

FAMILY FRIENDLY WORKING & WORK **LIFE** BALANCE

TRAINING MANUAL

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PREFACE

This training manual is designed to support and assist trade unions to train officials and representatives in negotiating and developing family friendly and work life balance initiatives at enterprise level.

This folder contains

- 1) The Training Manual, for Union Trainers/Tutors. It includes training materials and a proposed structure for a three day training course, and
- 2) The Congress Family Friendly / Work Life Balance Guidelines - Toolkit for Trade Unions

The toolkit is also available as a separate publication for Trade Union negotiators.

This Training Manual and the Toolkit are outcomes of the Congress Family Friendly project which was put in place to develop materials and guidelines for trade unions, and to increase awareness and availability of these options.

Reconciling work and family life is a key national and European policy area for the promotion of gender equality and the improvement of living and working conditions for men and women. To this end, the Programme for Prosperity and Fairness established a National Framework for the Development of Family-Friendly policies at the level of the Enterprise. Through this framework trade unions, employers and government work to support options which enhance the opportunity to reconcile work and family life and contribute to the effective and efficient operation of the enterprise. At EU level, the Employment Guidelines and Council resolution highlight the importance of designing, implementing and promoting family friendly and work life balance policies.

Congress gratefully acknowledges the support and assistance received from the National Development Plan and the National Family Friendly Framework Committee.

As this issue increasingly becomes a key priority for members and Unions training also becomes crucial to support officials and representatives. This is particularly the case given that agreements will vary from workplace to workplace, and the issues involved can be complex on occasion in particular workplaces. These training materials will assist unions to develop and provide this essential training.

The Training Manual combined with the Tool Kit provides a comprehensive package to assist Trainers and Union Negotiators and Congress believes that these materials will prove very useful for Unions and their representatives and members.



David Begg
General Secretary
December 2002

INTRODUCTION

BACKGROUND

These training materials are designed for use by trade union tutors in conjunction with the Congress Family Friendly Work Life Balance Guidelines – Toolkit for Trade Unions. They are an outcome of the Congress Family Friendly Project which ran from July 2001 to December 2002. Congress acknowledges the support of the NDP and of the National Framework Committee for the Development of Family Friendly Working Arrangements at Enterprise Level in developing these materials.

AIM OF COURSE

This course aims to build on trade union officials and workplace representatives' knowledge, skills, interest and competence in order to encourage and equip them to investigate, formulate and negotiate family friendly / work life balance workplace arrangements.

COURSE OBJECTIVES

The main objectives of this course are to deliver the relevant training and information that will provide participants with:

- an understanding of various family friendly / work life balance options
- knowledge of the legislation supporting family friendly / work life balance options
- awareness of issues arising for members availing of family friendly working arrangements
- the skills and knowledge to successfully negotiate at the level of the workplace

LEARNING OUTCOMES

Following the course participants will have:

- An understanding of the importance of family friendly / work life balance working arrangements in meeting members' needs
- An understanding of the relevant legislation supporting FF/WLB arrangements
- An understanding of the different forms of FF/WLB and challenges arising
- The skills to research the demand for and access to FF/WLB in the workplace
- A knowledge of the benefits of developing FF/WLB arrangements and pursuing them through the collective bargaining agenda
- An awareness of the implications for the individual worker including pay, occupational pension, PRSI, terms and conditions of employment, etc.
- The skills necessary to prepare a case for negotiating at enterprise level and before a third party
- The skills to raise the issue effectively within their Union
- Information on the resources available to them

TRAINING METHODS

Trade union training is student centred, recognising that as adults we learn by experience and by relating new information to our existing experience and knowledge.

This training manual recommends using a variety of learning and training methods. This is useful for a number of reasons. Importantly, varying the training methods used across the sessions helps to sustain interest and to maintain energy levels of participants. Most people do not respond well to being lectured at for two hours or more. In addition, different methods are suited to different topics, for example large group work is good for brainstorming and generating a range of ideas; case studies provide participants with an opportunity to explore issues in more detail, with mock negotiations offering an opportunity to practice the learning.

The following methods are used in the delivery of this training course:

- Discussion
- Small group work
- Pair work
- Mock negotiation
- Brainstorming
- Case Studies
- Handouts
- Ice Breaker
- Formal Presentations
- Self Assessment
- Quiz

Suggested solutions to case studies / quiz and further optional case studies are included in the Notes for Tutors & Suggested Solutions section at the end of this manual.

TARGET GROUP

The target group for participation is Irish trade union officials and representatives with some previous experience and training.

TARGET NUMBER OF PARTICIPANTS

Between 12 and 16 participants

COURSE MATERIAL

This course uses the materials provided in the Congress Family Friendly / Work Life Balance Guidelines – Toolkit for Trade Unions. In addition to providing each participant with a copy of this pack, tutors will need to organise:

- photocopies of activity sheets and handouts as needed
- evaluation sheets
- copies of case studies
- participant registration form/s
- copies of relevant booklets listed for particular sessions
- relevant legislation – Acts & Statutory Instruments

Equipment required:

- Flipchart and markers
- Overhead projector/ powerpoint facilities
- Paper
- Pens
- Namecards

VENUE REQUIREMENTS

- 1 room, boardroom style

Possibility to move furniture in order to break into working groups. If necessary, syndicate/break out rooms may be organised.

ADAPTATION

The course consists of course materials for at least 3 days. The course may be delivered either over three consecutive days or one day at a time over a longer period.

The suggested activities and sessions provided in this manual can be adapted to suit the needs of a particular group of participants. Some courses will be industry or Union specific, others will be mixed.

Where possible, you should ensure a mix of experience in the working groups.

The tutor should ensure that the materials are updated to reflect amendments to existing legislation and the introduction of new legislation and other relevant provisions.

Other appropriate exercises – case studies, quizzes, etc, can be developed and used by the tutor as appropriate.

SUGGESTED TIMEFRAME

DAY1

Time	Topic	Approximate duration	Session
11.00	Welcome & Registration	15 minutes	Day 1 Session 1
11.15	<i>Activity: Icebreaker</i>	45 minutes	
12.00	Rationale & background	30 minutes	Day 1 Session 2
12.30	Principles	30 minutes	Day 1 Session 3
13.00	Lunch		
14.00	Statutory Entitlements	90 minutes	Day 1 Session 4
15.30	Break		
15.50	<i>Activity: Mini case studies</i>	90 minutes	

DAY 2

Time	Topic	Approximate duration	Session
9.30	Non-statutory options	80 minutes	Day 2 Session 1
10.50	Break		
11.10	<i>Activity: Quiz</i>	20 minutes	
11.30	<i>Activity: Mini case studies</i>	90 minutes	
13.00	Lunch		
14.00	Employment Equality Act	90 minutes	Day 2 Session 2
15.30	Break		
15.45	Developing Equality	60 minutes	Day 2 Session 3

DAY 3

Time	Topic	Approximate duration	Session
9.30	Getting started at the workplace	45 minutes	Day 3 Session 1
10.15	Negotiating exercise	4 hours	Day 3 Session 2
11.00	Break		
11.20	Negotiating exercise contd.		
13.00	Lunch		
14.00	Negotiating exercise contd.		
15.30	Break		
15.50	Mainstreaming	40 minutes	Day 3 Session 3
16.30	Course review & evaluation	30 minutes	Day 3 Session 4



DAY 1

WELCOME AND REGISTRATION SESSION

AIM OF ACTIVITY

To welcome participants and introduce the course at the first session.

LEARNING OBJECTIVES

At the outset of the course there are a number of issues that need to be addressed to ensure that the course is delivered in an efficient and supportive manner.

