

POTENTIAL INDIRECT DISCRIMINATION

In some circumstances a refusal of a part time or flexible working request could give rise to a claim of indirect discrimination from someone who was unable to work the required shift pattern because of a protected characteristic. This could happen for example if a woman Officer with childcare responsibilities could not get childcare at particular times; or if an Officer with a disability could not work long shifts because of their particular disability.

JUSTIFYING INDIRECT DISCRIMINATION

Even if it can be shown that the requirement to work a particular shift pattern indirectly discriminates against someone because of a protected characteristic, the Force may be able to justify the shift pattern under the law as being "a proportionate means of achieving a legitimate aim". This may be possible if for example the Force can show that there is not a demand for Police Officers at the times the officer wants to work.



COLLEGE OF POLICING GUIDANCE

The College of Policing issued guidance on "Flexible Working in the Police Service" in 2013. It provides advice for officers, managers and Representatives on how to manage flexible and part time working arrangements. In addition HOC 16/10 provides guidance on Designing Variable Shift Arrangements (VSAs), and includes reference to dealing with individual requests from Officers who are unable to work particular shift patterns.

FORCE POLICY

Forces should have a Flexible Working Policy and procedures for dealing with requests from Police Officers developed in the light of Police Regulations and the Home Office Guidance. The policy should have an equality impact assessment (EIA).

DEALING WITH REQUESTS

When considering applications for Flexible and/or Part Time Working, Managers should show that they have taken into consideration:

- their policing needs
- the needs of the role
- the officer's needs
- other limitations or help available
- any alternative solutions.



POLICE FEDERATION
of England and Wales

Internet: www.polfed.org

Intranet: <http://pfnet>
(access limited to JBB staff)

Flexible Working

A Benefit not a Burden

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The Police Federation of England and Wales is the representative body for all Constables, Sergeants and Inspector ranks in the Police Forces of England and Wales. Police Officers are able to work flexible hours on a full or a part time basis. This leaflet gives information about Police Officers' rights and responsibilities when applying for and when working flexibly in accordance with the Police Regulations and Determinations 2003.

MATCHING DEMAND

Flexible working can be a useful option for many officers who need or want a better work/life balance at certain times in their career. As women are more likely to be the primary carers for their children, it is a particularly important option for women who are trying to juggle childcare and a career as a Police Officer. It is also useful for Forces, helping them meet the changing demands of policing at different times of the day, the week and the year.

BALANCING NEEDS

The key to agreeing a part time or flexible working arrangement is to identify and balance the needs of the individual with those of the Force. Both parties should give proper consideration to each other's needs so that they can arrive at a mutually beneficial arrangement that enables the Force to deliver 24/7 policing and the Officer to have a proper work/life balance.

A POSITIVE APPROACH

Forces should recognise that part time and flexible working is a benefit to the Force. It can help retain experienced officers who might otherwise have to leave and enable the Force to better match supply and demand and provide greater operational resilience.

INDIVIDUAL SHIFT ARRANGEMENTS

Under Police Regulations and Determinations 2003, individual Police Officers can apply and work outside of the shift patterns operated by the Force. Requests for individual shift arrangements should be treated sympathetically and fairly.

If a Force refuse a reasonable request for part time or flexible working, or if they treat a part time officer less favourably than full time officers this may be challengeable under the discrimination provisions of the Equality Act 2010 and/or the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

PARENTAL LEAVE

Parental or other unpaid leave can be used as part of a flexible working arrangement. Under Police Regulations parental leave differs from the statutory parental leave provisions available to police staff.

Subject to exigencies of duty:

- From 1 April 2013 police officers can have up to 18 weeks unpaid leave to look after a child under 5 or, if the child is disabled 18 weeks to look after a child under 18.
- Police Officers can take this leave in periods of days with no limit on the number of days that can be taken in any one year.

RIGHT TO REQUEST FLEXIBLE WORKING

The statutory Right to Request Flexible Working Regulations **do not** apply to police officers. Police Officers can apply to work flexibly under Police Regulations which places different considerations on their request:

- Police Officers are recruited to a role, not a post, so it is their individual time commitment that is reduced or changed, not that of their particular post.
- Police Officers can be required to work in a role and/or at a place designated by the Chief Officer.
- Police Officers working Part Time should have their hours of duty reviewed every 12 months
- Police Officers cannot be required to work fewer hours or to increase their agreed hours
- Police Officers can be required to stay on after their agreed hours and may have their rest days or free days cancelled
- Police Officers can return to work full time at any time, but in any event, within 3 months of their request to do so (unless they were recruited as a part time Officer).