

Working parents

A guide to time off and changing your hours

Introduction

This guide is for anyone who is responsible for a child and who has a job working for somebody else. This includes parents, foster parents, step-parents, and any other kind of guardian.

Being a working parent is difficult. It doesn't matter how good you are at multi-tasking, you can't be in two places at once. There will be times when you need to take time off work, leave early, or come in late, and you may fear that this won't go down too well with your boss or colleagues. Lots of parents find that they have to get used to a heady cocktail of stress, guilt, and worry. And the current economic environment may mean that you feel more vulnerable than usual. But there are laws to try and make it easier for you to be a top-quality parent and a treasured employee at the same time. This guide explains what they are, and our legal agony aunt, Beverley Reid, explains how you can use your rights in the real world.



What can I do if my kids get ill?

You have 2 possible options, depending on how much time you need and the reason why you need to take time off.

If you are an employee (which most people who have a regular job are), you can take unpaid time off to look after your child in an emergency, or to arrange for someone else to look after them. This is called time off for dependants. It doesn't matter how long you have worked for your boss and the illness does not need to be serious. But the amount of time you can take off is limited to you just sorting out the emergency. You would need to let your boss know that you need the time off and why as soon as possible, so you should call or email him.

If you need to look after a child yourself for more than a few days, you should consider parental leave instead. If you are an employee and have worked for your organisation for over a year, you can take up to 13 weeks parental leave off for **each** child that you have under the age of 5, or under 18 if they have a disability, or that you adopted less than 5 years ago. You must take all the leave before the child reaches 5, or within 5 years of them being placed with you for adoption. However, you can only take a maximum of 4 weeks in any one year.



You have all the rights in this guide if you are an 'employee'. Most people who have a job are employees. If you are not sure whether this includes you, see 'How do I know if I am an employee?' on p.6 for more details. If you are not an employee, we explain which of these rights you do and don't have.

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Taking time off



It doesn't matter how good you are at multi-tasking, you can't be in two places at once. Now that you have kids, there will be times when you need to take time off work. The good news is that you are allowed to, provided it is an emergency. This includes if your child gets ill or sent home from school, or if the person who usually cares for them unexpectedly can't look after them.

There is no limit to the number of times you can do this (provided you really do need to), and you can take as long as you need to deal with the emergency or arrange extra care (this would usually be one or two days). You also don't need to make the time up.

The only downside is that you aren't usually entitled to be paid for this time. So if you are offered the chance to make the time up and you can manage it, it would probably be better to do that and save your bank balance.

Some people can also take longer periods off to look after their child. Your child needs to be under 5 years old, or under 18 if they are disabled, or you must have adopted them less than 5 years ago. And you must have worked for your boss for more than a year. If you are in this position, you can take up to 4 weeks off each year for each child, as long as you don't take more than 13 weeks off for each child in total.

This longer leave is also usually unpaid, and has to be taken a week at a time unless your child is disabled. You might not get all your perks while you're on leave either – this might include payments to your pension or use of a company car.

When you come back, you should come back to your job. If you've taken more than 4 weeks, and it's not possible for them to give you your job back, they have to give you another job with the same pay and perks as you used to have.

You can't be sacked, passed over for promotion, or treated unfairly because you took time off to look after your children in one of these ways. This would be discrimination and is illegal.

You can only take this longer leave if you have something called 'parental responsibility' so you might not be able to do this if you are a stepparent. (All mums and adoptive parents have parental responsibility, so do civil partners of mums. Dads have 'parental responsibility' if they are married to the mum, or if they are named on the birth certificate if the birth has been registered since December 2003. Stepparents will only have parental responsibility if they have been given it by the court).



Changing your hours or how you work

Anyone can ask to change their hours but if have worked for your employer for at least 26 weeks and you are responsible for a child under 16 (or care for a disabled relative of any age), you have a **right** to ask. And your boss can't just turn you down because he feels like it; he needs to have a good reason.

Changing your hours or how you work is often referred to as 'family friendly working' or 'flexible working'. You can ask to change the number of days or hours you work, work different days, work from home, work flexitime, only work during term-time, stagger or compress your hours, or pretty much anything else you can think of that would make life easier.

You can only ask for changes to make it easier to look after your child. You don't have a right to ask to change your hours so that you can write your novel or make more money doing something else.

