation of family friendly / work life balance options in agreements, unions ensure that the development of greater reconciliation between work and family life becomes an essential component of organisational culture.

Mainstreaming family friendly / work life balance strategies will have different starting points, involve different actors and will be concerned with different aspects of policy according to the needs of the workplace and might include:

- The identification of family friendly / work life balance objectives and setting of targets with a linked development of data gathering processes adequate for monitoring the achievement of these targets.
- The development of awareness levels, including providing information on family friendly / work life balance or training to challenge and change an organisation's culture, or stereotypical norms and values within an organisation.
- Specific training may be required to successfully implement family friendly / work life balance working. Training for all staff in an organisation, which will clarify the rationale and practice of new family friendly / work life balance working arrangements will contribute to embedding these working practices in the organisational culture. This will assist in ensuring equal treatment, full participation, mainstreaming and understanding of any new working arrangements. This will benefit the organisation and all workers, whether or not they are choosing to avail of family friendly / work life balance option.
- The development and implementation of strategies to achieve family friendly / work life balance and regular reporting on progress.
- The carrying out of a family friendly / work life balance impact assessment of all current policies and assess the likely impact of planned policies on family friendly / work life balance. Such an impact assessment will have a stronger effect on the formation of policy the earlier it is conducted. Including the participation of the target group will also increase the effectiveness of an impact assessment.

A word of caution: mainstreaming can sometimes present a danger that in practice family friendly / work life balance issues might be ignored because "mainstreamed" issues are not seen to require any special attention. Unions must ensure that mainstreaming is not a replacement for tackling specific issues of family friendly / work life balance.

DEVELOPING AND USING TRADE UNION WORK LIFE BALANCE NETWORKS

INTRODUCTION

Unions are receiving increasing demand from members to assist them in negotiating better family friendly working arrangements and work life balance policies.

Unions can learn from each others' experience and avoid re-inventing the wheel each time this issue needs to be dealt with. Communication with other union activists in your area can give great insight and examples into what might work in your workplace.

One way of accessing information is to form a network of local trade unionists. This should involve people who have experience or interest in family friendly working / work life balance or equality issues in general.

ESTABLISHING A NETWORK

It is important that everyone understands what the network will be about, as people will only get involved in something that is going to benefit either them or their union directly.

As a first step, you could organise a forum or workshop on family friendly / work life balance at your own union's local or regional meeting. To really get a broad perspective on what types of arrangement have been successfully implemented, it may be necessary to get other Branches or Unions involved.

CONTACTS

Your branch official will be in contact with other unions in your region or sector and can assist you in contacting relevant people.

ORGANISING A NETWORKING EVENT

- Choose a venue and invite somebody with experience in negotiating family friendly / work life balance arrangements to speak to the group.
- Speak to or write to all the trade union members / officials that you know who have experience or interest in this area.
- Include some of the following
 - a short presentation on what family friendly / work life balance is and what types of arrangement

- are possible, including at least two concrete examples of local union agreements
- an "ice-breaker" where participants introduce themselves, their union, what they see as the role for the network
 - discussion session (see template below for possible structure of one-hour session)
 - a closing discussion, to decide what should be done next

FORMAT

The event itself could be a workshop, forum, seminar, or part of a normal union meeting. Whatever format is chosen, the networking event should be **short, structured, focussed and informal**.

The aim is to establish links between trade unionists in order to share experience and knowledge in the area of family friendly / work life balance Working and to maintain ongoing contact.

See the attached outline of a half day workshop that could be organised as a first or follow up event. It is very important to build in time for informal discussions among participants.

FAMILY FRIENDLY WORKING ARRANGEMENTS / WORK LIFE BALANCE WORKSHOP

9.00 - 9.30	Registration, tea/coffee
9.30 - 9.45	Introduction of network and outline of objectives
9.45 - 10.15	Information on statutory entitlements: Parental leave, Carer's Leave, Maternity Leave
10.15 - 10.45	Non-statutory arrangements
10.45 - 11.15	Tea/Coffee
11.15 - 12.15	Discussion groups - demand for and barriers to Family Friendly Working Arrangements
12.15 - 12.45	Feedback from discussion groups - Open Forum
12.45 - 13.00	Follow-up strategies
13.00	Lunch

SUGGESTIONS FOR FOLLOW-UP ACTIVITIES

- Compile and circulate the names and contact details of those attending, with their agreement.
- Compile a list of the arrangements available in the participants workplaces and circulate it to all union activists in your area to raise awareness.
- Do people feel it would be useful to meet up again - if so, can this be arranged?
- Is a "virtual" email or web-based network an option?
- Find out where there are gaps in peoples knowledge or understanding - how can the answers be found out - contact your union or Congress and see the **Resources** section of this toolkit.
- Is training required? This can be organised through Congress or your Union.
- Communicate with your own and other local unions to discuss the family friendly / work life balance agenda.

SAMPLE QUESTIONS FOR ONE HOUR DISCUSSION EXPLORING THE ISSUES MOST RELEVANT TO PARTICIPANTS

1. DEMAND (10-15 mins approx)

- What type of family friendly / work life balance arrangements are currently available in your workplace?
- Is there a demand for these kind of arrangements in your own workplace and in workplaces generally?
- What is the most frequently requested arrangement?
- Who are the people making these demands?
 - individuals
 - sections
 - partnership forum or group
 - employers
 - other
- If the employer is initiating the flexible arrangements, is this done to facilitate staff or for other reasons
 - opening hours, customer service, to keep staff. If so, did these changes facilitate staff needs?

2. AVAILABILITY (15-20 mins approx)

Is there a recognised process in your workplace which people go through to avail of family friendly / work life balance?

What initiatives, if any, have been undertaken in your workplace?

Who negotiated any agreements - partnership forum, workplace representative, union officials, national officials?

How were they agreed - staff forums, ballot, discussions, agreement?

3. IMPLEMENTATION (20 mins approx)

What were the main questions and concern members had before the process began?

Was the union or the employer able to devise ways around these problems or of reassuring members?

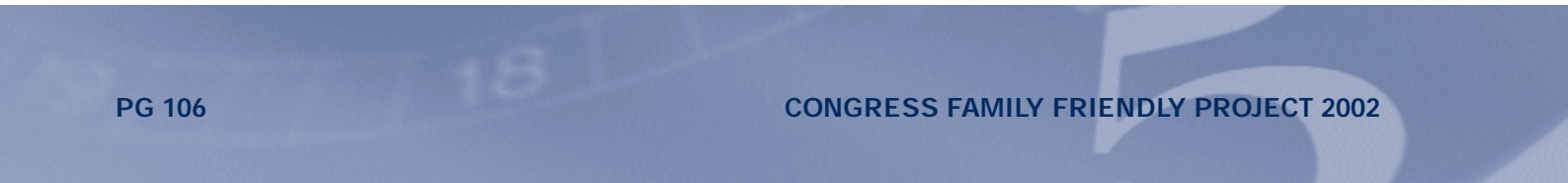
If yes, what were these?

What are the main problems or difficulties that have arisen in implementing these family friendly / work life balance Arrangements?

What are the lessons learned?

What are the biggest successes of family friendly / work life balance arrangements for you, for the workplace and for your union?

4. ANY OTHER RELEVANT ISSUES (10 mins approx)



The summaries contained in this section are produced for information purposes only and are not legal interpretations. The relevant Act(s) should always be consulted before commencing negotiations.

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ODEI DECISIONS

There is no legal right under Irish or European Union Law for a full time employee to transfer to job sharing or to part time work. Recent cases taken under the Employment Equality Act 1998, are relevant in relation to the reconciliation of work and family life, and in particular if refusal to make job sharing or part-time work available might be considered to be indirect discrimination.

This section of the Tool Kit contains some summaries of cases that are relevant to the issue of family friendly / work life balance heard by the Office of Director of Equality Investigations. The Office of the Director of Equality Investigations (ODEI - The Equality Tribunal) - is the body that is primarily responsible under Irish Equality Legislation for deciding complaints of discrimination in employment.

The ODEI have made the full text of all its case law available on its website at www.odei.ie. The website is updated regularly and includes summaries and indexes that are easy to follow. A shorter version of the website summaries is available in the **ODEI Annual Reports, Legal Review and Case Summaries**. Published annually the review is useful for the purposes of general information and accessibility. A number of the summaries are reproduced here with the permission of the ODEI. These are not a statement of the law and readers are referred to the text of the original Equality Officer Decisions and Recommendations.

It should also be noted that ODEI decisions may be appealed to the Labour Court and therefore the following may change.

ACCESS TO JOBSHARING - ONUS ON EMPLOYER TO AVOID INDIRECT DISCRIMINATION AND PROVIDE JUSTIFIABLE REASONS

DEC-E2001-011

Weir v St. Patrick's Hospital

DEC-E2001-012

Burke v NUI Galway

NO RIGHT TO PART TIME WORKING

DEC-E2001-042

Walsh v Tesco Ireland Ltd

RECRUITMENT & FAMILY FRIENDLY WORKING

DEC-E2002-010

Leon v IPA

For most up to date relevant decisions, contact your Union or consult the ODEI - the Equality Tribunal (<http://www.odei.ie>)

SUMMARY OF EQUALITY OFFICER'S DECISION DEC-E2001-011**Ms. Nuala Weir****(Represented by the PNA)****v****St. Patrick's Hospital****(Represented by I.B.E.C.)****Background**

The claimant alleges that she was directly and indirectly discriminated against by the respondent when her application for job-sharing in her position as Deputy Nursing Officer was not granted. Her application for job-sharing would have been granted if she had been prepared to revert back to the position of Staff Nurse.

Conclusions

The Equality Officer found that the respondent did not directly discriminate against the claimant in terms of Section 2(a) of the Employment Equality Act, 1977. The Equality Officer found that the claimant had failed to make a valid claim on the basis of her marital status in terms of Section 2(b) of the 1977 Act. In terms of indirect discrimination the Equality Officer found that the respondent had failed to objectively justify its policy of not allowing staff at supervisory grades job-share. The Equality Officer held that this did not mean that all applications for job-sharing by staff at supervisory levels had to be facilitated. Rather the respondent reserves the right to decide on the suitability of each post for job-sharing by objectively justifying a decision when it deemed a post unsuitable for job-sharing. The Equality Officer found that the respondent had failed to undertake this exercise on foot of the claimant's request for job-sharing. Consequently the Equality Officer found that the respondent indirectly discriminated against the claimant by having a discriminatory policy in place. The Equality Officer found that the claimant had no absolute right to job-share but the respondent had a responsibility to objectively justify its decision that no posts at the claimant's grade were suitable for job-sharing. An inability to do this would mean that no reason would exist for refusing the claimant's application for job-sharing.

Recommendation

That the hospital objectively justify its policy for not permitting staff at supervisory levels to avail of jobsharing and that each post at the claimant's grade be examined in this context.

SUMMARY OF EQUALITY OFFICER'S DECISION DEC-E2001-012

Burke

v

NUI Galway

Background

Ms Burke, who is married, alleged that she was discriminated against both directly and indirectly on grounds of her gender and marital status by National University of Ireland, Galway contrary to the 1977 Act when her request to job-share in her position as Assistant Librarian within the library service of the College was refused.

Conclusions

The Equality Officer found that the College had valid operational reasons, unconnected with Ms Burke's gender or marital status, for refusing her request to job-share in the library. The Equality Officer was also satisfied that the College had made reasonable efforts to facilitate the claimant's job-share request in another area of the College. The Equality Officer noted that four Library Assistants who were female and married were facilitated by the College in their job-share requests.

Recommendation

The Equality Officer found that National University of Ireland, Galway did not discriminate against Ms Burke contrary to the 1977 Act.

Labour Court: This recommendation was upheld by the Labour Court. Reference AEE/01/13. Determination No. 027, 12 August 2002.