This session will give participants details about the housekeeping arrangements such as the location of emergency exits and facilities, the timing of tea/coffee and lunch breaks and start and finish times. In addition this session will provide participants with information on the type of learning methods that will be used to deliver the course.

Any paperwork requiring completion such as the registration forms will be completed.

TIME: 15 minutes

RESOURCES REQUIRED

- Name Cards
- Registration Sheet
- Flipchart
- Powerpoint (optional)

REGISTRATION SHEET

DATE: _____

VENUE: _____

ORGANISER: _____

NAME	TRADE UNION	WORKPLACE	SIGNATURE

ICEBREAKER

AIM OF ACTIVITY

To introduce the participants to each other, to clarify their objectives and hopes for the course, and to get an idea of everyone's experience to date with Family Friendly Working Arrangements and Work Life Balance.

LEARNING OBJECTIVES

Following this exercise, participants will

- be clear on their own and others' objectives and hopes for this course
- begin to build rapport with other participants

TIME: 45 minutes

RESOURCES REQUIRED

- Activity sheet
- Flipchart and markers

INSTRUCTIONS FOR TUTOR

1. Ask participants to form pairs, preferably with someone they do not know
2. Distribute activity sheet and ask participants to interview their partner using the sheet. Explain that participants will be feeding this information back and introducing their partner to the large group.
3. Participants reform the main group. Each person introduces their partner, their experiences and aspirations to the whole group.
4. Participants' aspirations for the course are listed by the tutor on the flipchart.
5. Tutor confirms the learning objectives that are planned to take place during the course.

PARTICIPANT ACTIVITY SHEET

The aim of this session is to provide participants with an opportunity to be introduced to each other, to clarify objectives and hopes for this course, and to get an overall idea of everyone's experience with family friendly / work life balance (FF/WLB).

Interview your partner to find out some basic information about them including their name, workplace, trade union and their role within their trade union.

Now find out from your partner what are their experiences to date with FF/WLB?

a) within their workplace:

b) within their union:

Finally ask your partner to identify what they hope to learn during the course.

RATIONALE AND BACKGROUND TO FAMILY FRIENDLY WORKING ARRANGEMENTS AND WORK LIFE BALANCE

AIM OF ACTIVITY

To provide participants with an understanding of the rationale and background to Family Friendly Working Arrangements and Work Life balance approaches.

TIME: 30 minutes

LEARNING OBJECTIVE

Following this session, participants will:

- understand the national context for developing work-life balance policies

RESOURCES REQUIRED

- Rationale & Background section of Toolkit.

LEARNING METHOD

- Input from Course Tutor
- Discussion

INSTRUCTIONS FOR TUTOR

1. Make a presentation to the group, summarising the key points raised in the rationale and background section. You may wish to use overheads or powerpoint.
2. Open a brief discussion, relating the rationale for family friendly working / work life balance (FF/WLB) options to the participants' experience as highlighted in the icebreaker session.

PRINCIPLES

AIM OF ACTIVITY

To explore the ideas and trade union principles informing the approach of trade unions to negotiating FF/WLB.

LEARNING OBJECTIVES

Following this exercise, participants will

- be clear on their own and Union principles informing the FF/WLB agenda.

TIME: 30 minutes

RESOURCES REQUIRED

- Principles section of Toolkit
- Flipchart
- Markers

INSTRUCTIONS FOR TUTORS

1. Introduce the activity.
2. Go through the "principles" section of the toolkit, discussing points raised.
3. Form three to four small groups to work through activity sheet for ten minutes.
4. Brief report back from each group on flip chart.

ACTIVITY SHEET FOR PARTICIPANTS: PRINCIPLES

The aim of this session is to explore the principles informing the development of FF/WLB at the workplace. As well as the rationale and background covered previously, these will inform your own and your Union's practical negotiation and implementation of these policies and arrangements.

Having considered the Principles Section of the Toolkit with the main group, now in your small group, discuss and consider the question:

How would you apply these principles in reaching an agreement at your workplace?

At this stage, it is enough to suggest headings and ideas, you do not need to go into great detail.

After ten minutes, rejoin the main group and compare notes.

STATUTORY ENTITLEMENTS SESSION

AIM OF ACTIVITY

To provide information on the legal entitlements supporting family friendly working arrangements available in Ireland.

LEARNING OBJECTIVE

Following this session, participants will have

- knowledge of the basic obligations and entitlements in the relevant legislation
- an understanding of how this legislation can support family friendly/ work life balance arrangements.

TIME: 90 minutes

NOTES

The Employment Equality Act and some case law arising from this will be dealt with in a separate session.

The range and complexity of the legislation means that it cannot be covered in any great depth in the context of a course of this length. Participants may wish to focus on one or more of the Acts and this should be facilitated where possible.

While legislation alone will not achieve a family friendly workplace, it is essential that members entitlements are protected and, where possible, improved upon. There is a body of evidence that workers are not fully aware of their rights under these Acts.

RESOURCES REQUIRED

- Briefing notes from Statutory Entitlements Section of toolkit covering the following pieces of legislation:
 1. Maternity Protection Act 1994
 2. Adoptive Leave Act 1995
 3. Parental Leave Act 1998
 4. Carer's Leave Act 2001
 5. Protection of Employees (Part Time Work) Act 2001
- Equality Authority Booklets
 1. About the Parental Leave Act 1998
 2. About the Maternity Protection Act 1994
 3. About the Adoptive Leave Act 1995
- Enterprise Trade and Employment Booklets
 1. Carer's Leave Act 2001 - Explanatory booklet for Employers and Employees
 2. Protection of Employees (Part Time Work) Act 2001 - Explanatory booklet for Employers and Employees
 3. Guide to Labour Law
- Department of Social & Family Affairs Booklets
 1. Adoptive Benefit SW 37
 2. Carer's Benefit SW 49
 3. Maternity Benefit SW 11
- Copies of relevant Acts & Statutory Instruments

LEARNING METHODS

- Presentation
- Questions and Answers sessions

INSTRUCTIONS FOR TUTOR

This session may be delivered by you or by an appropriate invited speaker.

1. Present the key details of each piece of legislation.
2. Allow a brief questions and answers session after each Act to clarify details.
3. Briefly go through the "Sections from Acts on more favourable provisions permitted" from the Resources section of the Toolkit. This may lead into a discussion on any improvements on statutory minimum in workplaces represented by participants, and any associated difficulties and solutions.

ACTIVITY: MINI CASE STUDIES (STATUTORY)**AIM OF ACTIVITY**

To confirm the learning from the session on legislation.

LEARNING OBJECTIVES

At the end of this session the participants will:

- understand how the legislation outlined in the previous session is applied
- be aware of the provisions for negotiating improvements on statutory minimums
- be aware of some of the most common workplace negotiated improvements associated with statutory entitlements
- be aware of some of the common difficulties arising

TIME: 90 minutes

RESOURCES REQUIRED

- As per previous session
- Mini case studies (statutory)
- Suggested solutions and issues arising are included in the Suggested Solutions section at the end of this manual.

LEARNING METHODS

- Small group work
- Mini case studies
- Tutor facilitated discussion and sharing of experience

INSTRUCTIONS FOR TUTORS

1. Introduce the session
2. Form small groups (3 - 4 people) and distribute two case studies each to each group. Participants will also need the previous session's notes and materials. Allow approximately fifteen minutes to answer each question.
3. Reform the main group for feedback and discussion.