You only have the right to ask once every 12 months so it's important to put some time into your application.

Before you ask

Unless you agree otherwise, any changes will be permanent. So before you ask you need to be sure you really want a permanent change and that you can afford it. If you're not sure how it will work, you could think about asking for the changes for a trial period. You should also think about when you want it to start.

Next, you need to think about all the problems the change will cause for your boss or the business, and how these could be dealt with. Would they need to take on a new member of staff or could you swap some duties with someone else? Could you access your email and have the phone redirected so that you could work from home? Is there a way that it could even help the business – perhaps by having extra staff available at busy times or saving money at times when it is quiet?

How to ask

You should ask in writing. You can write a letter or use the form on the Directgov website: www.direct.gov.uk/en/Employment/Employees/Flexibleworking/DG_10037051

If you write a letter, you need to say that you are asking for a change in your terms and conditions of employment. You should explain how you want your working pattern to change and suggest a start date for the changes to become effective.

You need to explain why you are entitled to request flexible working. For example, say that

- you (or your partner) have a child,
- you have responsibility for their upbringing,
- you are asking for this change to help you to look after the child, and
- you have not asked before in the past 12 months.

If you haven't made a formal request before you should say so and if you have, give the dates. Put a date on your application.

If you find it difficult or you're not good at this sort of thing, you should get some help from an adviser or your trade union if you have one.

If you change your mind

If you change your mind, you can just stop your application before a decision is made. But if you do this, you are not entitled to ask again for another year.

If you don't turn up to a meeting without a good reason or you don't give them the information they need, your employer can treat your application as if you had stopped it.



What happens next?

Your boss or someone from HR should meet with you within 28 days. This meeting gives you and your boss a chance to discuss your proposal in detail and to think about any other options.

Try not to worry about it; it should all be very friendly. Having said that, it is always best to be prepared. Before you go to the meeting, think about what you want to say and how they might respond. Make a list of the issues you want to cover, so you can tick them off as you go through. You can take a colleague or a trade union rep to this meeting if you wish. Sometimes this is helpful, particularly if you're worried about getting confused or forgetting to say things. If you need to postpone the meeting because your colleague can't come, you can, but only once.

By 14 days after the meeting, your employer should have written to you to tell you what they have decided. If they have agreed, the letter should confirm the change and start date. If they have said no, the letter should explain exactly why they have said no and tell you how you can appeal.

If it isn't possible to stick to these deadlines, they can be extended if both you and your employer agree.

If they say no

If they say no, you have 14 days to appeal. This means that they will have to look at it again. You should have been given details of who to appeal to when they turned you down. Write to them and explain why you think they have made the wrong decision. It will be useful to get some advice, even just over the telephone. See 'How to find an adviser' on p.6.

What if they don't like it?

It is illegal for them to treat you unfairly or sack you because you asked for flexible working. If this does happen, you should consider making a complaint using your company's complaint procedure.

I have applied for flexible working. Now I am getting a few too many jokes about being a hen-pecked house-husband.

It is a shame that men are often forgotten when considering child-care and family life. For some reason, very, very few men challenge their bosses when they are treated like this.

If this is upsetting you, you might want to mention to your boss what is happening. Maybe the teasing can be dealt with by a bit of training on equal opportunities at a staff meeting or a new policy on family leave. If this does not work, you should write to your boss using your company's complaint procedures explaining how you feel.

If all else fails the law does protect you. This may count as sex discrimination and/or harassment because you are male, so you could make a complaint to an employment tribunal. You should check your intranet, office manual or staff handbook for details on how to complain.



My childcare does not fit with my hours anymore. What can I do?

You could ask to change the hours you work. First, you should try just asking your boss, he might just say yes. If you have no joy with this and you have been working for your employer for at least 26 weeks, and have a child under 16 or care for a disabled relative over the age of 16, you can make an application on a form that is available from the BIS website (see 'Further information' on p.8). You should say why you want to work flexibly and show how any difficulties that it might cause for your boss's business could be reduced. Spend some time on your application and try to be as clear as possible about what is you want; you can only make one application each year.