SUMMARY OF EQUALITY OFFICER'S DECISION DEC-E-2001-042

Caroline Walsh

(represented by Mandate)

v

Tesco Ireland Ltd

(represented by IBEC)

Background

This dispute concerns a claim by Ms Caroline Walsh, employed as a customer services representative, that Tesco Ireland t/a Quinnsnorth discriminated against her on the grounds of sex when her requests for part-time work for family reasons were refused by management. Although the matter was ultimately resolved to the satisfaction of both parties by local agreement, the claimant alleged that the original act of refusal in February 1998 was discriminatory. The respondent denied the allegation of discrimination. It said that the request for part-time work was not immediately granted for operational reasons, and that an employer was only obliged to facilitate a worker if it was possible to do so.

Conclusions

The claimant produced no evidence, and did not claim, that a man would have been granted part-time work for childcare purposes. She said that as only women request part-time work for childcare purposes, only women are affected by a refusal. The Equality Officer did not accept that childcare was inextricably linked to gender, and found that direct discrimination had not occurred. The Equality Officer further found that indirect discrimination had not occurred, and rejected a suggestion that the claimant could maintain a claim of discrimination on the ground of sex on the basis that other women had been given a facility and she had not. The Equality Officer did not consider to be logical or reasonable an argument by the respondent that the claimant should have resigned if she wished to demonstrate that she could not combine full-time work and childcare. She also felt that both parties had been under a misapprehension regarding obligations concerning permission to work part time, and she noted that an automatic right to part-time work had not been established by legislation or jurisprudence.

Decision

The Equality Officer found that Tesco Ireland Ltd did not discriminate against the claimant in terms of section 2, and contrary to section 3, of the Employment Equality Act, 1977 when it did not grant her request for part-time work immediately after her return from maternity leave.

Labour Court: As of December 2002, this case is under appeal to the Labour Court.

Cases cited**European Court of Justice**

Bilka-Kaufhaus GmbH v Karin Weber von Hartz, Case No C-170/84

Salvatore Grimaldi v Fonds des maladies professionnelles, Case No C-322/88

Dr Pamela Enderby v Frenchay Health Authority and Secretary of State for Health, Case No C-127/92

Schnorbus v Land Hessen, Case No C-79/99

Supreme Court

Nathan v Bailey Gibson and others, Case 375/92, 29 February 1996

High Court

Long v Labour Court and others, unreported, May 1990

Labour Court

Aer Lingus v Gail Coman, EEO498

Aer Lingus v Annelies Delfgaauw, EEO598

Aer Lingus v Niamh O'Dwyer, EEO698

The Minister for Justice, Equality and Law Reform and the Secretary, Department of Justice, Equality and Law Reform v Therese Hand, DEE598

Tesco Ireland v A Worker, DEE401

Equality Officer

Weir v St Patrick's Hospital, DEC-E-2001/011

SUMMARY OF EQUALITY OFFICER'S DECISION DEC-E2002-010

Clare Leon

(represented by Fionnuala Cawkhill & Associates, Solicitors)

v

Institute of Public Administration

(represented by IBEC)

Background

This dispute concerned a claim by Dr Clare Leon that she was discriminated against by the Institute of Public Administration on the grounds of gender and family status when she was unsuccessful at an interview for a lectureship. She claimed that her experience was superior to that of the successful childless male candidate. She further claimed that an enquiry she made at interview regarding the availability of family friendly work practices resulted in her being told she was unsuitable for the position. The respondent rejected the allegation of discrimination. It claimed the successful candidate was the most suitable person for the position being filled. It also denied that the complainant was told she was unsuitable because she asked about family friendly policies.

Conclusions

The Equality Officer found that the assessment of candidates at the interview was not influenced by gender, and was satisfied that the complainant had failed to establish a prima facie case of discrimination on the gender ground. In relation to the alleged comment regarding family friendly policies, the Equality Officer found that the complainant had made a genuine mistake regarding the requirement of full time attendance. She decided, on the balance of probabilities, that the respondent's version of events was more credible, and that the respondent had not discriminated against the complainant on the grounds of family status.

Decision

The Equality Officer found that the Institute of Public Administration did not discriminate against Dr Clare Leon on the grounds of gender or family status, contrary to the provisions of the Employment Equality Act, 1998, when she was unsuccessful at interview.

Cases cited

Labour Court

Gleeson v The Rotunda Hospital and the Mater Misericordiae Hospital (DEE003)

Mitchell v Southern Health Board (AEE/99/8)

LIST OF EXAMPLES OF EUROPEAN CASE LAW

The following are drawn from the two Congress "Guides for Negotiators" on European Case Law & Equality and they cover the period to 31 December 1998.

As part of the work of the GAP Gender & Pay Project, Congress plans to up-date these Guides.

EQUAL PAY

Direct Discrimination

Case (43/75) Defrenne v. Sabena (No. 2) [1976] ECR 453

Case (C-249/96) Grant v. South-West Trains Ltd. [1988] ECR 621

Indirect Discrimination

Case (96/80) Jenkins v. Kingsgate [1981] 2 CMLR 24

Case (170/84) Bilka-Kaufhaus v. Weber von Harzt [1986] ECR 1607

Case (171/88) Rinner-Kuhn v. FWW [1989] ECR 2743

Case (C-33/89) Kowalska v. Hamburg [1990] ECR I-2591

Case (C-184/89) Nimz v. Hamburg [1991] IRLR 222

Case (C-360/90) Arbeiterwohlfahrt Berlin v. Botel [1992] 3 CMLR 446

Case (C-127/92) Enderby v. Frenchay Health Authority [1991] IRLR 43

Case (C-399/92) Lengerich v. Helmig [1994] ECR I-5727

Case (C-457/93) Kuratorium für Dialyse und Nierentransplantation e. V. v. Lewark [1996] ECR I-243

Case (C-278/93) Freers v. Deutsche Bundespost [1996] ECR I-1165

Case (C-243/95) Hill and Stapleton v. Revenue Commissioners

Definition of Pay

Case (12/81) Garland v. British Rail [1982] ECR 359

Case (C-173/91) Commisison v. Belgium [1993] ECR I-0673

Work of Equal Value

Case (129/79) Macarthys v. Smith [1980] ECR 1275

Case (237/85) Rummler v. Dato-Druck [1987] 3 CMLR 127

Case (157/86) Murphy v. Telecom Eireann [1988] ECR 673

Case (109/88) H.K. Foribund i Danmark v. Danfoss [1989] ECR 3199

Case (C-400/93) Specialarbejderforbundet i Danmark v. Dansk Industri acting for Royal Copenhagen [1995] ECR I-1275

Pensions

- Case (80/70) Defrenne v. Sabena (No. 1) [1971] ECR 445
- Case (69/80) Worringham v. Lloyds Bank [1981] ECR 767
- Case (23/83) Liefing v. Universiteit van Amsterdam [1984] ECR 3225
- Case (192/85) Newstead v. Department of Transport [1987] ECR 4753
- Case (C-262/88) Barber v. Guardian Royal Exchange [1990] ECR I-1989
- Case (C-109/91) Ten Oeyer v. Stichting 6th October 1993
- Case (C-110/91) Moroni v. Firma Collo 14th December 1993
- Case (C-152/91) D. Neath v. Hugh Steeper 22nd December 1993
- Case (C-132/92) Birds Eye Wall v. Roberts 9th November 1993

Occupational Pensions

- Case (C-128/93) Fisscher v. Voorhuis Hengelo BV [1994] ECR I-4583
- Case (C-57/93) Vroege v. NciV Instituut voor Volkhuysvesting BV [1994] ECR I-4541
- Case (C-7/93) Bestuur van het Algemeen Burgerlijk Pensioenfonds v. Beune [1994] ECR I-4471
- Case (C-408/92) Smith v. Avdel Systems [1994] ECR I-4435
- Case (C-28/93) Van den Akker v. Stichting Shell Pensioenfonds [1994] ECR I-4527
- Case (C-200/91) Colorall Pension Trustees Ltd. V. James Richard Russell [1994] ECR I-4389
- Case (C-435/93) Dietz v. Stichting Thuiszorg Rotterdam [1996] ECR I-5223
- Case (C-147/95) Dimossia Epichierissi Ilectrismou (DEI) v. Efthimios Evenopoulos [1997] ECR I-2057
- Case (C-246/96) Magorrian v. Eastern Health and Social Services Board [1998] ECR I-108

Remedies

- Case (C-326/96) Levez v. Jennings (Harlow Pools) Ltd.

EQUAL TREATMENT

Access to Employment

- Case (C-318/86) Commission v. France [1988] ECR 3559
- Case (C-345/89) Ministere Public v. Stoeckel [1991] ECR I-4047
- Case (158/91) Ministere Public v. Levy [1993] ECR I-4287
- Case (C-116/94) Meyers v. Adjudication Officer [1995] ECR I-2131
- Case (C-13/94) P v. S and Cornwall County Council [1996] ECR I-2143

Direct Effect/ Remedies

- Case (14/83) Vol Colson v. Nordrhein-Westfalen [1984] ECR 1891
- Case (222/84) Johnston v. Chief Constable of the RUC [1986] ECR 1651
- Case (152/84) Marshall v. Southampton & South West Hampshire Area Health Authority (No. 1) [1986] ECR 723
- Case (C-271/91) Marshall v. Southampton & South West Hampshire Area Health Authority (No. 2) [1993] 4 All England Reports 586
- Case (C-188/89) Foster v. British Gas [1990] ECR I-3133
- Case (C-180/95) Draehmpaehl v. Urania Immobilienservice ohG [1997] ECR I-2195

Indirect Discrimination

Case (C-189/91) Kirsammer-Hack v. Nurhan Sidal 30th November 1993

Case (C-100/95) Kording v. Senator fur Finanzen [1997] ECR I-5289

Case (C-100/95) Gerster v. Freistaat Bayern [1997] ECR I-5253

Retirement

Case (C-19/81) Burton v. British Railway Board [1982] ECR 555

Case (C-262/84) Beets-Proper v. F. van Lanschot Bankiers NV [1986] ECR 773

Access to Employment

Case (C-116/94) Meyers v. Adjudication Officer [1995] ECR I-2131

Case (C-13/94) P v. S and Cornwall County Council [1996] ECR I-2143

Preferential Treatment

Case (C-450/93) Kalanke v. Freie Hansestadt Bremen [1005] ECR I-3051

Case (C-409/95) Marschall v. Land Nordrhein-Westfalen [1997] ECR I-6363

Sexual Harassment and Victimisation

Case (T-549/93) D v. Commission [1995] ECR SC I-A 13

Case (C-185/97) Coote v. Granada Hospitality Limited

Maternity, Paternity & Adoptive Leave

Case (C-163/82) Commission v. Italy [1983] ECR 3273

Case (C-184/83) Hofmann v. Barmer Ersatzkasse [1984] ECR 3074

Case (C-177/88) J.P. Dekker v. VJV Centrum [1990] ECR 1-3941

Case (C-179/88) Handels – og v.Aldi Marked [1991] IRLR 31

Case (C-42/92) Habermann-Beltermann v. Arbeiterwohlfahrt [1994] ECR 5th May 1994

Case (C-321/93) Webb v. EMO Air Cargo (UK) Ltd. [1992] 4 All England Reports 929

Case (C-342/93) Gillespie v. Northern Health and Social Services Board [1996] ECR I-475

Case (C-400/95) Handels- og Kontorfunktionedaerernes Forbund i Danmark acting for Larsson v. Dansk Handel & Service acting for Fotex Supermarked A/S [1997] ECR I-2757

Case (C-136/95) Caisse Nationale d'Assurance Vieillesse des Travailleurs Salaries (CNAVTS) v. Thibault

Case C-394/96 Brown v. Rentokil Limited

Case C-411/96 Boyle & Others v. EOC

Case (C-66/96) Handels- og Kontorfunktionaerernes Forbund i Danmark acting for Hoj Pedersen v. Faellesforeningen for Danmarks Brugsforeninger acting for Kvikly Skive