MINI CASE STUDIES

QUESTIONS

A) MATERNITY PROTECTION LEGISLATION

Mary Jones has worked in the local supermarket for the past 6 months. She is a full-time worker. She is taking maternity leave of 18 weeks from 1st December followed by the 8 weeks additional leave. There will be a number of public holidays during her maternity leave and additional leave. She asks you if she is entitled to pay for the public holidays.

Please advise her.

B) PARENTAL LEAVE

Michael O'Neill wishes to take Parental Leave with immediate effect. He would like to take the leave on a part-time basis or to transfer the parental leave to his partner and mother of the child. His partner is also an employee in the same company and has only just returned to work at the end of 14 weeks Parental Leave taken by her in respect of their only child aged 9 months. She took the full 14 weeks Parental Leave immediately after her Maternity Leave and Additional Leave. In the circumstances Michael is unclear in relation to his entitlements and he is looking for your advice.

Please advise him.

C) FORCE MAJEURE LEAVE

Emer O'Neill has been in continuous employment for the past two years, however she has only six months service with her current employer. Recently her adopted daughter aged 6 had an accident on her way to school. Emer rang her employer, to say that she would not be in work as she was taking her daughter to the hospital. Overall she was out of work looking after her daughter for two days. One day was spent in the Accident and Emergency Unit of the hospital and the second day at home taking care of her daughter. When she got her wages for that week she had been deducted two days' pay. Emer seeks your advice on this.

Please advise her.

D) PART TIME WORK

Thomas Smith works a normal 15-hour week. The comparable full-time worker (also a man) works a normal 35-hour week. The full-time worker is paid an annual salary of €25,000. The comparable full-time worker is also paid a 5% commission on sales made, payable every quarter.

Thomas asks you what his salary entitlement is and also what his entitlement is in relation to the sales commission.

Please advise him.

E) ADOPTIVE LEAVE

Martin and Jane both work in the same factory. Martin is a full-time worker and Jane is a part-time worker who each week works 50% of the weekly hours of a comparable full-time worker. Martin has over 12 months continuous service with the company while Jane has less than 12 months continuous service in that company. They have one child and are about to adopt a child. They are planning a foreign adoption. They seek your advice on their leave entitlements.

Please advise them.

F) CARER'S LEAVE

Sheila Jones' mother is very ill and she requires almost full-time care. Sheila has been in employment for less than three years, the last 14 consecutive months of which were with her current employer. Sheila is a full-time employee, but in the last three months she has moved to part-time work in order to care for her mother. She wishes to take Carer's Leave and she seeks your advice on her leave entitlements and her social welfare entitlements. She is also considering sharing the caring responsibilities with her sister who is employed by another employer and who is also willing to take Carer's Leave. She seeks your advice on this option also.

Note: Sheila has not taken Carer's Leave previously.

Please advise her.

DAY 2

INTRODUCTION TO NON-STATUTORY OPTIONS (DEFINITIONS AND CHALLENGES)

AIM OF ACTIVITY

To broaden participants' knowledge of the possible non-statutory forms of FF/WLB currently available and issues to be dealt with when negotiating for agreement on implementing them.

LEARNING OBJECTIVES

Following this exercise, participants will

- know about the possible non statutory forms of FF/WLB currently available.
- be aware of some of the implications and challenges of these working arrangements for members and Unions

TIME: 80 minutes

RESOURCES REQUIRED

- Definitions and challenges section of Toolkit

LEARNING METHODS

- Presentation by tutor/ invited expert speaker
- Pair work
- Large group discussion

INSTRUCTIONS FOR TUTOR

1. Using the Toolkit section "Definitions and Challenges" make a presentation to the group on the listed options and associated challenges. You or the invited speaker may wish to use powerpoint or overheads. It is important to stress the necessity for negotiated agreements.

The options are covered under four headings, namely:

- Reduction in hours worked
- Period away from work (leave)
- Greater employee control over when hours are worked - flexibility
- Change in location of work

2. After this presentation ask the participants, in pairs, to briefly discuss the issues raised, bearing in mind the rationale and background and principles as covered previously.
3. Reform the main group and list on the flipchart the key points and any examples of solutions or difficulties experienced.
4. Open a group discussion among participants of their own experiences of negotiating or working these arrangements.

Some pointers for inclusion in discussion:

- Benefits for members, employers and organisations
- National and European policy
- Importance of negotiated agreements
- Specific difficulties encountered and any suggestions

ACTIVITY: QUIZ

AIM OF ACTIVITY

To reinforce learning from previous session, i.e. possible options and associated challenges

LEARNING OBJECTIVE

Following this session, participants will have

- a clearer understanding of the issues raised

TIME: 20 minutes

RESOURCES REQUIRED

- Quiz handouts
- Suggested answers are included in the Suggested Solutions section at the end of this manual.

LEARNING METHODS

- Quiz
- Pair work
- Large group discussion

INSTRUCTIONS FOR TUTOR

1. Form pairs and give each pair the "quiz" handout.
Together, allow ten minutes for participants to agree in their answers.
2. Reform the main group.
Go through each question, noting on the flipchart any questions or issues arising.

ACTIVITY SHEET FOR PARTICIPANTS – QUIZ

INSTRUCTIONS TO PARTICIPANTS:

In pairs, you have about ten minutes to answer the quiz questions below. You will then report back on your answers to the main group and discuss.

QUIZ QUESTIONS:

1. List four key points for consideration in a negotiated agreement on FF/WLB options.
2. List three benefits to your members of FF/WLB arrangements.
3. A member is studying at night for an educational qualification. Her exams are in two months and she has already taken all of her annual leave. Identify two options which could assist her.
4. Sean's partner is expecting a baby. What two working arrangements might you negotiate in order for him to be present at the birth of his child?
5. Does someone on a career break remain an employee?
6. Is a jobsharer/work sharer/ part-time employee entitled to join/remain a member of the occupational pension scheme where one exists?
7. Are a jobsharer/worksharer/part-time worker's Maternity and Adoptive Leave entitlements different than a full time worker's entitlements?
8. What did the November 2002 NESC report "An Investment in Quality: Services, Inclusion and Enterprise" recommend in relation to Family Friendly working?

ACTIVITY: MINI CASE STUDIES (NON STATUTORY)

AIM

To further develop understanding of the implications of FF/WLB working for individual members, and the need to address these issues in any agreement.

LEARNING OBJECTIVE

At the end of this session, participants should have

- a basic understanding of the implications for the individual member of negotiating FF/WLB.
- knowledge of some of the steps that can be taken to prevent any erosion of entitlements or conditions.
- understanding of the importance of negotiating agreements prior to commencing new arrangements.

TIME: 90 minutes

RESOURCES REQUIRED

- Definitions & Challenges section of Toolkit
- Department of Social & Family Affairs Booklet Worksharing SW 105 (Resources section of Toolkit)
- Copies of mini case studies (non-statutory)
- Suggested solutions and issues arising are included in the Suggested Solutions section at the end of this manual.
- Three further optional case studies on bonus payments, annual leave and sick leave are also included in the Suggested Solutions section.
- Department of Enterprise, Trade & Employment information leaflets on the Organisation of Working Time Act.

LEARNING METHODS

- Small group work
- Tutor facilitated discussion and sharing of experience
- Mini case studies

INSTRUCTIONS FOR TUTOR

1. Point out that negotiators should be aware of possible implications for individual workers so that they can address them at the time of negotiation of FF/WLB agreements.
2. Form participants into small groups and distribute 2 mini case studies to each group. Allow approximately 15 minutes per case study. Move between the groups and assist as necessary.
3. Reform the main group for feedback and discussion.

