

View from the Chair; Business Newsletter; 26 May 2020 Geraldine McGahey, Chief Commissioner, Equality Commission NI

Caring for the carers

As we move into the ninth week of lockdown and as some of the restrictions are being eased, it seems timely to talk about an important area for most employers as we start to think about getting back to work and adjusting to a 'new normal'.

This is the area of workers who also have caring responsibilities, perhaps children, elderly or disabled relatives. Because of the Covid-19 situation, they may have fewer choices than usual to free them up to be at their best for work.

While decisions about getting your employees back to work have to be made quickly, they can also be quite complex and difficult. To protect your employee, and to protect yourself against discrimination claims, it is important that you take time to consider each individual's situation before making decisions.

Tensions between employment and caring may be a source of concern for both male and female employees, but traditionally they have affected more women than men.

This means that in terms of Northern Ireland's equality laws, this tension can potentially lead to indirect sex discrimination against women, especially where a woman with caring responsibilities is unable to obtain or remain in work unless its terms are modified, for example, through reducing her hours or changing start or end times or shift patterns.

It could well be that those of your employees who already have flexible working arrangements will still be able to work using those arrangements when they return to work. However other employees, if their circumstances have changed as a result of the pandemic, may now need to discuss new or modified flexible working arrangements.

We recommend that as you start talking to your employees about returning to work, you ask them if there are any changes to their working arrangements that they would like you to consider that would allow them to fulfil their caring responsibilities.

We have a new guidance note on our website about carers in the workplace, but one key piece of advice we can bring to your attention is in the current Coronavirus Job Retention Scheme: "Employees who are unable to work because they have caring responsibilities resulting from coronavirus (COVID-19) can be furloughed. For example, employees that need to look after children can be furloughed."

We also recommend following our existing online guidance in considering requests for flexible working. These requests should be handled fairly and without discrimination between women and men and in accordance with a policy and procedure that is consistent with employers' statutory duties.

It would certainly be better to do this in advance than to bring someone back to work on their previous terms and then to try to sort out any work/life balance difficulties that arise afterwards, for example, by taking disciplinary procedures against them.

For advice on your obligations as an employer under equality and discrimination law, contact the Equality Commission's helpline on 028 90 500 600 and ask for our Advisory Services Team or email edenquiries@equalityni.org and we will answer as soon as possible.