EQUALITY & SOCIAL SECURITY PROVISIONS**Scope of the Directive**

Case (C-48/88), (C-106/88), (C-107/88) Achterberg-te Riele v. Sociale Verzederingsbank Amsterdam [1989] ECR 1963

Case (C-31/90) Johnson v. Chief Adjudication Officer [1991] ECR I-3723

Case (C-87/89), (C-88/90), (C-89/90) Verholen v. Sociale Verzekeringsbank Amsterdam [1991] ECR I-3757

Case (C-77/95) Zuchner v. Handelskrankenkasse Bremen [1996] ECR I-5689

Schemes Covered by the Directive

- Case (C-150/85) Drake v. Chief Adjudication Officer [1986] 3 CMLR 43
- Case (C-243/90) R v. – Secretary of State for Social Security, ex parte Smithson [1992] ECR I-467
- Case (C-63/91) Jackson & Cresswell v. Chief Adjudication Officer [1992] 3 CMLR 389

Direct Effect

- Case (71/85) Netherlands v. FNV [1987] 3 CMLR 767
- Case (C-286/85) Cotter & McDermott v. The Minister for Social Welfare (No. 1) [1987] ILRM 324
- Case (C-208/90) Emmott v. Minister for Social Welfare [1991] 3 CMLR 894
- Case (C-338/91) Steenhorst Neerings v. BBD [1993] ECR I-5475
- Case (C-410/92) Johnson v. Chief Adjudication officer [1994] ECR I-5483
- Case (C-66/95) The Queen v. Secretary of State for Social Security, ex parte Sutton [1997] ECR I-2163

Indirect Discrimination

- Case (30/85) Teuling v. Bedrijfsvereniging [1987] ECR 2497
- Case (C-102/88) Ruzius-Wilbrink v. BBO [1989] ECR I-4311
- Case (C-229/89) Commisison v. Belgium [1991] ECR I-2205
- Case (C-226/91) Molenbroek v. SVB [1992] ECR I-5943
- Case (C-444/93) Megner v. Innungskrankenkasse Vorderpfalz [1995] ECR I-4741
- Case (C-317/93) Nolte v. Landesversicherungsanstalt Hannover [1995] ECR I-4625
- Case (C-280/94) Posthuma-van-Damme v. Bestuur van de Bedrijfsvereniging voor Detailhandel, Ambachten en Huisvrouwen [1996] ECR I-179
- Case (C-139/95) Laperre v. Bestuurscommissie Beroepszaken in de Provincie Zuid-Holland [1996] ECR I-273

Transitional Payments

- Case (C-343/92) MA Roks v. BBG 24th February 1994
- Case (384/85) Borrie-Clarke v. Chief Adjudication Officer [1987] ECR 2865
- Case (80/87) Dik v. College van Burgemeester en Wethouders [1988] ECR 1601
- Case (C-377/87) Cotter & McDermott v. the Minister for Social Welfare (No. 2) [1991] 3 CMLR 507

Schemes Covered by the Directive

- Case (C-228/94) Atkins v. Wrekin District Council [1996] ECR I-3633
- Case (C-312/94) Hoefer v. Land Nordrhein-Westfalen [1996] ECR I-4895

Derogations

- Case (C-420/92) Bramhill v. Chief Adjudication Officer [1994] ECR I-3191
- Case (C-165/91) Van Munster v. Rijksdienst voor Pensioenen [1994] ECR I-4661
- Case (C-92/94) Secretary of State for Social Security v. Graham [1995] ECR I-2521
- Case (C-137/94) The Queen v. Secretary of State for Health, ex parte Richardson [1995] ECR I-3407
- Case (C-139/95) Balestra v. Istituto Nazionale della Previdenza Sociale (INPS) [1997] ECR I-549
- Case (C-377/96) De Vriendt v. Rijksdienst voor Pensionen [1998] ECR I-2103
- Case (C-154/96) Wolfs v. Office National des Pensions

FORCE MAJEURE LEAVE DETERMINATIONS

To date there have been 18 determinations on appeals under the Parental Leave Act, 1998 to the Employment Appeals Tribunal, 16 of which concerned Force Majeure Leave as follows:

David Quinn –v- J Higgins Engineering Ltd	– Case No. PL 3/99, 6th Dec, 1999
Angela McKnight –v- Mallinckrodt Medical	– Case No. PL 7/99, 9th March, 2000
Seamus Kearns –v- Eve Holdings Ltd	– Case No. PL 9/99, 8th March, 2000
Ann Carey–v- Penn Racquet Sports	– Case No. PL 11/99, 3rd April, 2000 ¹
Geraldine O’ Halloran –v- Tillotson Ltd	– Case No. PL 13/99, 27th March, 2000
Boxmore Plastic Ltd –v- Diane Crowe, Teresa Fitzpatrick and Gerry McKiernan	– Case No.s PL 14/99, PL 15/99 and PL 16/99, 24th July, 2000
Kevin McGaley-v- Liebherr Container Cranes Ltd	– Case No. PL 18/99, 27th March, 2000 ²
David Munnely -v- Warners (Eire) Teo	– Case No. PL 19/99, 15th March, 2000
Chris Herbert –v- Kostal Ireland Ltd	– Case No. PL 22/99, 31st July, 2000
Fruit of the Loom International –v- Mary Gill	– Case No. PL 1/00, 17th July 2000
Patrick Maughan –v- Gencorp Vehicle Sealing (Henniges Elastomers) Ltd	– Case No. 3/00, 11th Jan, 2001

¹ This case was appealed to the High Court. The Court ruled (January 24 2001) that the EAT was mistaken in deciding to reject a claim for one day’s force majeure leave in a case where a women stayed home to take care of an eight year old child who was ill and who had a skin rash. The Court addressed the issue of whether or not the urgency of the family reasons and the question of whether the employee’s presence with her child was indispensable could be judged with hindsight. The Court ruled that it was a mistake of law to decide the issue on the basis of the ultimate outcome of the illness in this case. The Court found that the matter should have been looked at from the worker’s point of view at the time she made the decision not to go to work. The Court also held that an employee could not be assumed to have medical knowledge he/she did not possess.

² This case was also appealed to the High Court. This case involved a worker whose wife became ill and who had a baby under one to care for. The Court held that the question as to whether or not an employee’s presence with his sick wife was or was not indispensable was a question of fact to be decided by the Tribunal based on the facts as they were known to the employee at the time he made the decision not to go to work. It was not open to the Court to look at the circumstances and make a different decision provided the Tribunal did not err in law by applying wrong principles as in the Carey case, or come to a decision that no reasonable Tribunal could have reached on the facts. It was the Tribunal’s decision that the worker had failed to show that his immediate presence was indispensable and the Court upheld the Tribunal’s decision.

- Crown Equipment v Goran Gaynor - Case No. PL 7/2000, 28th June, 2001
- Wellman International Ltd -v- Noel Langtry - Case No. PL 1/2001, 7th Sept, 2001
- Dunnes Stores -v- Fiona Hallinan - Case No. PL 3/2001, 6th Nov, 2001
- Tesco (Ireland) Ltd -v- Hobson - Case No. PL 4/2001, 10th Sept, 2001
- Leaf (Ireland) Ltd -v- Edwards - Case No. PL 5/2001, 29th Jan, 2002

QUALIFICATIONS FOR CARER'S BENEFIT

Carer must:

- be aged 16 or over and under age 65/66;
- live with the person being cared for or in close proximity;
- have been employed for the previous three month period;
- satisfy the PRSI contribution conditions i.e.
 - 156 contributions paid since entry into insurable employment, and
 - a) 39 contributions paid in the relevant Tax Year,
or
 - b) 39 contributions paid in the 12 month period before commencement of the Carer's Benefit,
or
 - c) 26 contributions paid in the relevant Tax Year and 26 contributions paid in the Relevant Tax Year prior to that.
- give up employment to care for a person(s) on a full-time basis (this employment must have been for a minimum of 17 hours per week or 34 hours per fortnight)

Relevant Person must:

- be disabled so as to need full-time care and attention (medical certificate and assessment by a Deciding Officer from the Department of Social, Community & Family Affairs are required) and not be normally living in a hospital, home or other similar institution.
- Where a Domiciliary Care Allowance is being paid by a Health Board in respect of a child no medical certification is required.

FUTURE LEGISLATIVE DEVELOPMENTS

The following represents proposed legislative developments due to be implemented in the coming years, as known at December 2002.

- **Maternity Leave Protection Act, 1994** – A number of amendments have been agreed by Government and amending legislation is expected to be enacted in 2003.
- **Adoptive Leave Act, 1995** – Government has agreed to amend the Adoptive Leave Act in line with appropriate amendments to the Maternity Leave Act. Details of these amendments are not yet available.
- **Parental Leave Act, 1998** - A decision by Government is awaited on the recommendations contained in the Report of the PPF Working Group on the Review of the Parental Leave Act 1998, published April 2002.
- **Teleworking** – An Agreement on Teleworking was reached and signed by the European Employers and Trade Unions in July 2002 between the Social Partners at EU level. It is a requirement of that Agreement that the Social Partners implement its provisions in a manner that is binding on them. The existing Code of Practice will require a number of improvements to bring it into line with the European Agreement. However the amended text and status of the revised Code has not yet been agreed.
- **Pensions Legislation – covering equality across the 9 grounds** – this legislation will be drafted by the Department of Social & Family Affairs. Publication of the Bill is awaited.
- **Transposition of new EU Equality Directives**
 - Council Directive 2000/43/EC implements the principle of equal treatment between persons irrespective of racial or ethnic origin. The Directive covers both Employment Equality and Equal Status issues. Member States must adopt the legislative provisions necessary to comply with the Directive by 19 July 2003.
 - Council Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation. The Directive covers religion or belief, disability, age or sexual orientation. Member States must adopt the legislative provisions necessary to comply with the Directive by 2 December 2003. There is also provision in the Directive that allows Member States an additional period of 3 years from 2 December 2003, (i.e. a total of 6 years) to implement the provisions of the Directive age and disability discrimination, if this is necessary to take account of particular conditions.
 - EU Directive 2002/73/EC amending Council Directive 76/207/EEC (Gender Equal Treatment Directive). This Directive covers the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. Member States must adopt the legislative provisions necessary to comply with the Directive by 5 October 2005.

The Consultation process has begun with the Department of Justice, Equality & Law Reform and the Department has agreed with Congress to adopt an integrated approach and are planning to transpose all three Directives at the same time. It has also been agreed that this will be done by the introduction of primary legislation amending the existing Employment Equality Act, 1998.

- **EU Directive on Temporary Agency Work**

- The European Commission published draft proposals for a Directive on Temporary Agency work in March 2002. The scope of the Directive applies to a worker who is employed by a temporary agency and who is posted to a user undertaking to work under its supervision. The purpose of the Directive is (a) to improve the quality of temporary agency work by ensuring that the principle of non-discrimination is applied to these workers and (b) to establish a suitable framework for the use of temporary agency workers to contribute to the smooth functioning of the labour and employment market.

The Commission's proposals have been considered and reported on by the European Parliament. Discussions are ongoing at Council level and the final text of the Directive is awaited.

- **Transposition of EU Directive on Fixed Term Contract Work**

- This Directive applies to a fixed term worker who has an employment contract or relationship, entered into directly between an employer and worker, where the end of the employment contract or relationship is determined by objective conditions such as: reaching a specific date, completing a specific task, or the occurrence of a specific event. The purpose of the Directive is to (a) improve the quality of fixed-term work by ensuring the application of the principle of non-discrimination and (b) to establish a framework to prevent abuse arising from the use of successive fixed-term employment contracts or relationships.
- This Directive should have been transposed by 10 July, 2001. As at December 2002, the Irish Legislation had not been published

NOTE: You should check with your Union whether or not there have been any changes to the legal provisions and whether or not any of these developments are relevant to your negotiations.