MINI CASES (NON STATUTORY) - IMPLICATIONS FOR INDIVIDUAL'S WORKING CONDITIONS & SOCIAL WELFARE ENTITLEMENTS

A ACCESS TO JOB SHARING

Susan is a supervisor in a large hospital. She has seven years service with her employer. The hospital and Union have an agreed policy on job sharing, but this does not cover supervisory grades. She applies for job sharing, but is refused. The employer suggests that if she were to return to a lower, non-supervisory grade, her request to job share would be considered again.

Several workers in her department are already job sharing, but at a lower grade.

She asks you for advice on her options and how to proceed.

B ACCESS TO PART TIME WORK

Janet, a supermarket worker with two years service at various levels and departments, currently works as department manager. Prior to going on maternity leave she requests that she be facilitated to work part time on her return from maternity leave. Currently, other workers are on part time for various reasons, including childcare and training.

Her employer argues that the store will not be able to operate effectively if she is not working full time, and refuses her request.

Janet approaches you for assistance.

C PRSI CONTRIBUTION IMPLICATIONS

Dave, a jobsharer, intends to work a five day working week, with a week on, week off pattern.

Can he ensure that his working pattern allows him full social insurance coverage?

D PUBLIC HOLIDAY ENTITLEMENTS

James and Jennifer are jobsharing partners in a small manufacturing company. Each week, Jennifer works Monday and Tuesday and a half day on Wednesday morning. James works Wednesday afternoon, and a full day on Thursday and Friday.

What should they, the union and the employer do to ensure an equitable distribution of the bank holiday entitlements of the post?

E OVERTIME

Michael began working a reduced hours pattern four months ago. He is now working three full shifts a week as opposed to five full shifts. The call centre he works in has seasonal peak periods, when staff can be rostered for overtime at time and a half, as per the collective agreement. During the recent peak, Michael was not offered any overtime, despite his seniority, and having previously worked overtime regularly during the peak period when he was a full-time worker. On querying this, he was told that his decision to work shorter hours implies that he is no longer available for or interested in overtime.

He rejects this suggestion and asks for your advice.

F TRAINING

Clare works as a cleaner three days a week i.e. Monday, Tuesday and Friday. A necessary training course related to her work is to be held Monday to Friday.

She seeks your advice on whether she can attend, and what the implications for her pay will be.

G PARENTAL LEAVE (JOBSHARER)

Margaret O'Brien is a jobsharer working week on and week off. She plans to take Parental Leave and she asks for your advice on her entitlements as a jobsharer.

Please advise her and show her how the leave entitlement will be calculated.

EMPLOYMENT EQUALITY ACT FAMILY FRIENDLY / WORK LIFE BALANCE AND GENDER EQUALITY

AIM OF ACTIVITY

To provide information on the Employment Equality Act, the prevention of discrimination and the promotion of equality.

LEARNING OBJECTIVES

At the end of this session, participants will

- understand the basic elements of the Employment Equality Act 1998
- understand the concepts of direct and indirect discrimination
- understand the relevance of avoiding discrimination in the negotiation of FF/WLB arrangements
- understand the separate roles of the ODEI and the Equality Authority

TIME: 90 minutes

RESOURCES REQUIRED

- Employment Equality Act Section from Statutory Entitlements Section of Toolkit
- Equality Authority Booklet – Enforcing your rights under the Employment Equality Act

LEARNING METHODS

- Presentation
- Questions and Answers

INSTRUCTIONS FOR TUTOR

This section may be delivered by you or by an appropriate invited speaker.

1. Present a summary of the Employment Equality Act, 1998, including some relevant ODEI/ECJ decisions. (See Resources section of Toolkit for some examples). Allow for questions.
2. Outline to participants where they will find ODEI decisions and other relevant material, including on the internet.

DEVELOPING THE EQUALITY AGENDA**AIM OF ACTIVITY**

To consider the role of FF/WLB options in achieving gender equality.

LEARNING OBJECTIVES

At the end of this session learners will

- have considered the importance for Unions of FF/WLB in achieving greater gender equality
- have considered the role of FF/WLB in promoting equal opportunities between men and women

TIME: 60 minutes

RESOURCES REQUIRED

- None

LEARNING METHOD

- Brainstorming
- Structured discussion

INSTRUCTIONS FOR TUTOR

1. Divide participants into small groups to brainstorm around the theme "The role of family friendly / work life balance in achieving greater gender equality"

Brainstorming:

In a brainstorming exercise, participants for a limited time (e.g. 4 minutes) suggest any ideas related to the topic. All suggestions are noted, with no questions or clarifications.

For a further period (e.g. 15 minutes), the ideas are clarified and debated.

Then the participants group their ideas together and, where appropriate, may put them in order of priority before reporting back to the main group

2. Reform the main group and ask a representative of each small group to report on their group's ideas.
3. Open a discussion among participants. Some pointers for discussion could include:

Why do women more than men avail of these working options?

- vertical/ horizontal gender segregation
- gender pay gap
- challenging traditional roles

What implications does this have for prioritising this issue within the Union and the workplace?

How could men be encouraged to share more equally in availing of FF/WLB arrangements?

What role does the organisational culture have to play in promoting gender equality and FF/WLB?

- gender equality action plan?
- collective agreement?
- long hours culture?
- target setting?
- training?
- career planning?
- overtime?

4. To close the discussion, ask participants to identify some specific positive steps that they could take to progress equality in their own workplace in relation to FF/WLB.



DAY 3

GETTING STARTED

AIM OF ACTIVITY

To consider how to begin the process of negotiating at the workplace for FF/WLB or improvements to existing arrangements, and how to raise the issue within the Union.

LEARNING OBJECTIVES

Following this session, participants will

- have a clear idea of the importance of negotiated agreements
- have an understanding of the key steps to negotiating such an agreement in the workplace
- have considered how they would begin the process within their Union and at the workplace
- be aware of how to assess members' needs

TIME: 45 minutes

RESOURCES REQUIRED

Sections from Toolkit

- Getting Started
- Model agreement
- Assessing needs

LEARNING METHOD

- Presentation

INSTRUCTIONS FOR TUTORS

1. The information presented here will be used in the mock negotiations.
2. The presentation should cover the following:

Context

- Negotiating FF/WLB options does not exist in a vacuum. It may be appropriately considered in the context of a partnership working group, equality group, or any reorganisation of work.
- Consideration should be given to how issues raised by management – eg. changing opening hours - could be used to introduce FF/WLB.

Agreements

The importance of workplace agreements, to ensure equitable access to these arrangements and to ensure that implications for individual members and their colleagues are fully considered and dealt with.

Steps to an agreement

As per the toolkit "Getting Started" section, main steps include a joint working group, assessing worker needs, considering these in the context of organisational needs, piloting, adapting pilot, reviewing and monitoring agreements and arrangements.

Model agreement

It may be useful to wrap up by having participants consider the model agreement provided, and how it could be useful in their own workplace or collective agreement. This will also lead into the next activity.

ACTIVITY: NEGOTIATING EXERCISE**AIM OF ACTIVITY**

To consider the steps in planning an effective negotiation on FF/WLB options and to practice these through a negotiating exercise.

LEARNING OBJECTIVES

Following this exercise, the participants will have

- developed their skills and strategies in relation to negotiating for FF/WLB at enterprise level
- considered strategies for raising the issue within the Union

TIME: 4 hours

RESOURCES REQUIRED

- Planning to negotiate worksheet
- Negotiating exercise handout for participants
- All training materials
- Flipchart and markers

LEARNING METHODS

- Case study preparation
- Mock negotiation
- Analysis and observation

INSTRUCTIONS FOR TUTORS

Time: It is important to allow sufficient time for preparation, performance, debriefing and full group discussion.

