

Factsheet

Rights for part time workers



The IET Benevolent Fund

Rights for part-time workers

As working patterns change, many people are now working part-time rather than full-time. There is still some confusion whether part-time working entitles you to the same rights as full-time workers. This factsheet sets out the rights that part-time workers have by law (the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations).

In summary:

Part-time workers must not be treated less favourably than comparable full-time workers. This means they should:

- receive the same rates of pay
- not be excluded from training simply because they work part-time
- receive the same holiday entitlement pro rata as comparable full-timers
- have access to any career break schemes, contractual maternity leave and parental leave in the same way as full-time workers and
- not be treated less favourably when workers are selected for redundancy.

A comparable worker is someone doing broadly similar work taking account of whether he/she has a broadly similar level of qualifications, skills and experience, under the same type of contract.

Pay

Part-time workers must receive the same basic rate of pay as comparable full-time workers. Similarly, part-time workers are entitled to the same hourly rates for bonus pay, shift allowances, unsocial hours payments and weekend payments as comparable full-time workers. So for example, part-time workers should receive the same Christmas bonus on a pro rata basis as full-time workers.

Part-time workers can only be given a lower hourly rate if justified by objective grounds, for example in a performance related pay scheme. If workers are shown to have a different level of performance measured by a fair and consistent appraisal system this could justifiably result in different rates of pay.

Part-time workers do not have an automatic right to overtime payments once they work beyond their normal hours. Only when part-time workers have worked up to the normal hours of comparable full-time workers do they have a legal right to overtime payments.

Part-time workers should also be able to participate in profit sharing or share option

schemes available for full-time staff, unless there are objective grounds for excluding them. One such reason might be where the value of the share options was so small that the potential benefit to the part-timer of the options was less than the likely cost of realising them.

Benefits

Part-time workers are also entitled to the same benefits as a comparable full-time worker, such as health insurance, pension contributions or company cars. Where possible, benefits should be provided pro rata but where this is not possible (for example health insurance or company cars), the employer must find a way to offer it to part-time workers too, for example by calculating the financial value of the benefit to a full-timer and apply that value pro rata to a part-timer.

Promotion

Giving part-time workers less information on vacancies than full-time workers would be less favourable treatment. While it is unlikely that an employer would have a deliberate policy of denying information to part-time workers, information on particular posts should be made available where part-time workers can see it. It also needs to be circulated in plenty of time, so that potential candidates have the opportunity to consider and plan any necessary changes in their out-of-work routine. Previous or current part-time status should not constitute a barrier to promotion to a post, whether the post is full-time or part-time.

Access to training

Access to training is essential if part-time workers are to work effectively, and employers are to make the most of their staff. Part-time workers often encounter difficulty in obtaining access to training - especially career-orientated development or vocational training. Either they are excluded entirely, or, though they are in theory entitled to attend, their other responsibilities prevent them from participating because of the inconvenient hours. Denying part-time workers access to training will obviously be less favourable treatment.

Employers should ensure that the needs of part-time workers are taken into account when the structure, time and location of training is being planned. In cases where employers cannot tailor the time and location of training to suit part-time as much as full-time workers, a range of other options should be looked at such as:

- paying the part-time worker (at their normal rate of pay) for the extra hours they attend outside their normal working hours
- offering an equivalent course from an alternative provider at a convenient time and place
- offering the comparable level and quality of training in another area
- offering other training methods, such as open or distance learning courses

Redundancy

In a redundancy situation, it used to be common practice to make part-time workers redundant before full-time workers. However, the automatic redundancy of part-time staff is likely to be unlawful on two counts: it could well infringe the Regulations to treat part-time workers less favourably than their full-time equivalents, and, since many part-time workers are women, it is likely to be a form of unlawful sex discrimination. Different treatment of full-time and part-time workers will only be lawful if it can be justified on objective grounds.

Leave, holidays and breaks

Part-time workers, like their full-time colleagues, are entitled to a minimum of statutory annual leave, maternity leave, and parental leave. Many of these entitlements are extended or enhanced by contractual conditions. Part-time workers should have the same leave entitlements pro rata as their full-time colleagues.

Sick leave: A worker who works 2 days per week has been with the company for 7 months, when he becomes ill and is absent for two weeks. The company's sick pay scheme entitles staff to full pay on certified sick leave after 6 months' service for up to 1 month of absence. The worker receives full pay (i.e. 2 days per week) for the whole of his absence.

Holiday entitlement: A firm allows its full-timers, working five days a week, 25 days holiday a year. A worker working 3 mornings a week for the same firm would be entitled to three-fifths of the leave entitlement, a total 15 days paid at her usual rate.

Contractual maternity and parental leave: A company provides its workers with four weeks extra paid maternity leave, on top of their statutory entitlement. A part-time worker who works 20 hours a week will be entitled to the full four weeks (of 20 hours) in extra paid maternity leave.

Career break: An organisation allows its workers a career break of up to two years. The qualifying period for the break is three years. A part-time worker is entitled to a two year break under the same conditions as a full-time worker.

Public holidays and bank holidays: The rights of part-timers in relation to public holidays and bank holidays may not always be clear. Under the regulations, part-timers should not be treated less favourably than comparable full-timers in their entitlement to public/bank holidays. Allowing full-timers the day off, but not part-timers, is clearly less favourable treatment and unlawful under the regulations unless there is objective justification.

To comply with the law, an employer must treat part-time workers as favourably as they treat full time workers. In some circumstances it may be enough simply to give workers a paid day off if their day of work happens to coincide with the public holiday, without giving time off in lieu to those who would not ordinarily work on that day. This may produce a fair result, for example where a shift system means that full-time and part-time workers are equally likely to be scheduled to work on a public holiday.

However, where workers work fixed days each week, such a practice could put part-timers at a disadvantage. For example, because most bank and public holidays fall on a Monday, those who do not work Mondays will be entitled to proportionately fewer days off. In such cases, it may be necessary to remove the disadvantage by, for example, giving all workers a pro rata entitlement of days off in lieu according to the number of hours they work.

This information has been adapted from the guidance information issued by the Department for Business, Enterprise and Regulatory Reform. For further information, please visit <http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page19479.html>

Last revised August 2007

This information is intended as a guide only. For advice on your specific situation, please phone our helpline. We will then put you in touch with our legal helpline which can provide individual advice on your particular situation.