CALCULATION OF BROKEN PARENTAL LEAVE

Appendix A of Equality Authority Booklet "About the Parental Leave Act, 1998"

Calculation of "broken" leave in accordance with section 7(2)(a)(ii) of the Act, in circumstances where the employer and employee are unable to agree on a period of 14 continuous weeks to be used as a reference period.

The following is an example of how parental leave should be calculated in the circumstances outlined above

- (a) Calculate the total number of hours worked by the employee in the 14 weeks ending immediately before the week in which the employee proposes to commence the first period of leave. This figure represents the total number of hours' leave to which the employee is initially entitled.
- (b) On the second and subsequent occasions on which the employee wishes to take part of his or her parental leave, calculate the total number of hours worked by the employee in the 14 weeks ending immediately before the week in which the employee proposes to commence the new period of leave. Add this to the totals calculated on each of the previous occasions the employee took part of his or her parental leave, and calculate the average of these figures. This new total represents the average hours worked by the employee over a number of 14 week periods and represents the employee's revised entitlement to parental leave.
- (c) Calculate the total number of hours of parental leave already taken by the employee and subtract this figure from the total reached in (b). The outcome represents the balance of parental leave to which the employee is entitled.

EXAMPLE

The employee wishes to take short periods of leave over a long time scale. On the first occasion, the employee has worked 500 hours in the 14 weeks immediately prior to the week of commencement of the leave. The employee takes 20 hours' leave.

The next time the employee wishes to take leave, s/he has worked 450 hours in the 14 weeks immediately prior to the week of commencement of the leave. The revised entitlement is calculated as follows: $450 + 500 = 950$, $950/2 = 475$. The employee has already taken 20 hours' leave, so s/he has **455** hours remaining. On this occasion the employee takes 25 hours.

On the third occasion, the employee has worked 480 hours in the 14 weeks immediately prior to the week of commencement of the leave. The revised entitlement is calculated as follows: $480 + 450 + 500 = 1,430$, $1,430/3 = 477$

The employee has already taken 45 hours' leave, so s/he has **432** hours remaining. On this occasion the employee takes 20 hours. On the fourth occasion, the employee has worked 500 hours in the 14 weeks immediately prior to the week of the commencement of the leave. The revised entitlement is calculated as follows: $500 + 480 + 450 + 500 = 1,930$, $1,930/4 = 483$ S/he has already taken 65 hours' leave, so s/he has **418** hours remaining. The employee takes another 30 hours' leave...

This calculation is carried out every time the employee wishes to take part of his or her parental leave. When the figure in bold reaches zero, the leave entitlement has been exhausted.

NB. In determining the 14 week period mentioned above, absences as a result of parental leave during those 13 weeks are treated as if the employee was at work. Absences as a result of other types of leave are excluded, and the fourteen week period shall be extended by a corresponding number of days immediately prior to the start of the period. Other types of leave include annual leave, public holidays, sick leave, maternity leave, adoptive leave and force majeure leave.

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LEGAL ENTITLEMENTS – SECTIONS FROM ACTS ON MORE FAVOURABLE PROVISIONS PERMITTED

The legislation covering Maternity Leave, Adoptive Leave, Parental Leave and Carer's Leave provides the minimum legal entitlements of employees.

The following provisions should also be noted:

PARENTAL LEAVE ACT, 1998

- Payment – The Act is silent on the issue of payment for Parental Leave and there is no Parental Leave Social Welfare Benefit payable in respect of this Leave.
- Manner in which Parental Leave can be taken
 - the Act provides the Parental leave may consist of:
 - (a) a continuous period of 14 weeks or
 - (b) with the agreement of the employer or representatives of the employer and other employers and the employee or representatives of the employee and other employees, a number of periods each of which comprises:
 - (i) one or more days
 - (ii) one or more hours, or
 - (iii) any combination of periods referred to at (i) and (ii) above.

The provision at (b) above allows Unions to negotiate with the employer with a view to reaching agreement on the manner in which parental leave can be taken.

If the leave is taken in a broken manner, the entitlement is calculated in relation to the number of hours during which, but for the leave, the employee would be working in the employment concerned. There are two ways of calculating the entitlement:

(i) Where there is agreement on the reference period

Where an employee and employer agree on a particular period of 14 continuous weeks worked by the employee before the leave commences as a reference period, the total number of hours worked by the employee during the period represents the total number of hours leave to which the employee is entitled (irrespective of how the leave is spread).

(ii) Where there is no agreement on the reference period

Where an employee and employer are unable to agree on a particular period of 14 continuous weeks to be used as a reference period (e.g. where the employee does not work a fixed number of hours per week), then a different formula should be applied. In such circumstances the total number of hours of parental leave to which an employee is entitled is continually re-evaluated to reflect the fluctuations in the hours worked.

When determining the 14 week reference period/s mentioned above, absences as a result of parental leave during a reference period are treated as if the employee was at work and other absences from work on sick leave, maternity leave, adoptive leave, or force majeure leave are excluded and a corresponding number of days immediately before the commencement of the reference period should be included.

Please see **Resources section** for an example of how "broken" leave should be calculated, drafted by the Equality Authority as part of their explanatory booklet on the Parental Leave Act, 1998.

- More favourable Agreement - Nothing in the Act prohibits the inclusion in an agreement of a provision more favourable to an employee than any provision in Parts II to V of the Act.

CARER'S LEAVE ACT, 2001

- **Manner in Which Carer's Leave can be taken**
 - The Act provides that the period of Carer's Leave may be taken in the form of:
 - (a) one continuous period of 65 weeks for each relevant person, or
 - (a) the commencement of the carer's leave.

An employer may refuse, on reasonable grounds, to permit an employee to take a period of Carer's leave which is less than 13 weeks duration and in such a case the Employer must specify in writing to the employee the grounds for the refusal.

Nothing in the Act prohibits an agreement between an employer and employee in respect of Carer's leave on terms that are more favourable to the employee than the entitlements of the employee under the Act.

INTRODUCTION TO DEPARTMENT OF SOCIAL & FAMILY AFFAIRS WORKSHARING BOOKLET SW105

The Department of Social and Family Affairs published the following information booklet *Worksharing* in October 2002.

It outlines the implications negotiated worksharing or jobsharing arrangements may have on a worker's social insurance contributions and entitlements.

The manner in which jobsharing or worksharing is developed should take this into account.

We would like to thank the Department of Social and Family Affairs for their permission to reproduce the booklet in this toolkit.

Note: Changes in Family Income Supplement (FIS) introduced in Budget 2003 with effect January 2003: weekly income thresholds to be increased by €17 per week.

Worksharing

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Worksharing

What is Worksharing?

Worksharing is an arrangement to work reduced hours in an agreed attendance pattern in accordance with employer personnel guidelines.

Example: 4 day week, 3 day week, working 9 to 3 each day, etc.

How does worksharing affect my social insurance?

Worksharing may affect:

- The amount of PRSI you (and your employer) pay, and/or
- The number of PRSI contributions you are awarded, which in turn may affect your entitlement to social insurance benefits.

The exact effect depends on your work pattern and the level of your earnings.

The **first part** of this booklet (pages 130 to 134) explains the system of contributions in general. The **second part** (pages 135 to 140) shows how your worksharing affects the number of social insurance contributions you receive. The **third part** (pages 141 to 145) explains how worksharing may affect the amount of PRSI you (and your employer) pay. The **final part** (pages 146 to 152) looks at how worksharing may affect your entitlement to the main Social Welfare benefits.

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PART I
PRSI System

1. What is PRSI?

PRSI is an acronym for Pay Related Social Insurance. A PRSI contribution is a percentage of an employee's reckonable earnings - see note below. It is made up of a number of different components:

- Social Insurance
- Health Contribution
- National Training Fund Levy (payable by the employer only)

Other levies may be added from time to time.

NOTE

Reckonable earnings = gross pay reduced by Superannuation and Permanent Health Insurance contributions made by the employee, deducted under a net pay arrangement by the employer, which are allowable for income tax purposes.

2. When is PRSI paid?

An employee is entitled to a PRSI contribution for any contribution week (or part thereof) that s/he is rostered to work and payment is due in respect of that work, regardless of when payment is made.

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3. What is a contribution week?

A contribution week is each successive period of 7 days starting on 1st January each year, i.e. week 1 is the period from 1st to 7th January each year (from 2002).

4. When is PRSI at Class A recorded?

An employee aged 16 to 66 in the private or (where applicable) public sector is entitled to a Class A contribution for any week that reckonable earnings (from all employments in that week) are €38 or over.

PRSI at Class J applies when earnings are less than €38 or where the employee is aged 66 or over. This provides cover for Occupational Injuries Benefit only.

(See Information Booklet SW 14 for more information on the appropriate rate of PRSI contributions.)

5. Who is insurable at Classes B, C, D or H?

Classes B, C and D are applicable to permanent and pensionable public servants recruited prior to 6th April 1995. Class H applies to NCO's and enlisted personnel of the Defence Forces.

6. Does the employee pay a share of the PRSI contribution?

Only when the earnings in that week are in excess of the employee social insurance threshold (€287 per week for 2002) and less than the annual cumulative earnings ceiling (€38,740 for 2002).

7. Who pays the Health Contribution?

The Health Contribution (2%) is payable by an employee on all reckonable earnings in any week where the weekly earnings are in excess of €356 (for 2002) unless you are:

- a medical card holder
- or
- aged 70 or over
- or
- in receipt of a Social Welfare Widow's/Widower's Pension, One-Parent Family Payment or Deserted Wife's Benefit/Allowance
- or
- in receipt of a Widow's/Widower's Pension, acquired under the Social Security legislation of a country covered by EC Regulations.

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8. How will my earnings affect the rate of PRSI payable?

In any week in 2002 that earnings are €38 or over Class A applies as follows:

Weekly Earnings	Monthly Earnings	Subclass
€38 - €287	€165 - €1,244	A0
€287.01 - €356	€1,244.01 - €1,543	AX
In excess of €356	In excess of €1,543	A1/A2

9. Who is responsible for the correct deduction and payment of PRSI?

The employer is responsible in law for paying the entire contribution. However, s/he is entitled to deduct the employee's share when paying the employee's wages. It is therefore in the employer's interest to make the correct deduction at the time of payment of wages. Otherwise, s/he will be liable to bear the cost of the entire contribution and, in addition, any arrears which may be due.

PART II

How will Worksharing affect my Contribution Record?

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1. How does my work pattern affect the number of PRSI contributions awarded to my record?

A contribution is **not** awarded in respect of any contribution week where an employee is not rostered to work and no earnings are due.

Exceptions are employees on **paid leave** e.g. maternity, sick, force-majeure, marriage, bereavement etc.

If you avail of unpaid maternity/adoptive leave immediately following your paid leave, you will be entitled to receive a '**PRSI Credit**' in respect of each week taken, up to a maximum of **8** weeks. If you avail of unpaid parental leave immediately following your paid leave, you will be entitled to receive a '**PRSI Credit**' in respect of each week taken, up to a maximum of **14** weeks. This will ensure that your existing cover for social welfare benefits is fully maintained.

If you avail of unpaid leave, please have your employer complete the application form for maternity/adoptive/parental leave credits.

You should then send the completed form to:

Records Update Section

Department of Social and Family Affairs
Gandon House
Amiens Street
Dublin 1

'Credits' will be awarded for this period and your social insurance record will be updated.

NOTE

Employees who receive payment in respect of a contribution week where no earnings are due or paid will not be entitled to a contribution in respect of any such week.

Worksharing

2. What are the most common worksharing patterns and what effect will it have on my yearly contribution record?

If your worksharing pattern means that you do not work in a particular contribution week, then you do not get any PRSI contribution in that week.

If your worksharing pattern means that you do work in a particular contribution week, but you earn less than €38 in that week, then you get a Class J contribution for that week. Class J is for Occupational Injuries Benefits only, and will not enable you to qualify for the main Social Insurance benefits.