Your boss may just agree to your request immediately but if not, s/he will have to arrange a meeting within 28 days of getting your application. After the meeting, s/he has 14 days to let you know (in writing) what they have decided. If they refuse your application, they will need to show how the business will suffer if your hours change. You then have 14 days to put in an appeal.



Can I get any other help?

Tax credits

Most people with children are entitled to some level of child tax credit. If you will be, and how much, depends on your circumstances and income. You can get it on quite high incomes, including incomes of over £50,000 a year.

The tax credit calculation is very complicated. To check if you are entitled and how much you will get, see an adviser or use HMRC's calculator:

<http://taxcredits.hmrc.gov.uk/Qualify/DIQHousehold.aspx>

Free education for 3 and 4 year olds

All three and four year olds are entitled to 12.5 hours a week of free childcare with a 'registered provider' (like a school, nursery or playgroup education) for 38 weeks a year. For more details of how you can make use of this see:

www.direct.gov.uk/en/Parents/Preschooldevelopmentandlearning/NurseriesPlaygroupsReceptionClasses/DG_10016103



Help from your employer

Some organisations now offer their staff help to pay for childcare, usually in the form of childcare vouchers, loans to pay for childcare, or workplace nurseries. Your employer doesn't have to offer this help but if they don't already offer this scheme, it might be worth suggesting they think about it.

For more details, see www.hmrc.gov.uk/leaflets/ir115.pdf

Sure Start children's centres

If you have a child under 5 you can get help from a Sure Start children's centre. They can help advise you on local childcare options, parenting, managing your money, healthy eating, other health issues, and how to get specialist support like speech therapy.

For more details see Directgov: www.direct.gov.uk

Directgov also have useful information about how to choose childcare or a nanny.

If your child has a disability

If your little one is disabled there is more help available, but it's not always easy to find out about. The government's Early Support website has information about the help you can get with health, education, childcare, money, and social services.

See www.earlysupport.org.uk

You may also be able to get Disability Living Allowance for your child. For more details see:

www.cafamily.org.uk/pdfs/DLA_factsheet.pdf If you think your child is likely to be entitled, we recommend that you get help from an adviser to fill in the application form. Not only is it quite hard emotionally to fill in the form yourself, your claim is more likely to be successful if you get help from someone who understands exactly how it will be assessed.

Contact a family are a charity that provide advice, information and support to the parents of disabled children. Speak to them on their helpline about what other help you could get: **0808 808 3555**.

How to find an adviser

If you are not sure you are getting a fair deal at work or need some help to take things further, you need to see an adviser.

If you are a member of a trade union, they will be able to help you. If you are considering joining a trade union, you could use 'union finder' on the TUC website at www.worksmart.org.uk/unionfinder

Most people will also be able to get help from a local independent advice centre or CAB that helps with employment problems. Look in your Yellow Pages or phone Community Legal Advice to ask if there is one near you, see 'Further information' p.8.

Sometimes there are services that you can access through your council, GP, or community group. There's no harm in asking – so call them up and ask if there is a service for you.

Alternatively, you may be able to get help from an adviser over the phone. Community Legal Advice can give you free advice over the telephone if you live on a low income or benefits. Working families also has a helpline for families on a low income, and Gingerbread has a helpline for single parents. See 'Further information' on p.8 for contact details.



How do I know if I am an employee?

A lot of your rights at work depend on whether you are an employee, rather than self-employed or a casual worker. For some people this is a complicated question and you may need to get advice – see 'How to find an adviser'.

Most of us are employees. If you are expected to turn up and work regularly, and cannot send someone else to do your work, you are an employee. It doesn't matter if you were never given a written contract.

If you are a casual worker, an agency worker, or some types of freelancer you are usually classed as a 'worker' rather than an employee. Workers have most of the same core rights as employees – they are entitled to statutory maternity pay, paternity pay and adoption pay but they don't have a right to come back to work. Similarly, they can take time off if their children are sick, but don't have a right to ask to change the hours they work. They also have the right not to be discriminated against or treated badly because they are pregnant or took maternity pay etc.

If you are paid to get a particular job done and technically you could send someone else to do it, you are self-employed. You do not have rights to leave or pay if you are self-employed as you are your own. However, you do have the right not to be discriminated against and the right to work in a safe and healthy working environment.