Objective: The objective of the mock negotiation is to reach agreement. Referring to the model agreement may be helpful. The groups could also agree and use the outcomes of a fictitious survey they would have carried out.

For the purposes of the exercise, you might encourage one case study group to reach agreement, while the other decides to seek further specific information or refer the situation to a third party. (If a third party is referred to, you should make it clear to participants that they should be confident that their arguments would stand up to independent scrutiny.)

Observation: Observing and commenting on the exercise is an important task. Each group will act as observers and provide constructive comment to the other group, as well as reflecting on their own exercise. Observers should use the feedback questions outlined at the end of the instructions for participants. Ask participants to comment first, then the observers. Encourage comments on the effectiveness of the methods and strategies employed rather than focussing on personalities.

Case study: Both groups can use the same case study, with the second group implementing lessons from the first group's mock negotiation of it. Alternatively, there is a second optional case study in the Notes for Tutors / Suggested Solutions section at the end of this manual.

1. Introduce the activity
2. Divide participants into two groups.
3. First exercise for ALL participants is to consider how they would generally raise this issue within the Union and where -at branch committee, shop stewards committee, etc, bearing in mind the principles previously discussed.
4. After discussing this for fifteen minutes, allocate roles of union and management representatives within each sub group and each group prepares their case, using the worksheet.
5. The tutor should also observe and assist each group, and see if they are including relevant points, as raised during the training thus far. Some additional points in relation to each case study are included in the Notes for Tutors/Suggested Solutions section at the end of the manual.
6. One group carries out a mock negotiation.
Feedback from participants and then from the observers as per feedback questions
7. The second group carries out the mock negotiation
Feedback from participants and then from the observers as per feedback questions
8. Reconvene the main group and discuss the learning from the exercise.

PARTICIPANT ACTIVITY SHEET: NEGOTIATING EXERCISE INSTRUCTIONS

INSTRUCTIONS FOR PARTICIPANTS

1. In your group, discuss the following case study and prepare to negotiate in the role assigned to your group (i.e. as a union representative or a management representative). You may find the “Planning to Negotiate” worksheet useful.
2. Carry out the negotiation.
3. You will be asked to comment on your own and the other group's negotiation exercise. As an observer of the other negotiating team, you should consider the following points:
 - were participants clear on what they wanted to achieve?
 - did they clearly communicate the need for FF/WLB arrangements?
 - did they clearly communicate their demands?
 - what did they do well?
 - what would you have done differently?
4. As a participant, you should reflect on the following points:
 - was your team clear on what you wanted to achieve?
 - did your team clearly communicate the need for FF/WLB arrangements?
 - did your team clearly communicate your demands?
 - what did you do well?
 - is there anything your team should have done differently?

PARTICIPANT ACTIVITY SHEET: NEGOTIATING EXERCISE INSTRUCTIONS

CASE STUDY ONE

INTRODUCTION

Mangan is a company employing 400 employees. It manufactures small electrical products, such as irons, hairdryers, etc. and is twelve years in operation.

The union is recognised in the company for the past 10 years. There is only one union, representing clerical administration, supervisory and production operations staff. Over the years collective agreements have been negotiated on pay and conditions of employment, equal opportunities, bullying, and there are agreed disciplinary and grievance procedures.

THE CASE

In response to staff shortages in the late 90s the company offered flexible work arrangements to Clerical Administrative staff whose normal hours are Monday to Friday, 9 to 5. The majority are women. All flexible work arrangements have been implemented on an individual basis. While the union is aware of how these operate, there is no formal agreement.

Of the total workforce of 400 employees, 300 work in Production. About 80% are union members. 40% of the employees in the productions process are women and 60% are men. Most of the employees are between 20-30 years old. Approximately 20% have children.

A group of production employees have recently requested the union to seek flexible work arrangements for them. In the initial union discussions with the company on this issue the company was strongly of the view that it would be too costly to introduce and disruptive to the production process.

The employees seeking the flexible work arrangements are strongly of the view that it could be managed. The employees work two shifts; 8am-4pm and 4pm-12am.

Absenteeism is 1.5% higher on the 4pm to 12am shift.

The sick leave records of the company show that there is a slightly higher rate of sick leave in production, management attributes this to the lifestyle of some of the younger employees. The union is of the view that lack of flexible work arrangements contributes to the problem.

The union is seeking a meeting with Management to see if they can reach agreement to a pilot project on flexible work in the production process.

**PARTICIPANT ACTIVITY SHEET:
PLANNING TO NEGOTIATE WORKSHEET**

1. YOUR AIMS

2. YOUR MAIN ARGUMENTS

3. MAIN FACTS

4. OTHER NEGOTIATING TEAM'S LIKELY ARGUMENTS

5. YOUR COUNTER ARGUMENTS

MAINSTREAMING

AIM OF ACTIVITY

To consider how FF/WLB issues can be mainstreamed to become part of the core union agenda.

LEARNING OBJECTIVES

After this session, participants will have

- a clearer idea of the context of FF/WLB negotiating in their own workplace and
- be aware of how these issues might be mainstreamed in workplaces and Unions

TIME: 40 minutes

RESOURCES REQUIRED

Sections from Toolkit - Mainstreaming and Networking

LEARNING METHODS

- Pair work
- Reading
- Reflection
- Discussion

INSTRUCTIONS FOR TUTORS

1. Introduce activity
2. In pairs, participants read through the "mainstreaming" document and consider specific steps that would be appropriate in their own workplace, or members' workplace, to integrate this issue with other issues, and/or into the standard collective agreement.
3. Feedback from each pair to the main group. Take some time to consider the challenges involved, such as representivity of negotiating boards and of committees. Participants will be able to identify other challenges, and the group may be able to suggest possible steps to take.
4. It is appropriate to consider how the Union's own activities can take into account members' FF/WLB requirements.
5. If appropriate, consider the role of networking - either in general or as a means for the training group to remain in contact. (See Networking section of Toolkit).

FEEDBACK AND EVALUATION

AIM OF ACTIVITY

To fill in required evaluation sheets and to allow participants to give their views on the course and what they learned. To provide feedback on how the course might be adapted for future sessions.

LEARNING OBJECTIVE

Evaluation allows participants to reflect on the course and what they have learned. It also provides learning for the tutor on how the course might need to be adapted for future sessions.

TIME: 30 minutes

RESOURCES REQUIRED

- Standard evaluation sheet
- If your course is supported/funded by an outside agency, you may be required to fill in a specific form.

INSTRUCTIONS FOR TUTOR

Before distributing the evaluation sheets to participants, stress that a candid evaluation of the course is needed in order to continuously improve the course design and delivery.

After participants fill in the evaluation sheet, open the floor for comments and discussion on the extent to which the participants' and course objectives were met, how they intend to use their learning, and what adaptations could usefully be made to the course.

EVALUATION SHEET

Please answer the following questions in relation to the Family Friendly / Work Life Balance Training Course. Your views are important to ensure that the course is continually improved.

1. In a word, sum up your experience of this course: _____

2. What did you find most useful?

3. What did you find least useful?

4. How will you now implement what you have learned in your Union and in your workplace?

TUTOR'S NOTES & SUGGESTED SOLUTIONS

ADVICE NOTES FOR TUTORS – CASE STUDIES & QUIZ

Please note that the following were compiled for your information and should not be circulated to the participants.