Remember the contribution week starts on the 1st January, so it starts on a different day each year. For example:

YEAR	CONTRIBUTION WEEK
2002	Tuesday to Monday
2003	Wednesday to Tuesday
2004	Thursday to Wednesday

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The table below shows the most common worksharing patterns and the effect they will have on your yearly contribution record.

Pattern	Total contributions for year
Full Time	52
4 days every week	52
3 weeks on/1 week off (Mon-Fri)	52 or 39 (see example 1)
Working 9am - 3pm every day	52
3 days (same days each week)	52
2 days (same days each week)	52
1 day (same day each week)	52
Mornings only	52
Afternoons only	52
Working week on/off (Mon-Fri)	52 or 26 (see example 2)
Working a fixed split week	52 or 26 (see example 3)

Example 1: 3 weeks on/1 week off pattern

Where the employee is working a week **coinciding** with the contribution week, **NO** contribution is awarded in respect of weeks off for the following years:-

Year	Work pattern	Contribution week
2005	Monday to Friday	Saturday to Friday
2006	Monday to Friday	Sunday to Saturday
2007	Monday to Friday	Monday to Sunday

Therefore, if the week off **does not coincide** with the contribution week, as in 2003 and 2004, the employee may be awarded **52 contributions** for those years.

Worksharing

However, if the week off **does coincide** with the contribution week, as in 2005, 2006 and 2007, the employee may be awarded **39 contributions** for those years.

Example 2: Week on/week off (Monday-Friday)

Where the employee is working a week **coinciding** with the contribution week, **NO** contribution is awarded in respect of weeks off for the following years:-

Year	Work pattern	Contribution week
2005	Monday to Friday	Saturday to Friday
2006	Monday to Friday	Sunday to Saturday
2007	Monday to Friday	Monday to Sunday

However, if the week off **does not coincide** with the contribution week, as in 2003 and 2004, the employee may be awarded **52 contributions** for those years.

Therefore if the week off **does coincide** with the contribution week, as in 2005, 2006 and 2007, the employee may be awarded **26 contributions** for those years.

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Example 3: A fixed split week

Where the employee is working a week **coinciding** with the contribution week, **NO** contribution is awarded in respect of weeks off for the following years:-

Year	Work pattern	Contribution week
2002	Tuesday to Monday	Tuesday to Monday
2003	Wednesday to Tuesday	Wednesday to Tuesday
2004	Thursday to Wednesday	Thursday to Wednesday
2008	Tuesday to Monday	Tuesday to Monday

For later years, check which day 1st January falls on.

Therefore, if the week off **does not coincide** with the contribution week, as in the above example, the employee may be awarded **52 contributions** for those particular years.

However, if the week off **does coincide** with the contribution week, as in the above example, the employee may be awarded **26 contributions** for those particular years.

NOTE

The best option to guarantee no loss of contributions for people considering worksharing is to work at least one constant day in each working week. However, payment in respect of that day must be equal to or greater than the minimum earnings band amount (€38 for 2002) for a Class A contribution.

PART III

Effects of Worksharing on the amount of PRSI and Health Contribution payable by Employee and Employer

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1. Can a worksharing pattern affect the amount of contribution paid?

The amounts of PRSI and Health Contribution payable by the employee and employer may be affected by different work patterns. The following example shows how 2 different worksharing patterns can affect the number of contributions awarded to an employee and how much is payable in each case.

A and **B** are both worksharers, have the same gross earnings of €570 per week. Based on the contribution week for 2002, (Tuesday 1st January 2002), A's working pattern will span 2 contribution weeks while B's working pattern will coincide with the contribution week.

A works Monday to Friday every 2nd week.

Week 1 = Mon. Week 2 = Tues., Wed., Thurs. + Fri.

As this work pattern spans 2 contribution weeks, 2 contributions are awarded.

B works Tuesday to Monday every 2nd week

As this work pattern coincides with the contribution week for this year which begins on a Tuesday, 1 contribution is awarded.

At the end of the year, A will have 52 contributions while B will have 26 contributions.

2. How is the appropriate rate of PRSI and Health Contribution determined?

To determine the rate of PRSI which is payable by the employee (EE) and employer (ER) the gross pay is divided by the number of contribution weeks that is covered by the working pattern.

PRSI payable for the two different worksharing patterns:

A earns **€570** (gross) and because this work pattern spans 2 contribution weeks the earnings are divided by 2 to give **€285**.

All employee gross earnings up to and including **€287** for any given week are liable for PRSI at Subclass AO and no Health Contribution is payable.

The amount of PRSI due in this case is:

Employee PRSI: €285 @ Subclass AO = Nil
 Employer PRSI: €285 @ 8.5% = €24.22

There is no Employee PRSI or Health Contribution payable in this case.

B earns **€570** (gross) and because this work pattern coincides with the contribution week the earnings are liable for PRSI at Subclass A1 and the Health Contribution or Subclass A2 (see Part 1 Section 7).

All employee gross earnings over **€356** for any given week are liable for PRSI at Subclass A1 and the Health Contribution is payable.

The amount of PRSI due in this case is:

Employee PRSI: Health Contribution (€127 @ 2%) = €2.54
 Balance (€443 - Subclass A1 @ 6%) = €26.58
 Total PRSI for Employee = €29.12
 Employer PRSI: €570 @ 10.75% = €61.27

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The rates of PRSI and income thresholds used in these examples apply for the Year 2002 and may be subject to change.

NOTE

All employees within Class A PRSI (whether they pay PRSI, or not) are still eligible for Social Insurance Benefits applicable to Class A PRSI.

3. How does the worksharing pattern affect the PRSI-free Allowance awarded?

The PRSI-Free Allowance of €127 weekly (€551 monthly) on Subclass AX depends on the employee's work pattern and Subclass. Where the work pattern covers one week on Subclass AX or A1/A2, only one PRSI-Free Allowance is awarded. If the pattern covers two weeks on Subclass AX or A1/A2, two PRSI-Free Allowances are awarded.

4. How does the worksharing pattern affect the amount of Health Contribution?

The 2% Health Contribution is payable where an employee's weekly gross earnings are €356 or over at PRSI Subclass A1. The Health Contribution is charged at 2% on all earnings. If the gross earnings are under €356 on any given week, the employee does not have to pay the Health

Worksharing

Contribution. Where an employee's weekly earnings fluctuate above and below €356, but the cumulative earnings during 2002 do not exceed €18,512, the employee may claim a refund of the 2% Health Contribution deduction from:

The Collector-General

Customer Services (PRSI Refunds)

Francis Street

Limerick

Tel: 1890 20 30 70

Your P60 must be submitted when claiming a refund of PRSI.

SUMMARY POINTS TO NOTE

- **Employee A does not pay any PRSI, as the earnings are under €287 for each contribution week, but will have 52 contributions at the end of the year.**
- **Employee B pays a higher rate of Class A PRSI, as the earnings are over €356 for each contribution week, but will have 26 contributions at the end of the year.**
- **Both A and B are still covered for most of the same benefits (with the exception of Treatment Benefit in B's case).**

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PART IV

Effects of Worksharing on Social Welfare Benefits

1. What impact will a contribution record have on entitlement to benefits?

In general, payments from the Department of Social and Family Affairs are made up of **Social Insurance Payments** (which are based on PRSI contributions) and **Social Assistance Payments** (which are based on a means test).

Depending on the Class of PRSI you pay, you have different potential benefit entitlements. The following is a list of Social Insurance payments where your entitlement to a payment depends on your PRSI contribution record as well as other qualifying conditions.

- Unemployment Benefit
- Disability Benefit
- Maternity Benefit
- Adoptive Benefit
- Health and Safety Benefit
- Invalidity Pension
- Widow's/Widower's (Contributory) Pension* (see page 148)
- Orphan's (Contributory) Allowance* (see page 148)
- Old Age (Contributory) Pension
- Retirement Pension
- Bereavement Grant* (see page 148)
- Treatment Benefit
- Occupational Injuries Benefit* (see page 148)
- Carer's Benefit* (see page 148)

All of these payments are available if you pay Class A PRSI, provided you also satisfy other qualifying conditions.

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* If you pay PRSI at Class B or D, you may qualify for these benefits only.

To qualify for most short-term Social Insurance payments you need to have:

- 39 weeks PRSI paid since first starting work
- AND
- 39 weeks PRSI paid or credited in the Relevant Tax Year
- OR
- 26 weeks PRSI paid in the Relevant Tax Year and
26 weeks PRSI paid in the Tax Year prior to the Relevant Tax Year.

Long-term Social Insurance payments (e.g. Widow's/Widower's (Contributory) Pension, Old Age (Contributory) Pension, etc.) also require that you have a minimum number of paid contributions to qualify as well as reaching a yearly average of paid and credited contributions over an extended period.

Worksharing

IMPORTANT NOTES

- You should check carefully to see which benefits you may qualify for if you opt for a worksharing arrangement that results in you getting less than 52 weeks contributions in any year.
- Make sure to keep in mind all of your plans for the year. For example, if your worksharing arrangement would normally give you 39 PRSI contributions and you plan to take additional unpaid leave during the year, make sure you take this into account when checking your entitlement to benefits.
- It is in your best interest to ensure that you receive a contribution, be it paid or credited, every week. For more information on credited contributions - see SW12.
- For detailed information on the payments listed, you should consult the relevant Information Booklet - see page 152.
- If you don't qualify for any of the benefits/pensions listed, you may qualify for a means-tested payment instead.
- The Relevant Tax Year is the second last complete tax year before the Benefit Year. The Benefit Year starts on the first Monday in January.

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2. Under what circumstances might a worksharer be eligible for Family Income Supplement (FIS)?

Family Income Supplement (FIS) is a weekly payment to help families with dependent children on low pay.

You may qualify for FIS if:

- you work at least 19 hours per week (or 38 hours per fortnight)
- you have at least one qualified child dependant
- your average weekly income (i.e. Gross Income less Tax, Employee PRSI, Health Contribution and Superannuation) is below a certain amount for your family size. The table below sets out the weekly income limits (effective from January 2002).

Size of Family	Weekly Income Limit
1 Child	€362
2 Children	€388
3 Children	€413
4 Children	€438
5 Children	€470
6 Children	€496
7 Children	€517
8 Children or more	€539

NOTE

If both you and your spouse/partner are working your income will be added together for the purpose of the weekly income limit.

See Information Booklet SW 22 for further information.

More Information

For more information contact your local Social Welfare Office.

Information on Social Welfare Services is available on the internet at www.welfare.ie and **AERTEL**, RTE's teletext service.

Information booklets and application forms are also available

- from your local Social Welfare Office
- *or*
- on the Internet at www.welfare.ie
- *or*
- by telephoning the Department's LoCall Leaflet Request Line at **1890 20 23 25**.

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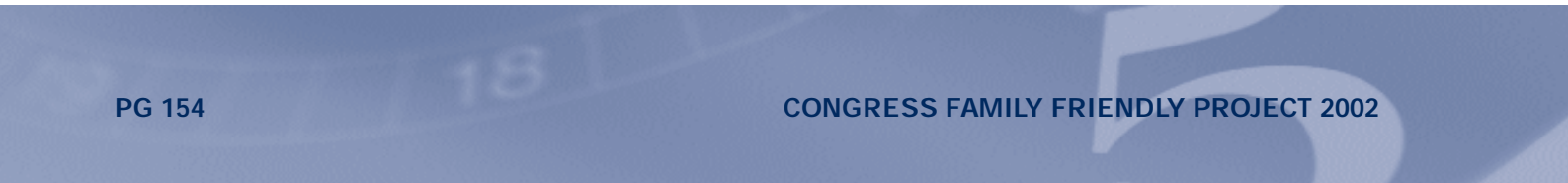
OTHER LEAFLETS/BOOKLETS WHICH MAY BE OF INTEREST ARE:

Employers' Guide to PRSI System	SW 3
Disability Benefit	SW 9
Maternity Benefit	SW 11
Credited Contributions	SW 12
PAYE/PRSI Employer Notice	SW 14
Retirement and Old-Age (Contributory) Pension	SW 18
Rates of Payment Booklet	SW 19
Health and Safety Benefit	SW 21
Family Income Supplement	SW 22
Treatment Benefit	SW 24
Widow's/Widower's (Contributory) Pension	SW 25
Injury Benefit	SW 30
Disablement Benefit	SW 31
Death Benefit	SW 32
Adoptive Benefit	SW 37
Invalidity Pension	SW 44
Bereavement Grant	SW 47
Orphan's (Contributory) Allowance	SW 48
Carer's Benefit	SW 49
Guide for Unemployed People	SW 65

IRISH CODE OF PRACTICE ON E-WORKING

A National Advisory Council on Teleworking was established in 1998, to develop a strategic approach to the development and promotion of e-working in Ireland.

