

The Union has produced a number of useful tools to assist members with regard to their rights and entitlements, including introductory booklets detailing the process, as well as detailed guidance in the form of a checklist to assist NASUWT members.

As a result of our ongoing trade dispute, the NASUWT has now secured guidance on flexible working published by the Department for Education (DfE), *Flexible working in schools - Guidance for local authorities, maintained schools, academies and free schools*. The new guidance was published on 24 February 2017.

NASUWT Representatives can use this guidance to assert members' rights to flexible working. In particular, when engaging with schools/employers, NASUWT Representatives should highlight the following:

- Benefits of flexible working
  - The DfE Guidance is helpful in setting out some of the benefits of flexible working in an educational setting and should be useful in challenging barriers to flexible working in school.

Flexible working improves employees' work-life balance and well-being, helps to attract and retain staff, particularly those with caring responsibilities, increases productivity and reduces costs. Alongside job sharing it forms a key element in many employers' overall talent strategy.

(DfE Guidance, paragraph 8)

Many schools also report considerable benefits for staff, school and pupils as a result of job sharing and flexible working. For example:

- A more diverse range of skills and experience can be achieved, as well as equality of opportunity (such as reasonable adjustments for disabled staff);
- In small schools, particularly, a greater number of teaching staff makes covering the curriculum more practicable;
- Ill health absence may be reduced;
- Experienced staff return to work after maternity leave more quickly since full-time working can be difficult to balance with caring commitments;
- Effective job share arrangements can give pupils the opportunity to learn from two experienced teachers;

- Such arrangements are an alternative to early retirement for those in their final years of service, allowing a reduction in working time before retirement rather than the 'cliff edge' approach to retirement. Skilled and experienced members of staff who would otherwise leave the profession may be retained by adopting these working arrangements;
- Many schools are using such arrangements to aid succession planning or as continuing professional development.

(DfE Guidance, paragraph 11)

- Eligibility and the legal position
  - The DfE Guidance sets out the legal position in terms of a statutory application, including making it clear that all requests must be dealt with in a 'reasonable manner' and cannot be dismissed out of hand on the basis that schools operate a blanket approach to flexible working requests.
  - The Guidance also makes it clear that there are only certain conditions under which an application may be refused.

- Employers must deal with requests in a 'reasonable manner'. They should assess the advantages and disadvantages of the application; hold a meeting to discuss the request with the employee, then offer an appeal process if the application is rejected. An employer can only refuse an application if they have a good business reason for doing so - which involves weighing up the benefits for the employee and the school/college against any potential adverse business impact.

(DfE Guidance, paragraph 16)

Reasonable grounds for rejecting a request would be:

- the burden of additional costs;
- an inability to organise work amongst existing staff;
- a planned structural change to the business;
- a detrimental effect on performance, quality, or on the ability to meet customer demand;
- insufficient work for the periods the employee proposes to work;
- an inability to recruit additional staff.

(DfE Guidance, paragraph 16)

- The impact of flexible working on pay
  - The DfE Guidance explains the implications of flexible working for teachers' pay, working hours and attendance at meetings.

- Part-time teachers must be paid a percentage of the appropriate full-time equivalent salary and the same percentage must be applied to any allowances awarded to a part-time teacher.

(DfE Guidance, paragraph 25)

...part-time teachers are only required to carry out duties and teach on days which they are contracted to work. They are not required to be available on days which have not been agreed as part of their contract. In addition, part-time teachers should not be expected to work on non-pupil days, for example inset days which they would not normally work on. A teacher can agree with their line manager if they wish to attend, and additional pay should be calculated for those additional hours based on a pro rata calculation of a day's pay calculated for teachers at 1/195th of annual salary...Such work additional to the part-time teacher's contractual hours should be voluntary on the part of the teacher.

(DfE Guidance, paragraph 27)

Teachers who work part-time should not be discriminated against because of their part-time status; their objectives must be adapted to reflect their part-time status, and it is important that schools monitor the impact of their pay and appraisal policies on both full and part-time teachers and review trends over time.

(DfE Guidance, paragraph 28)

- Overcoming barriers to flexible working
  - The DfE Guidance usefully debunks a number of myths surrounding flexible working, including making clear that flexible working does not impact adversely on pupil performance.

...there are also many misconceptions about flexible working that can be overstated and prevent schools from fully embracing the potential benefits of flexible working. These misconceptions include:

- Flexible working is too expensive;
- Flexible working is impossible for schools to timetable;
- Job share or part time working cannot work in schools;
- Part time teachers are less committed to their pupils than full time teachers;
- Pupils (especially primary pupils) will struggle to cope (or will be distressed) if they are taught by different teachers through the week.

(DfE Guidance, paragraph 33)

A common misconception about teachers who work flexibly and schools who make considerable use of flexible working is that they are somehow not committed to maximising pupils' outcomes or that results in their schools suffer as a result of flexible working. In fact there is no evidence to suggest this is the case. The vast majority of teachers who work flexibly are deeply committed to their pupils and many schools take the view that by enabling flexible working they are in fact helping to get the very best out of their teachers.

(DfE Guidance, paragraph 38)

Another misconception is that flexible working is somehow not compatible with being an upper pay range teacher. There should be no reason at all why a teacher on the upper pay range could not demonstrate a sustained and substantial contribution to the school while working flexibly. A sensible approach by the school to managing expectations and applying a pro-rate principle to the kinds of contributions expected from teachers who are working flexibly should help to avoid situations where unrealistic burdens and workloads are placed on teachers.

(DfE Guidance, paragraph 39)

We want to ensure that the school workforce, including leaders, can be drawn from the widest possible pool of talent. Increasing opportunities for flexible and part-time working will be an important part of this.

(DfE Guidance, paragraph 40)

It is clear that there are, and have been for some time, a variety of job share models within the leadership group and there are many leadership job shares in both the primary and secondary sectors, and of male and female sharers.

(DfE Guidance, paragraph 46)

...some schools have found that adopting a completely flexible approach to advertising has produced significantly better results than being overly specific...Schools should therefore consider advertising all posts as flexible working opportunities...

(DfE Guidance, paragraph 51)

The NASUWT welcomes the publication of guidance on flexible working, but does not endorse the illustrative case study examples.

NASUWT members should ensure that employers are made aware of the guidance and the positive benefits of flexible working.

The DfE Guidance has only come about because of the tenacity and persistence of the NASUWT through its trade dispute and research.