Other than in the case of legal entitlements and precedents there may be no right or wrong responses to the case studies or the quiz. The purpose of these exercises is to ensure that the participants are fully aware of the legal entitlements and of the issues that arise in negotiating various types of FF/WLB arrangements.

You should ensure that the key issues arising in relation to the case studies and the quiz are identified. Even if the responses are correct, attention should be drawn to the key issues outlined in the following section.

DAY 1 SESSION 3 - STATUTORY ENTITLEMENTS - MINI CASE STUDIES**A) MATERNITY PROTECTION LEGISLATION**

Mary Jones has worked in the local supermarket for the past 6 months. She is a full-time worker. She is taking maternity leave of 18 weeks from 1st December followed by the 8 weeks additional leave. There will be a number of public holidays during her maternity leave and additional leave. She asks you if she is entitled to pay for the public holidays.

Please advise her.

NOTES FOR TUTOR - QUESTION A - MATERNITY PROTECTION LEGISLATION

- Mary Jones is entitled to Maternity Leave and Additional Maternity Leave even though she has less than one year's service with the supermarket, as there is no service qualification for any of the rights under the Maternity Protection Legislation.
- Mary is entitled to be credited for any public holiday that occurs during the 18 weeks maternity leave. She must receive the benefit for such leave. What this means in practice is that she should be treated similarly to all other employees in the company, and as a minimum she must be assured of her legal minimum entitlements under the Organisation of Working Time Act, 1998 i.e.
 - An extra day's pay
 - A set paid day off within a month, or
 - An extra day's annual leave
- The additional 8 weeks leave does not count for public holidays, accordingly Mary will not be credited with any public holiday falling during the additional 8 weeks leave, unless the Union has negotiated such an agreement with their employers in respect of additional leave or it is accepted custom and practice in the employment. (Please also note that the Report of the Maternity Leave Review Group did recommend that this additional leave should count for public holidays, however as of December 2002 that recommendation has not been implemented. As Tutor you should check if this situation has changed before delivering the course.)
- Mary must notify her employer of her intention to take Maternity Leave and additional leave.

B) QUESTION B - PARENTAL LEAVE

Michael O'Neill wishes to take Parental Leave with immediate effect, he wishes to take the leave on a part-time basis or to transfer the parental leave to his partner and mother of the child. His partner is also an employee in the same company and has only just returned to work at the end of 14 weeks Parental Leave taken by her in respect of their only child aged 9 months. She took the full 14 weeks Parental Leave immediately after her Maternity Leave and Additional Leave. In the circumstances Michael is unclear in relation to his entitlements and he is looking for your advice.

Please advise him.

NOTES FOR TUTOR - QUESTION B - PARENTAL LEAVE

- Parental Leave is distinct from Maternity Leave and the fact that Michael's wife or partner has taken Maternity Leave in respect of the same child is irrelevant.
- Michael cannot take Parental Leave on a part-time basis without the agreement of the employer. If the Union has already negotiated such an agreement with the employer then that is an option, if not then the Union could make representations to the employer on behalf of Michael. However if the employer does not agree to the leave being taken on any basis other than a continuous period of 14 weeks then, if taken, it must be taken on a continuous basis of 14 weeks.

A relevant case in relation to the manner in which parental leave can be taken is as follows: *Worker v Dunnes Stores* - Rights Commissioner finding in September 1999 upheld by the Employment Appeals Tribunal on 21 January 2000 which found that "the wording of the Act is clear and unambiguous and in interpreting the 1998 Act the Tribunal cannot go beyond the expressed provisions of the Act. The Tribunal has no discretion in this regard. Consequently the Tribunal upholds the decision of the Rights Commissioner."

- Parental leave or any part of it cannot be transferred from one parent to another. (See Section 6 (7) of the Parental Leave Act, 1998)
- Parental leave is the individual right of each parent and they both have an entitlement to 14 weeks parental leave in respect of an eligible child i.e. a child aged 5 or under of whom they are the natural or adopted parents. In the case of adopted children there are certain exceptions in relation to the age of the child i.e. in the case of a child who is under 3 years at the time of adoption the leave must be taken before the child reaches 5 years of age. However, if the child is aged between 3 years and 8 years at the time of the adoption, the leave must be taken within 3 years of the adoption order.
- Note: Michael must have one year's continuous service with the employer concerned. There is one exception to this rule in a case where the child may reach the age limit. In such a situation if Michael has not completed one year's continuous employment with his employer on the latest day for commencing a period of parental leave having regard to the age of the child, but has completed 3 months continuous employment with his employer on the latest day for commencing a period of Parental Leave, he would be entitled to Parental Leave for a period of one week for each month of continuous employment that he has completed with the employer at the time of commencement of the Parental Leave. In Michael's case the child is aged 9 months therefore this exception does not apply and he would have to wait until he has 12 weeks' continuous service before being eligible to take Parental Leave from his current employment.

- Assuming Michael has the required service qualification he is entitled to take the full 14 weeks parental leave subject to the following:
 - The Act requires the employee proposing to take Parental Leave to notify his employer in writing as soon as reasonably practicable but not later than 6 weeks before the commencement of the leave.
 - There is also provision that an employer at his or her discretion may treat leave as Parental Leave in a case where this notice requirement has not been met.
 - The Act requires the employer, not less than 4 weeks before the commencement of the Parental Leave to sign a confirmation document specifying the date of commencement of the leave, its duration and the manner in which it will be taken
 - Postponement of Parental Leave – The Act allows for the postponement of Parental Leave in two situations as follows:
 - i) the parties concerned may agree to postpone Parental Leave to an agreed time, to curtail Parental Leave in an agreed manner and to an agreed extent or the form of the leave may be varied by agreement.
 - ii) In a situation where the employer is satisfied that the taking of parental leave at the time specified in the notice would have a substantial adverse effect on the operation of his or her business by reason of a number of factors, such as:
 - seasonal variations in the volume of the work concerned,
 - the unavailability of a person to carry out the duties of the employee in the employment,
 - the nature of those duties,
 - the number of employees whose periods of Parental Leave will fall within the period specified in the notice

In such a situation the employer must consult with the employee in relation to the proposed postponement before giving notice of such postponement. The employer must give the employee at least 4 weeks notice of a decision to postpone the commencement of the Parental Leave. This notice must contain a summary statement of the grounds for the postponement

Parental Leave cannot be postponed for longer than 6 months.

Parental Leave cannot be postponed more than once in respect of a particular child, unless a ground for the postponement is seasonal variation in the volume of work concerned, in which case the Parental Leave cannot be postponed more than twice.

If solely because of the postponement by the employer of the commencement of the Parental Leave the child concerned reaches the age limit, then the attainment of the age is deemed for the purposes of the Act to have occurred after the end of the period of Parental Leave.

C) FORCE MAJEURE LEAVE

Emer O'Neill has been in continuous employment for the past two years, however she has only six months service with her current employer. Recently her adopted daughter aged 6 had an accident on her way to school. Emer rang her employer, to say that she would not be in work as she was taking her daughter to the hospital. Overall she was out of work looking after her daughter for two days. One day was spent in the Accident and Emergency Unit of the hospital and the second day at home taking care of her daughter. When she got her wages for that week she had been deducted two days pay. Emer seeks your advice on this.

Please advise her.