As part of their work the Council developed the following Code of Practice on e-Working in Ireland which was subsequently endorsed by Congress, IBEC and Government, as Social Partners.



New ways of Living and Working

e-working in ireland

Code of Practice

code of practice on e-working

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Forewords

code of practice on e-working



Foreword by Noel Treacy, T.D.,
Minister for Science, Technology and Commerce

Modern information and communication technologies have opened up new methods of work organisation. e-Work is one such facet of the electronic age. e-Work is a powerful tool which can be exploited, not just to improve business competitiveness, but also to increase employment opportunities, skills availability, ease pressure on infrastructure and facilitate regional development. However, if the opportunities presented by this exciting phenomenon are to be maximised, it is essential that those employers that wish to introduce e-working in their firms and those interested in e-working are aware of what is involved in terms of obligations and entitlements.

This Code provides valuable information and will be of great assistance in identifying and clarifying key issues that need to be addressed in introducing an e-working policy in firms and organisations. If the potential of e-work is to be exploited fully, for the mutual benefit of workers and employers, it is vital that clear ground rules are established which inspire confidence in both parties.

The Government welcomes and endorses this Code, which is the product of a fruitful collaboration involving IBEC and ICTU. There is no doubt that e-Work has the potential to be an engine of economic growth while simultaneously providing employees with greater choice and balance in the organisation of their work and home lives.

code of practice on e-working



A handwritten signature in blue ink that reads "Peter Cassells".

Foreword by Peter Cassells, General Secretary,
Irish Congress of Trade Unions

The awesome speed of technological change in very recent years continues to transform the workplace. More team-based organisational structures, greater variety of work contracts and a concentration on innovation and creativity are characteristic of key sectors of our economy. When we speak of e-working we imply the same radical change in how, where and with whom people work as the evolving ways of conducting business, government or running organisations. In some cases the changes have resulted in higher wages, better working conditions; in others, however, change has resulted in greater exploitation and poor conditions of employment.

In recognition of these trends Congress welcomed the opportunity to identify and set down responses to the key issues associated with e-working for ever increasing numbers of workers across a variety of sectors in our economy. The issues are wide-ranging encompassing many different aspects of work and access to work. The Code of Practice on e-Working encourages the introduction of a formal e-working policy in companies or organisations as a way of avoiding potential problems or difficulties which may arise with the introduction of this new form of work organisation.

Congress welcomes and endorses the Code of Practice on e-Working as an important strategy both to develop and safeguard the position of workers. With proper safeguards workers can engage with and benefit from the new ways of working and realise the possibilities associated with e-Working such as more control over their work including working hours, reductions in commuting time, and a better balance between working and family/home life.

part one

code of practice on e-working

This Code of Practice is designed to inform those who have an interest in e-working on a wide range of issues from the inception of the idea to the implications of e-working for the self-employed, employers and employees. It is envisaged that the Code would be regularly reviewed and up-dated, as appropriate.

definition

e-Work is a way of working using information and communication technologies in which work is carried out independent of location. e-Work is not a job but a method of working.

Ways of e-working include:

- e-Worker - at home full-time/part-time
- Telecommuter - part-time at home or part-time in office
- Mobile - on the move

introducing e-working in a company

e-Working may be introduced as a flexible work option in a company or it can develop over time on a more informal basis. This code of practice aims to encourage best practice in companies engaged in e-working arrangements, to the benefit of both employers and employees.

When introducing e-working employers are advised to draw up a written policy which specifies how the e-working arrangements will operate in that company. This should be done in consultation with employees and union/employee representatives, where appropriate. Where necessary this policy can then be varied by negotiation to take account of individual circumstances or working arrangements. The drafting of such a document can help avoid potential problems or difficulties that may arise with the introduction of e-working in an organization. A sample e-working policy setting out some key points to consider when e-working is included in this Code of Practice.

e-Working may be required as part of a person's initial job description or may be engaged in as a voluntary arrangement. Where e-working is entered into voluntarily the policy should set out provisions for suspending or terminating the

code of practice on e-working

e-working arrangement and returning to conventional office working. Such terms should be agreed between the parties at the outset.

suitable jobs and e-worker selection

- Jobs suitable for e-working at a distance include those involving a high degree of information processing, clearly defined areas of individual work, and work where there are clear objectives, measurable outputs and minimal requirements for supervision. Some employees may have jobs where one part of the job description is suitable for home working while other parts need office resources or face to face interaction with other staff and thus may prefer to alternate e-working with conventional office working. Not all jobs will be suitable for e-working.
- Employees may opt to e-work or employers may specifically recruit e-workers.
- Depending on the nature of the work the following personal attributes and skills may be particularly relevant:
 - decision making and problem solving skills
 - time management skills
 - self discipline
 - communication skills
 - experience
 - ability to cope with reduced social contact
- Where an e-working arrangement is being proposed the suitability of the e-worker's line manager should also be considered, having regard to the need for skills in distance management.
- e-Working arrangements may offer a range of employment opportunities to people who may have been previously excluded from the Labour Market. Where e-working is introduced as part of a company disability policy, consideration should be given to appropriate support mechanisms that may be required by individual employees. Employers should also be aware of any

code of practice on e-working

potential equality or industrial relations implications of excluding certain workers from e-working. In order to avoid such problems clear criteria in relation to the job/person suitability should be clarified at the outset.

- e-Working arrangements should include mechanisms to avoid unfair extra workload on those working at home or left back at the office.

home office

Specific arrangements should be clearly set out in any e-working policy with regard to the setting up of a home office. Apart from assessing general technical requirements, other issues to consider may include:

Space and Location:

- procedure for checking that a suitable home office space is available.
- availability of a separate room in the home.
- availability of other options including a VDU workstation and adjustable chair in compliance with the health and safety legislation.

Equipment and Furniture:

- provision and ownership
- maintenance and technical support,
- insurance,
- personal use
- provisions against misuse
- arrangements for returning the items if the e-worker changes employment or reverts back to office-based work.

Note:

Employers may supply e-workers with equipment or provide a budget and allow the employee to select suitable items within that budget. In other cases, employees may have to provide their own equipment.

Whatever the arrangement employers should undertake a health and safety risk assessment to ensure that the e-worker's workstation complies with all legislation. Arrangements should be agreed in advance to allow employers access to the e-worker's home to conduct risk assessments.

code of practice on e-working

Childcare

- e-working should never be used as a substitute for childcare arrangements.

Privacy

- Any issues regarding the e-worker's privacy at home should be clarified at the outset. Details regarding home visits for health and safety inspections, or for computer maintenance, including details on prior notice for such visits should be agreed. Where necessary mechanisms for introducing telephone or mail redirection systems should also be provided.

Insurance provisions

- extension of employer's insurance policy to the home office or,
- where necessary, the acquisition of a home office policy by the e-worker, which may in some circumstances specify the area within the home which is covered by employer liability insurance (the "cordon" approach).

Planning permission

- requirements under current legislation.

Note:

Permission is not normally required if changes due to homeworking are "ancillary" or temporary such as the installation of a desk and a computer in a spare bedroom, and where no change in the external appearance of the building or increase in traffic is involved. However, if any proposed changes fall outside these areas planning and business rates advice should be sought.

- implications, if any, in relation to existing mortgage agreements or tenancy leases.

communications policies

It is widely acknowledged that effective communication is vital to successful e-working. An e-working policy should establish ground rules and a range of procedures to replace the informal communications system of the workplace, particularly in relation to:

- use of fax, phone, email, collection of voicemail

code of practice on e-working

- core contact times e.g. set times for contacting managers or on completion of projects, and keeping receptionists and secretaries informed of a remote employee's whereabouts.
- access to technical support for e-workers with equipment or software problems
- personal contact i.e. face to face meetings with managers and teambuilding with colleagues such as regular "in the office" days.
- delivery of internal communications such as memos and newsletters to the e-worker
- access to groupware technology such as computerised diaries and intranets where appropriate
- arrangements to monitor work performance. Performance appraisal procedures, where they exist, may need amendment in relation to the e-working arrangement. Where keystroke or call listening methods are used employees should be advised of this.
- procedures for reporting harassment via email or other misuse of company communication systems

Social isolation can pose a problem for many e-workers. Arrangements should be put in place to ensure that e-workers have the same access to company information as their office-based colleagues. In supplying company information, companies should be aware that e-workers are often beyond the reach of the usual informal office chatter and informal learning and should make active efforts to remedy the resulting information gap, perhaps through the use of intranets and email.

training

Training requirements should be assessed for both the e-worker and his/her office-based manager. Appropriate training may include:

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code of practice on e-working

- computer/IT skills e.g. remote access/Internet
- self management skills such as time management, project management, effective telephone usage, priority setting etc.
- coping with isolation
- management training especially “management by results”, goal setting, monitoring progress, giving appropriate feedback
- health and safety training e.g. covering the responsibility of the employer for the health and safety of employees, and the responsibility of employees to take reasonable care of their health and safety and in reporting defects in workplace equipment leading to risks.

A variety of training opportunities and techniques should be considered ensuring equal access to training opportunities with onsite workers, optimising the use of distance learning techniques and support through mentoring of new e-workers by experienced e-workers.

security

e-Working policies should review company security policies to see whether they are appropriate for e-workers and specify any variations required, considering issues such as:

- how to deal with secure document waste
- locking of the home office/computer
- procedures for computer virus checking and password changes
- data backups (it is advisable to require that one set of data backups be held at the central site where possible in case of fire damage or other problems affecting the home office).
- confidentiality and non-disclosure agreements

code of practice on e-working

- Benefit-in-kind: taxation implications of personal use of equipment (personal use can be considered a benefit in kind)
- Fringe Benefits: application of fringe benefits

Trade Unions

Where e-workers are members of a trade union recognised by the employer, the union should be consulted about the introduction of any e-working arrangements and with regard to any proposed changes to terms and conditions of employment, in line with normal practices. Employees working under e-working arrangements should have normal access to their trade unions, and vice versa.

monitoring and review

The e-working policy should include a procedure for regular monitoring and review. Where necessary the policy may need to be varied to take account of individual circumstances or working arrangements.

code of practice on e-working

sample e-working agreement

The following sample e-working agreement sets out some key areas that should be agreed upon before embarking on an e-work arrangement. Details of e-working agreements will vary according to the nature of the work carried out and the degree to which the e-worker carries out the work away from the traditional workplace. This agreement can be varied by negotiation (see italics) to take account of individual circumstances or working arrangements.

The sample agreement could be used as a stand-alone document but is most effective in conjunction with an agreed and detailed company policy on e-working. (Some appropriate issues for inclusion are italicised)

- Name:
- Address at which the e-work/distance work will mostly be performed:
- Telephone number:
- Mobile telephone number:
- Details of Position/Nature of work:
- Hours of work
(Office based days/hours, home based days/hours - include details where applicable on core hours, flexible hours; recording of working time, overtime arrangements , etc.)
- Communications structures
(core contact times, team meetings, feedback, mentoring, etc.)
- Reporting in procedures

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- I understand that e-working is not a substitute for childcare.
- I understand that the e-working arrangement does not affect my status as an employee.
- I understand the arrangements for termination of the e-working agreement by myself or by the company.

