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## **Sex Discrimination, Flexible Working and Caring Responsibilities**

*View from the Chair, Business Newsletter,.*

*Michael Wardlow, Chief Commissioner, The Equality Commission of Northern Ireland.*

Almost a quarter of calls to our legal advice line are from women complaining of sex discrimination, particularly coming from those women who believe that they have been disadvantaged because of their family and caring roles.

Unfortunately, it still remains a fact that the responsibilities which accompany having and caring for children have a greater impact on the lives and employment prospects of women than on men.

Last year, the Department of Finance and Personnel's statistics bulletin, Women in Northern Ireland, revealed that more than a third of economically inactive women of working age are unavailable for work due to family and home commitments. The comparable figure among economically inactive men was less than one in twenty.

Even when women have found work, family circumstances can still place limitations on women's prospects when they are in employment. A number of cases supported by the Equality Commission have involved women whose employers have not been prepared to agree more flexible working arrangements, when they were returning to work after pregnancy or for other pressing family reasons.

The same bulletin reports that four out of every ten female employees work part-time compared to just one in ten male employees; and the Equality Commission's most recent Monitoring Report shows that, of all monitored part-time employees, seven in ten are women. As a result, an employer's failure to provide flexible working arrangements may have a much greater impact on women than on men; and so could constitute unlawful indirect sex discrimination.

There are legal obligations requiring employers to consider changes in working patterns, such as flexible working arrangements, which would assist people with caring obligations, such as working parents. Options could include a variety of measures such as working part-time; term-time or school hours working; job-sharing; or working from home.

Over the last two years we have seen some recurrence of complaints to the Commission where employers have insisted that a particular post, often more senior or management positions, are not suitable for flexible working. This position has resulted in some employers being successfully challenged in Tribunal.

This was highlighted last year, when a Tribunal held that a school teacher, who we assisted, was unlawfully and indirectly discriminated against by the school on the ground of her gender because they made a requirement that a Head of Year post could only be held by a full-time teacher.

The Tribunal concluded that “*any measure which deliberately and openly excludes part time workers from a management post or a career advancement post must, or at the very least should, have alerted those considering its introduction to the potential for unlawful discrimination*”.

Another case involved an Assistant Manager in a retail store whose request to be allowed to work a three day week following the birth of her second child was rejected, a decision which resulted in her resigning her post. This case, again assisted by the Commission, was settled in her favour before reaching hearing.

We know that many employers are aware both of the law on this issue and of the benefits to their business of retaining experienced and skilled staff by accommodating their needs in this regard. We have seen many examples of best practice which moves beyond compliance with legal responsibilities towards creating an exemplar workplace which attracts and retains a talented team.

The Equality Commission provides a free advice service to employers about the law covering pregnancy and maternity, work/life balance and flexible working. The specialist advisory team can also provide practical support in relation to the development of policies and processes that help support good equality practices.

Enabling women who have caring responsibilities to remain in the workforce is vitally important to the families concerned and to the whole community. It is also of benefit to businesses, which cannot afford to cast aside the skills, knowledge and experience which women with family commitments have to offer.