NOTES FOR TUTOR - QUESTION C - FORCE MAJEURE LEAVE

Emer is entitled to Force Majeure Leave with pay under the Parental Leave Act, 2001, provided the following criteria are met:

- She notified her employer as soon as reasonably practicable after her return to work that she had taken Force Majeure Leave.
- She had not already taken two days force majeure leave in the 12 month period up to and including the two days she is currently claiming. If she had already taken two days in that twelve month period she may only be entitled to one day's Force Majeure Leave in that 12 month period. Note there is entitlement to five days force majeure leave in any thirty-six month period.
- Her immediate presence was indispensable. It is necessary to meet both criteria in respect of each day and for the full day on each day. Absence on force majeure leave for part only of the working day is deemed to be one day of Force Majeure Leave.
- While there is a 12 month service qualification for Parental Leave there is no service qualification in respect of Force Majeure Leave.
- While Parental Leave is confined to children aged up to 5 there is no such age limit in respect of Force Majeure Leave.
- Assuming that Emer has not already taken her maximum entitlement to Force Majeure Leave, the advice to her should be:
 - to clarify to the employer that she was claiming Force Majeure Leave in respect of the two days and complete the appropriate form, if that has not already been done. (For details of the form please see Equality Authority Parental Leave Booklet).
 - to confirm that her immediate presence was indispensable on both days and explain why.
 - if the employer continues to refuse to pay her in respect of either or both days then she should be advised that the Union would take her case to the Rights Commissioner. (Note that such a claim must be made not later than 6 months after the occurrence of the dispute).

ADDITIONAL NOTE FOR TUTOR RE FORCE MAJEURE LEAVE

A number of Force Majeure cases have been before the Employment Appeals Tribunal and your Union will have copies of these. They are also available in the Employment Appeals Tribunal Office. In addition the Employment Appeals Tribunal are developing a web site and all EAT cases may soon be accessible on line.

There is also a highly relevant High Court Case - 24 January 2001 covering a Worker v Penn Racquet Sports Ltd., which overturned an EAT ruling against the worker's claim for one day's paid Force Majeure Leave. The issue in that case centred on whether or not the illness proves to be minor or major subsequent to the day on which the leave was taken. The High Court ruled that it was a mistake in law to decide the issue on the basis of the ultimate outcome of the illness in this case and also stated that the worker could not be assumed to have medical knowledge that she did not possess.

D) PART TIME WORK

Thomas Smith works a normal 15-hour week. The comparable full-time worker (also a man) works a normal 35-hour week. The full-time worker is paid an annual salary of €25,000. The comparable full-time worker is also paid a 5% commission on sales made, payable every quarter.

Thomas asks you what his salary entitlement is and also what his entitlement is in relation to the sales commission.

NOTES FOR TUTOR - QUESTION D - PART TIME WORK

- On the basis that Thomas is a regular worker and he does not work on a casual basis and on the basis that the employer accepts that the comparable full-time worker is a comparable worker, Thomas is entitled to a pro-rata annual salary.

The group should be invited to make the appropriate calculation and explain their calculations.

- Different companies may use different formulae for calculating annual salary. Whatever the formula, the same formula should apply to the part-time worker. As a base line Thomas's hourly rate should be the same as the hourly rate of the comparable full-time worker. Thomas' annual earnings should relate to the appropriate proportion of the full-time worker's annual earnings.
- If the group does not identify that Thomas does not work on a casual basis and/or that the employer accepts the comparator worker you should draw their attention to these two facts. You should also draw their attention to the fact that the comparator can be of the same sex as in this case, and does not have to be of the opposite sex.

- In relation to the sales commission, Thomas cannot be discriminated against simply because he is a part-time worker. There are two provisions in the Act that must be considered:
 - less favourable treatment is permitted if such treatment can be justified on objective grounds by the employer
 - pro rata provision of certain conditions of employment

In this case Michael should be paid the 5% commission on the sales that he makes, subject to the same conditions as the comparable full-time worker.

In this case it seems clear that there are no objectively justified grounds for less favourable treatment in relation to the payment of a sales commission to a part-time worker based on the sales made by him.

The commission should be at the same rate i.e. 5%.

E) ADOPTIVE LEAVE

Martin and Jane both work in the same factory. Martin is a full-time worker and Jane is a part-time worker who each week works 50% of the weekly hours of a comparable full-time worker. Martin has over 12 months continuous service with the company while Jane has less than 12 months continuous service in that company. They have one child and are about to adopt a child. They are planning a foreign adoption. They seek your advice on their leave entitlements.

Please advise them.

NOTES FOR TUTOR - QUESTION E - ADOPTIVE LEAVE

- Martin, as the adopting Father has no right to Adoptive Leave under this Act unless the adopting mother dies. *Note:* A sole adopting father is entitled to Adoptive Leave.
- Part-time workers are covered by the Adoptive Leave legislation; accordingly the nature of Jane's part-time work is not a factor.
- Jane is entitled to 14 consecutive weeks of adoptive leave, irrespective of her service with the company. (Similar to the Maternity Protection Legislation there is no service requirement.) Jane is also entitled to 8 additional weeks leave immediately following the Adoptive Leave.

- The entitlement to Adoptive Leave commences on the date of placement of the child.
- Jane's social welfare entitlements in respect of the Adoptive Leave will depend upon meeting the Social Welfare qualification criteria. There is no social welfare payment made in respect of the 8 weeks additional leave.
- As this is a foreign adoption Jane may take some or all of the additional 8 weeks leave before the placement date.
- The right to Adoptive Leave and Additional Leave is subject to the worker giving the appropriate notice to her/his employer. In the case of a foreign adoption a copy of the declaration of eligibility and suitability (issued pursuant to the Adoption Act 1991) must be given to the employer before the commencement of the Adoptive Leave or Additional Adoptive Leave (whichever is the earlier) and details of the date of placement must be provided as soon as is reasonably practicable after that.

F) CARER'S LEAVE

Sheila Jones mother is very ill. She requires almost full-time care. Sheila has been in employment for less than three years, the last 14 consecutive months of which were with her current employer. Sheila is a full-time employee, but in the last three months she has moved to part-time work in order to care for her mother. She wishes to take Carer's Leave and she seeks your advice on her leave entitlements and her social welfare entitlements. She is also considering sharing the caring responsibilities with her sister who is employed by another employer and who is also willing to take Carer's Leave. She seeks your advice on this option also.

Note: Sheila has not taken Carer's Leave previously and no other employee is on Carer's Leave in respect of the same person.

Please advise her.

NOTES FOR TUTOR - QUESTION F - CARER'S LEAVE

SHEILA'S LEAVE ENTITLEMENT

- Sheila's entitlement to Carer's Leave is dependent upon her mother's need for full-time care and attention being objectively assessed by a Deciding Officer of the Department of Social, community & Family Affairs.
- Sheila must personally provide the full-time care – under Regulations by the Minister for Social & Family Affairs an employee may work for up to 10 hours per week while on Carer's Leave subject to an earnings limit. The Carer's Leave entitlement cannot be shared with her sister and neither would qualify for the Social Welfare Carer's Benefit.
- At any one time only one employee may be absent from employment on Carer's Leave in respect of the same person.
- An employee must have 12 months continuous service with the employer concerned in order to be eligible for Carer's Leave. Sheila has 14 months continuous service therefore she meets that requirement.
- Part-time workers' Carer's leave entitlements – Part-time workers are entitled to Carer's Leave and the entitlement to this leave is not subject to any hours worked threshold.
- Period of Leave – the maximum period of Leave is 65 weeks in respect of any one relevant person. The 65 weeks leave may be taken in a continuous period, or in separate unit periods, provided the total period does not exceed 65 weeks. An employer may refuse to allow a period of less than 13 weeks, however, such refusal must be based on reasonable grounds and the employer must specify the reasons in writing to the employee.