Signed (employee)

Signed (company)

Date:

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code of practice on e-working

e-working for self employed
e-workers

Self employed e-workers should always ensure there is a written document specifying the terms and conditions of the agreement between the e-worker and their client or customer. A clear written agreement can help to avoid disputes, unnecessary work stress and nonpayment of bills.

Written agreements between Self employed e-workers and the Clients should include the following key aspects:

- **Clear contacts:**
Identity and contact addresses of purchaser and supplier (if either is a corporate body, the names of the individuals concerned).
- **Nature of work:**
General description of the work to be carried out including the purpose and scope, the timetable for completion of the work, the delivery format and delivery date.
- **Payment terms:**
Details of the payment for the work including a timetable for payment during or following the completion of the work, VAT liability.
- **Confidentiality:**
Details of systems/procedures to ensure confidentiality and security of the work including responsibilities under Data Protection legislation
- **Ownership:**
Clarity with respect to the ownership of any resulting copyright and intellectual property rights if appropriate.
- **Supply of equipment:**
Arrangements for loan or supply of equipment, including insurance arrangements.

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- **Illness cover/holidays:**
Arrangements for cover in the event of illness, incapacity, holidays or other absences, and for any consequent subcontracting, if permitted.
- **Quality assurance:**
Procedures for compliance with quality assurance system to be used, if any. If group working is involved, identify the individual responsible for quality within the group.

Note: Self-employed e-workers should be aware of their responsibilities under the Data Protection Act, 1988 and may wish to consider keeping a set of data backups at a secure location offsite.

Self-employed e-workers, because their situation differs from employees in areas such as eligibility for many social welfare benefits, should also consider:

- **Adequate insurance:**
for business equipment e.g. through a home office insurance policy covering issues such as data loss, public liability, business interruption insurance and computer breakdown costs. Some e-workers may also need to consider taking out professional liability insurance where such insurance is not included in home office policies.
- **Planning permission:**
whether a home office requires planning permission (see Part One home office section for further information).
- **Pension coverage:**
contribution to a pension scheme where possible.
- **Health insurance:**
provision of permanent health insurance cover to replace lost income if incapacitated by ill health.
- **Appropriate professional advice:**
access to suitable professional advisors such as accountants and solicitors

part two

overview of legislation

code of practice on e-working

- Industrial Relations Act 1946, amended 1969, 1976, 1990;
- Transnational Information and Consultation Act 1997.
- *Safety, health and welfare at work:* All provisions of the Safety, Health and Welfare at Work Act 1989 and the subsequent General Application Regulations 1993 apply to home offices and to work outside the conventional office. Both employer and employee have statutory duties based on common law duties of care and all persons must consider the impact their place of work or articles used at work have on the public or visitors to the premises.

The employer has a legal duty to ensure so far as reasonably practical, the safety, health and welfare of their employees. Employees are similarly obligated to co-operate fully with the implementation of the Act and comply with all appropriate health and safety provisions in the workplace. Employees are required to report without delay, any accidents or defects in workplace equipment that may lead to a risk or danger. Every place of work including a home office must have a Safety Statement, which can form part of the overall company safety statement. Carrying out a risk assessment of the home work station is the responsibility of the employer and may involve, by prior agreement, a home visit. The e-worker must be involved in this risk assessment. Where necessary the results must be explained to and understood by the e-worker. As conditions change the risk assessment may have to be repeated.

The risk assessment should cover:

- furniture: e.g. adequate space for a workstation, office chairs and tables which must be adjustable in order to comply with VDU health and safety regulations.
- electrical safety avoiding overloading of sockets, and safely stowing cables
- fire safety e.g. provision of fire extinguishers
- lighting levels
- provision of heating and ventilation

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- The Terms of Employment (Information) Act, 1994
- The Maternity Protection Act, 1994
- The Adoptive Leave Act, 1994
- The Organisation of Working Time Act, 1997
- Parental Leave Act, 1998
- Employment Equality Act, 1998

The 'employer' in such cases is deemed to be the party who is liable to pay the agency worker. In most cases this is the agency. For the purpose of unfair dismissal the employer is deemed to be the user of the agency worker, i.e. the client company. Employment agencies must be licensed by the Department of Enterprise, Trade and Employment.

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Legislation affecting self-employed e-workers

The legislative requirements which apply to the self-employed e-worker are the *Safety, Health and Welfare at Work Act, 1989* and *Safety, Health and Welfare at Work (General Application) Regulations 1993*, the *Data Protection Act 1988*, and the *Registration of Business Names Act 1963*. However, like all self-employed people, self-employed e-workers must also consider issues such as the form of trading they will select, and liability for taxes such as VAT. Self employed e-workers are strongly recommended to seek advice from professionals such as accountants and solicitors in relation to these matters, and to use the Enterprise Link helpline service provided by the Department of Enterprise, Trade and Employment on 1850 353333.

Safety, Health and Welfare at Work Act, 1989 and the General Application Regulations 1993

The provisions of the *Safety, Health and Welfare at Work Act 1989* and subsequent *General Application Regulations 1993* apply to any place of work including those used by the self employed. Thus a self employed person has a duty under the Act to assess their own workplace for risks and prepare a safety statement, even if it is a home office and they are working alone. The Act puts a duty on the self employed to ensure that they do not put other persons who are not their employees at risk, such as other family members where homeworking is involved.

Under the *Safety, Health and Welfare at Work Act, 1989* self -employed e-workers are obliged to:

- identify hazards that may cause harm however small (such as electrical equipment which might cause an electric shock).
- decide who might be harmed and how (e.g. the homeworker, members of the household, visitors)
- assess the risks of injury (e.g. electrocution)
- take appropriate action to eliminate or reduce the identified risks

code of practice on e-working

- record the findings e.g. steps taken to reduce or eliminate risks in their safety statement
- check the risks regularly and take appropriate steps, especially if there is a change in working procedures.

The main relevant health and safety law for e-workers is the *1993 General Applications Regulations. Part VII* gives the main requirements for working with VDUs which are :

- a clear and stable screen, bright and free from glare, which should swivel and tilt easily
- adequate arrangement of keyboard characters, adjustable keyboard with sufficient space to support the hands and arms of the user
- sufficient user space to change positions and vary movements. Work desk sufficiently large, document holder adjustable and stable
- satisfactory lighting conditions
- minimised glare and reflection at the workstation, and minimisation of radiation levels
- work chair adjustable in height including the back rest
- a foot rest available if required
- environmental factors should be minimised including effects of reflection/glare, noise, heat and humidity

Part IV of the *1993 General Application Regulation* on the use of work equipment also applies, which states that when selecting work equipment account should be taken of specific working conditions, characteristics and hazards in the place of work and that equipment must be without risk to health and safety, or that steps are taken to minimise any such risk. Work equipment must also be kept adequately maintained throughout its working life. The 1989 Act and the 1993 General Application Regulations also state that workers should be adequately

part three

code of practice on e-working

references

- ETD project deliverable 038: Assessment of European Telework and its future development: Ursula Huws, Josef Hochgerner and Jeremy Millard, 1998.
- EU Diplomat project guidelines
- EU Green Paper “Partnership for a New Organisation of Work” Telework COM(97)128
- Guides for Small Business: The Revenue Commissioners, 1996 01 878 0000
- Guide to Labour Law: Department of Enterprise, Trade and Employment 1999
- Guide to the Insolvency Payments Scheme: Department of Enterprise, Trade and Employment
- Guide to Self Assessment System for the Self Employed IT10: The Revenue Commissioners, 1995.
- Introduction to Teleworking: Communications Workers Union 1997
- Living and Working in the Information Society: People First: European Commission Green Paper COM(97)142, April 1997.
- New Information and Communications Technologies, TUC, 1997
- Personnel policies and procedures guideline 19: Teleworking/Telecommuting, IBEC, 1998
- Starting Your Own Business: Ron Immink and Brian O’Kane, Department of Enterprise and Employment/Oaktree Press, 1997.
- Status Report on European Telework 1998, European Commission DGXIII, 1998,
- TeleFutures: Imogen Bertin and Gerard O’Neill, 1996
- Teleworker: bi-monthly magazine: TCA

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- Teleworking Manuals: Telecom Eireann, 1998
- Teleworking/Telecommuting report: IBEC, 1998
- Telnex Teleworkers Code of Conduct 1994: Devon & Cornwall TEC/Cornix Teleworking Consultancy
- The Health and Safety Issues for Teleworkers in the European Union: European Foundation for the Improvement of Living and Working Conditions (WP/97/29/EN)
- The Legal and Contractual Situation of Teleworkers in the European Union: European Foundation for the Improvement of Living and Working Conditions (WP/97/28/EN)
- The Social Implications of Teleworking: European Foundation for the Improvement of Living and Working Conditions 1997 ISBN 92-828-0592-1
- The Social Security Position of Teleworkers in the European Union: European Foundation for the Improvement of Living and Working Conditions (WP/97/27/EN)
- The Teleworking Handbook (2nd Edition): Imogen Bertin and Alan Denbigh, TCA, 1998
- Trade Unions and Telework: FIET report by Andrew Bibby 1997
- Health and Safety Authority Newsletter No.94
- Newsletter March 1994. The Health and Safety of Teleworkers
- Health and Safety Authority Guidelines on:
 - Preparing your safety statement
 - Health and safety of office workers
 - Safety Consultation and Safety Representatives

code of practice on e-working

contact details

- Communication Workers Union virtual branch (telework advice and support) Tel: 021 887300
- Data Protection Registrar Block 4 Irish Life Centre Dublin 1. Tel: 01 874 8544
- Employment Rights Information Unit, Department of Enterprise, Trade and Employment, Davitt House 65A Adelaide Road, Dublin 2. Tel: 01 631 2121 and 1890 20222
- Enterprise Ireland info@e-work.ie
- Enterprise Ireland e-work helpline 1850 572000
- Enterprise Link helpline 1850 353333
- Equality Authority, Clonmel Street, Dublin 2. Tel: 01 417 3333
- European Telework Development Project in Ireland, Cork Teleworking, Reagrove, Minane Bridge, Co. Cork. Tel: 1800 225070
- e-Work Action Forum, Department of Enterprise, Trade and Employment, Kildare St, Dublin 2. Tel: 631 2226
- Registrar of Business Names, Parnell House, 14 Parnell Square, Dublin 1. Tel: 01 804 5200
- Rights Commissioner Service, Tom Johnson House, Haddington Road, Dublin 4. Tel: 01 631 6700
- Telecom Eireann Freefone 1800 666444
- Telework Ireland Association (telework advice and support) Freefone 1800 421426
- IBEC, Confederation House, 84-86 Lower Baggot Street, Dublin 2. Email erinfo@ibec.ie
- ICTU, Congress House, 19 Raglan Road, Dublin 4. Email raglan@ictu.iol.ie

code of practice on e-working

appendix
membership of the working
group

The membership of the working party on this Code of Practice was as follows:

- Paula Carey, Research Officer, Irish Congress of Trade Unions
- Katie Connolly, Industrial Relations Executive, IBEC
- Chris Hudson, Industrial Officer, Communications Workers Union and national coordinator for Ireland of the European Telework Development Project
- Tony Moriarty, Research Officer, Manufacturing, Science and Finance Union
- Aileen Canning, Business Development Manager with responsibility for Teleworking, Telecom Eireann
- Imogen Bertin, Manager, Cork Teleworking, co-author of the TeleFutures report and the Teleworking Handbook

www.entemp.ie/e-work

CHECKLIST OF PENSON IMPLICATIONS

This document is intended to raise the member's and/or union representative's awareness of the implications of changing work pattern or taking leave on pension entitlements and contributions.