The standard example is that of the chauffeur and taxi driver. The chauffeur is an employee or a worker. He is employed to provide his service and take you everywhere you want to go. The taxi driver is self-employed. He enters into a contract to take you to an agreed place for a fee. If you then want to go on elsewhere, the taxi driver either makes a new contract with you or refuses to take you.

Jargon buster



The jargon	What it means
Employee	See 'How do I know if I am an employee' for more details.
Flexible working	This means changing your hours or working from home, or working a different number hours on different weeks etc. If you have a child under 16, you have a right to ask to change your hours. See p.3 for more details.
Parental leave	This is a right to take longer periods of time off to look after your child. See p.1 for more details.
Time off for dependents	This is a right employees have to take time off to deal with emergencies affecting close family members. You can use this right to take time off to look after your child when they are sick or when the person who normally cares for them cannot look after them. See p.2 for more details.
Worker	A legal term for people who work for somebody else (rather than being self-employed). See 'How do I know if I am an employee' for more details.



Further information

Department for Business, Innovation and Skills (BIS)

The Department for Business, Innovation and Skills (BIS) is the government department that regulates business and employment issues.

The website has the form that you can use to ask to change your hours or how you work. If you are turned down, they have a form that you can use to appeal.

www.berr.gov.uk/whatwedo/employment/workandfamilies/flexible-working/flexforms

Community Legal Advice

Community Legal Advice helps people find information and advice, including local independent advice services and CABs. They can also give free and confidential advice to people who live on benefits or a low income.

www.communitylegaladvice.org.uk

Helpline: **0845 345 4 345**
(Mon–Fri 9am–6:30pm;
Sat 9am–12:30pm)

Minicom: **0845 609 6677**

Citizens Advice Bureau (CAB)

Citizens Advice Bureaux help people resolve their legal, money, and other problems by providing free information and advice. You can find your local CAB by going to:

www.citizensadvice.org.uk/index/getadvice



Equality and Human Rights Commission (EHRC)

Equality and Human Rights Commission provides information and guidance on discrimination and human rights issues.

www.equalityhumanrights.com

Helpline: **0845 604 6610**
(Mon, Tues, Thurs, Fri 9.00am–5.00pm;
Wed 9.00am–8.00pm)
Textphone: **0845 604 6620**
Fax: **0845 604 6630**

Working families

Working families run a helpline for parents who work: **0800 013 0313**

You can also e-mail for advice:
advice@workingfamilies.org.uk

If you need more detail on an issue, Working families have a series of helpful factsheets (including sample letters).

www.workingfamilies.org.uk

Gingerbread

Gingerbread has a helpline for single parents: **0808 802 0925**. The helpline is open Monday to Friday 9am to 5pm, Wednesdays 9am to 8pm.

Gingerbread also has helpful factsheets on a range of issues for single parents.

www.gingerbread.org.uk

Contact a family

Contact a family provide advice, information and support to the parents of disabled children. They have a really useful website, and a free helpline: **0808 808 3555**

www.cafamily.org.uk

Trade Union Congress (TUC)

Trade Union Congress (TUC) has various member unions which represent over six and a half million working people. Trade unions work to protect and improve people's pay and conditions of employment. They also campaign for laws and policies which will benefit working people and often provide information, advice and representation to members.

www.tuc.org.uk

You can locate a suitable union for you at www.worksmart.org.uk/unionfinder

This information is produced by Advicenow. Other guides include:

- Divorce – a survival toolkit
- Parents apart
- Trouble at school
- LivingTogether
- Family Mediation
- Dealing with discrimination at work
- Expecting your rights
- Young workers
- Unfair dismissal
- Is that discrimination?
- Homeless and young?
Get your foot in the door...
- Seven steps to solving a problem
- How to get good asylum advice
- Support for asylum seekers in the UK
- How to handle an interview under caution
- Turned down for DLA/AA? Think you're not getting enough?
- Dealing with bailiffs
- Claiming compensation
- 10 steps to sorting out your debts
- Identity theft
- Do I need a lawyer?

You can read or download all these guides and more at www.advicenow.org.uk

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Marcel Berlins, *The Guardian*

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The information in this guide applies to England and Wales only.

The law is complicated and every case is different. Get advice.

This guide was written by Beverly Reid and Mary Webber.

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If you have any comments on this guide, please email us at feedback@advicenow.org.uk



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