It is not intended to provide the answers, as these will vary between pension schemes, working arrangements and workplaces.

It is intended to point members and union representatives/officials towards the right questions to investigate.

There are four main ways of changing working arrangements:

1. Alteration of working hours
2. Reduction of working hours
3. Break from employment
4. Change of location (eWorking)

Each pension scheme, workplace and employee is different. This is not a comprehensive list of issues, but a pointer towards some of the questions which will be relevant to any member considering the first three types of arrangement above.

POINTS TO CONSIDER

1. Type of pension - defined benefit, defined contribution
2. Employee contribution
3. Employer contribution
4. Will there be an impact on final pension payable?
5. Can contributions be continued during a period of leave/career break?
6. Are they reduced pro-rata with reduced hours?
7. Can contributions be changed or "topped up" with AVCs (Additional Voluntary Contributions)? What are the implications of this?
8. Will any reduction in hours/years mean that the final pension amount will be reduced? Can this be prevented? Can years be "bought back" on return (if any) to full-time work/ other pattern?
9. Implications for benefits (eg Death in Service) during a period of leave/career break in employment (- ie member is still an employee and member of the scheme but not necessarily making contributions to pension scheme.)
10. Number of years/months affected - can this be predicted / agreed in the beginning?

For further information on pension issues, contact your union official, salaries or payroll section, pension trustees or the Pensions Board.

PROGRAMME FOR PROSPERITY AND FAIRNESS, ANNEX IV NATIONAL FRAMEWORK FOR THE DEVELOPMENT OF FAMILY-FRIENDLY POLICIES AT THE LEVEL OF THE ENTERPRISE

INTRODUCTION

The objective of this Agreement is to support and facilitate the development of family-friendly policies at the level of the enterprise. The achievement of this objective will be supported by the National Framework for Family Friendly Policies to be established within the context of this Agreement. This National Framework will focus on supporting and facilitating family-friendly policies through the development of a package of practical measures that can be applied at the level of the enterprise.

CONTEXT

The development of appropriate measures to assist in reconciling work and family life is important to underpinning economic, social and equality objectives. At a policy level the 1999 EU Employment Guidelines have detailed the importance of designing, implementing and promoting family-friendly policies. Similarly, the National Economic and Social Council (NESC) has indicated a need for striking a balance between work and family responsibilities. As articulated in Section 4.3, the development of an accessible, affordable, quality childcare infrastructure is critical to supporting the reconciliation of work and family life. This Agreement considers, however, that there are a range of other measures that can contribute to the reconciliation of work and family life.

The emergence of a tightening labour market and the increased emphasis on human resources as a key competitive element serve to underpin the importance of developing innovative ways of maximising the available labour supply. Similarly, the importance of facilitating equality of opportunity for men and women in the workplace also underscores the desirability of developing policies that can assist parents in reconciling work and family life. Family-friendly policies can serve a dual purpose of contributing to the needs of the business as well as meeting the needs of employees with family responsibilities.

The challenge in developing family-friendly policies relevant to the level of the enterprise is to find ways of developing approaches that reflect the reality of the workplace. Identifying different options that have the potential to meet the many diverse needs of different employers and their employees is especially problematic. In order to be effective, such options must meet the following objectives:

- enhance the opportunity to reconcile work and family life, and
- contribute to the effective and efficient operation of the enterprise.

FAMILY-FRIENDLY POLICIES

Appropriately designed Family-Friendly Policies can bring benefits to both employees and employers. For employers, the benefits can include:

- the retention of skilled and experienced staff;
- reduced absenteeism;
- improved productivity;
- a more highly motivated workforce; and
- an enhanced corporate image.

From the perspective of employees the benefits can include:

- an opportunity to better balance their working and family lives;
- greater equality of opportunity between men and women; and
- a fairer sharing of family responsibilities between men and women.

This National Framework does not attempt to impose any single measure or model of non-statutory family-friendly policy or practice. Both ICTU and employers (IBEC and Public Sector employers) are committed to the development of family-friendly workplaces and will encourage and support the development of such workplaces in every practical way. There are many examples of family-friendly workplace policies and practices to choose from, depending on the needs of both employees and employers. The following are examples of family-friendly practices that are appropriate for discussion at enterprise level by agreement between employers and unions:

- Job-sharing
- Work-Sharing
- Part-time work
- Flexitime
- Flexi-place/Teleworking
- Term-time working

Within the provisions of existing legislation, the following issues are also appropriate for discussion at local level:

- Maternity leave;
- Adoptive leave;
- Parental leave;
- Force Majeure leave.

NATIONAL FRAMEWORK FOR FAMILY-FRIENDLY POLICIES

The Government and the Social Partners agree that a National Framework for Family-Friendly Policies should be established to support family-friendly policies at the level of the enterprise.

The purpose of this National Framework will be to identify actions to be undertaken by the social partners at national level which support the development of family-friendly policies in the workplace. The focus of this activity will be to support and guide the voluntary development and implementation of family-friendly policies at the level of the enterprise in accordance with the objectives detailed in paragraph 2 above.

KEY ACTIVITIES

IBEC, Public Sector employers and ICTU agree to undertake the following actions within the National Framework:

- Promote the implementation of family-friendly policies in accordance with the objectives detailed in paragraph 2 above;
- Identify relevant options for enterprise-level family-friendly policies and practices;
- Assess the impact of such policies and practices with regard to the objectives outlined in 2;
- Review the outcome of the SME Family-Friendly Project undertaken by the Department of Justice, Equality and Law Reform and propose relevant action to develop family-friendly practices;
- Develop practical guidelines at national level to assist in the implementation of family-friendly policies and practices at enterprise-level;
- Develop a Code of Practice, within the context of the existing legislative framework, on the manner in which statutory Parental and Force Majeure Leave can be taken;

- Identify any potential barriers and impediments to the provision of family-friendly policies that meet the needs of working parents and identify possible solutions to such difficulties.

In this connection, management, unions and employees could, jointly and on a co-operative basis at enterprise level, examine ways of overcoming any such barriers that may exist: consultation with local childcare groups/providers should be considered in this context;

- Disseminate information on appropriate and relevant national and international experience with regard to the operation of family-friendly policies in the workplace;
- Identify best-practice and disseminate it to employers and trade unions;
- Monitor and report on developments in respect of family-friendly policies; and
- Provide training to management, union, employer and workplace representatives on the identified relevant family-friendly options and on best practice methods of implementation.

SUPPORT STRUCTURES FOR IMPLEMENTATION

A National Framework Committee will be established charged with the task of implementing this agreement. The Committee will be comprised of representatives of IBEC, Public Sector employers and ICTU. The Committee will be supported by a secretariat provided by the Department of Enterprise Trade and Employment and additional support, where appropriate, will be provided by the Department of Justice, Equality and Law Reform . The activities of the National Framework for Family-Friendly Policies above will be supported by a specific budget to be provided within the Human Resources Development Operational Programme.

MONITORING AND REVIEW MECHANISMS

The National Framework Committee will monitor and review progress on an annual basis.

RELEVANT WEB ADDRESSES

IRELAND

http://www.ictu.ie	Irish Congress of Trade Unions (Congress) A list of links to affiliated trade unions is available on this site.
http://www.familyfriendly.ie	Website of the National Framework Committee for the development of Family Friendly Policies at the level of the Enterprise. (Established under the PPF)
http://www.equality.ie	The Equality Authority
http://www.entemp.ie	Dept of Enterprise Trade and Employment
http://www.welfare.ie	Dept of Social and Family Affairs
http://www.justice.ie	Department of Justice, Equality and Law Reform
http://www.odei.ie	Office of the Director of Equality Investigations -the Equality Tribunal. Access to case decisions under the Employment Equality and Equal Pay Acts, and to the European Court of Justice decisions.
http://www.lrc.ie	The Labour Relations Commission
http://www.labourcourt.ie	The Labour Court
http://www.entemp.ie/erir/empl_appeal.htm	Employment Appeals Tribunal
http://www.ipa.ie	Institute for Public Administration
http://www.eurofound.ie	European Foundation for The Improvement of Living & Working Conditions
http://www.ework.ie/	Information on eWorking in Ireland

INTERNATIONAL

http://www.tuc.org.uk/changingtimes	Trade Union Confederation (TUC) work life balance site
http://www.eoc.org.uk	Equal Opportunities Commission UK.
http://www.etuc.org	European Trade Union Confederation
http://www.dti.gov.uk http://164.36.164.20/work-lifebalance	UK Department of Trade & Industry, UK Department of Trade & Industry Work Life Balance Site
http://www.aflcio.org/women/index.htm	American Trade Union Confederation
http://www.oecd.org	Organisation for Economic Co-operation and Development, Paris
http://www.familiesandwork.org	Families and Work Institute, US
http://www.employment-studies.co.uk	Institute for Employment Studies, UK
http://www.jrf.org.uk	Joseph Rowntree Foundation, UK - one of the expert independant social policy development charities in the UK
http://www.new-ways.co.uk	New Ways to Work, UK
http://www.roffeypark.com	Roffey Park Institute, UK
http://www.theworkfoundation.com	The Work Foundation (formerly the Industrial Society), UK
http://www.workliferesearch.org	The Work Foundation Research Centre, UK
http://www.parentsatwork.org.uk	Parents at Work, UK
http://www.employersforwork-lifebalance.org.uk	Employers for Work Life Balance, UK

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Changing Times, a TUC guide to work-life balance, TUC 2001

European Case Law & Equality, Guides for Negotiators, Congress, July 1994 & December 1998.

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Minimum Standards for A typical Work, Congress, 1996

National Employment Action Plan, Government Publications Office, April 2002

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Unions and Change: Initiating Work Life Balance, Isobel Butler and Grainne Connolly, Congress, November 2002

Unions and Work, Congress, July 2001

Women and Pensions - a guide on pension provision for women, The Pensions Board, February 2001

Work Life Balance - a negotiator's guide, Labour Research Department, October 2001

In addition, the following information leaflets and booklets have been consulted:

Equality Authority

- About the Parental Leave Act 1998
- About the Maternity Protection Act 1994
- About the Adoptive Leave Act 1995
- Enforcing your rights under the Employment Equality Act

Department of Enterprise Trade and Employment

- Guide to Labour Law
- Carers Leave Act 2001- Explanatory booklet for Employers and Employees
- Protection of Employees (Part Time Work) Act 2001 - Explanatory booklet for Employers and Employees
- Detailed Guide to the National Minimum Wage Act, 2000 - Explanatory booklet for Employers and Employees

Department of Social & Family Affairs

- Adoptive Benefit SW37
- Carer's Benefit SW 49
- Maternity Benefit SW 11
- Worksharing SW 105

GLOSSARY OF ACRONYMS USED

<i>AVC</i>	Additional Voluntary contribution (to pension)
<i>EAP</i>	Employment Action Plan
<i>EAT</i>	Employment Appeals Tribunal
<i>ECJ</i>	European Court of Justice
<i>EO</i>	Equality Officer
<i>ESRI</i>	Economic and Social Research Institute
<i>FFWA</i>	Family Friendly Working Arrangement
<i>FF/WLB</i>	Family Friendly / Work Life Balance
<i>IBEC</i>	Irish Business and Employers Confederation
<i>ICTU</i>	Irish Congress of Trade Unions (Congress)
<i>NDP</i>	National Development Plan
<i>NESC</i>	National Economic and Social Council
<i>NESF</i>	National Economic and Social Forum
<i>NFC</i>	National Framework Committee
<i>ODEI</i>	Office of the Director of Equality Investigations -The Equality Tribunal
<i>OWT</i>	Organisation of Working Time
<i>PPF</i>	Programme for Prosperity and Fairness
<i>PRSA</i>	Personal Retirement Saving Account
<i>PT</i>	Part Time
<i>S.I.</i>	Statutory Instrument
<i>WLB</i>	Work Life Balance