SHEILA'S SOCIAL WELFARE ENTITLEMENTS

- Part-time workers Social Welfare Carer's Benefit entitlements - There is an hours threshold in relation to eligibility for Social Welfare Carer's Benefit which stood at 17 hours per week or 34 hours per fortnight in the previous three months of employment (at December 2002). Sheila may therefore have worked less than that threshold and while she is eligible for the leave from her employment she may not be eligible for payment of the Social Welfare Benefit.
- Social Welfare PRSI Qualifications

Sheila must satisfy the qualifying PRSI contribution conditions (as at December 2002) i.e.

156 contributions paid since entry into insurable employment, **AND**

a) 39 contributions paid in the relevant Tax Year,

or

b) 39 contributions paid in the 12 month period before commencement of the Carer's Benefit,

or

c) 26 contributions paid in the relevant Tax Year and 26 contributions paid in the Relevant Tax Year prior to that.

As Sheila is only in employment 3 years she may not qualify for payment of the Social Welfare Benefit if she does not have 156 PRSI contributions paid since entry into insurable employment.

- In the circumstances Sheila should be advised to check her Social Welfare Entitlements with the Department of Social & Family Affairs. If not eligible for Carer's Benefit she may be eligible for Carer's Allowance.
- *Note:* Entitlement to Carer's Benefit is not a condition for entitlement to Carer's Leave.

DAY TWO SESSION ONE SUGGESTED ANSWERS TO QUIZ

1. See Challenges Section of Toolkit.
2. See Rationale and Background Section of Toolkit.
3. E.g Paid/unpaid study leave, flexitime, banking of overtime hours rather than payment for overtime.
4. E.g Three days paid or unpaid paternity leave, banking of overtime hours rather than payment for overtime.
5. Yes.
6. Yes.
7. No.
8. That at least one form of family friendly / working life balance arrangement be available to all workers.

DAY TWO - SESSION 1

MINI CASES (NON STATUTORY) - IMPLICATIONS FOR INDIVIDUALS' WORKING CONDITIONS & SOCIAL WELFARE ENTITLEMENTS

A ACCESS TO JOB SHARING

Susan is a supervisor in a large hospital. She has seven years service with her employer. The hospital and Union have an agreed policy on job sharing, but this does not cover supervisory grades. She applies for job sharing, but is refused. The employer suggests that if she were to return to a lower, non-supervisory grade, her request to job share would be considered again.

Several workers in her department are already job sharing, but at a lower grade.

She asks you for advice on her options and how to proceed.

NOTES FOR TUTOR - QUESTION A - ACCESS TO JOB SHARING

1. Why is this post not amenable to being filled by two job sharers?

Each post at this supervisory level should be examined in depth and the employer should objectively justify that the requirements of the post are such that the post holder must work full-time. The Bilka Kaufhaus ECJ ruling states that measures chosen by the employer must correspond to a real need on the part of the undertaking, be appropriate with a view to achieving the objectives pursued and be necessary to that end".

Has this been done?

Has a job-share partner been sought?

2. The prohibition on staff at supervisory level job-sharing is likely to impact more on women than on men, as the majority of those seeking job sharing are women.

If the position has not been examined in relation to the possibility and implications of job sharing at that level, Susan should be advised that the Union will take her case to the ODEI, on the grounds that the hospital's policy prohibiting job sharing at a particular level means that she is being indirectly discriminated against on the gender ground.

(The issues arising here are as covered in the Weir decision issued by the ODEI.)

B ACCESS TO PART TIME WORK

Janet, a supermarket worker with two year's service at various levels and departments, currently works as department manager. Prior to going on maternity leave she requests that she be facilitated to work part time on her return from maternity leave. Currently, other workers are on part time for various reasons, including childcare and training.

Her employer argues that the store will not be able to operate effectively if she is not working full time, and refuses her request.

Janet approaches you for assistance.

NOTES FOR TUTORS - QUESTION B - ACCESS TO PART TIME WORK

A right to part time work has not been established. Following the normal procedures, the fact that a refusal to allow part time may impact more on women than men could give rise to a claim of indirect gender discrimination, in which case the matter would be appropriate to the ODEI.

The Union should also consider progressing this case through the normal Industrial Relations procedure e.g. the Rights Commissioner in so far as it relates to only one person, or the LRC if the Union is seeking this right for all women returning to work after maternity and additional leave.

The following should be covered in the Unions supporting case:

- Irish Government policy;
- Provisions of Programme for Prosperity & Fairness;
- NESC Report 2002 "An investment in Quality: Services, Inclusion and Enterprise"
- Developing UK Case law - see UK Equal Opportunities Commission web site
- EU policy

The issues arising here are as covered in the ODEI Walsh decision. However, in that case, it was clear that other women had been facilitated to work part-time, so the claim of discrimination on the gender ground was not upheld, and it was agreed that it is within the competence of the employer to insist that a job requires to be filled full time.

C PRSI CONTRIBUTION IMPLICATIONS

Dave, a job sharer, intends to work a five day working week, with a week on, week off pattern.

Can he ensure that her working pattern allows her full social insurance coverage?

Note for tutors:

- See SW105 Worksharing in the Resources Section to calculate how she can maximise PRSI credits.
- To qualify for most short-term social insurance payments, Dave will need to have, in addition to other qualifications,
 - 39 weeks PRSI paid since first starting work
 - AND 39 weeks PRSI paid or credited in the relevant tax year
 - OR 26 weeks paid in the relevant tax year and 26 weeks paid in the tax year prior to the relevant tax year.

An employee is entitled to a PRSI contribution for any contribution week (or part thereof) that s/he is rostered to work, and payment is due in respect of that work, regardless of when payment is made. As a result, an employee may have more weeks of insurable employment than pay packets or vice versa.

The PRSI contribution week begins on the day of the week that January 1st falls on. Therefore, the PRSI week is different in successive years and the same working pattern can result in a different number of PRSI contributions/credits in any given year.

For example, where jobsharer A works Monday to Friday every second week, and jobsharer B works Wednesday to Tuesday every second week in a year when the contribution week begins on a Wednesday (i.e. January 1st is a Wednesday), their PRSI contributions are as follows:

Jobsharer A: Working week Monday to Friday spans two contribution weeks.

Monday and Tuesday are worked in contribution week 1, and Wednesday - Friday is worked in contribution week 2.

Jobsharer A will therefore be entitled to PRSI contribution each week, and 52 contributions over the full year.

Jobsharer B: Working week Wednesday to Tuesday coincides with the contribution week.

Jobsharer B will therefore only be entitled to a PRSI contribution for the week worked, and not during his/her week off. S/he will only have 26 contributions over the full year.

In Dave's case, as he works a five day week, he should negotiate in this situation only to begin his working week on any day EXCEPT the day that January 1st falls on.

NOTE: This issue needs to be considered by workers, Unions and employers each year, and when possible, appropriate steps taken to prevent workers being ineligible for relevant social welfare payments at a later stage.

How a contributory year is calculated is also relevant to employees who work a 3 day, 2 day pattern in alternate weeks.

It may not always be possible or suitable for the individual to adapt their working pattern to be entitled to full credits, but individuals should ascertain this in advance of each new calendar year.

D PUBLIC HOLIDAY ENTITLEMENTS

James and Jennifer are jobsharing partners in a small manufacturing company. Each week, Jennifer works a full day Monday and Tuesday and Wednesday morning. James works Wednesday afternoon, and a full day on Thursday and Friday.

What should they, the union and the employer do to ensure an equitable distribution of the bank holiday entitlements of the post?

NOTES FOR TUTOR - QUESTION D - PUBLIC HOLIDAY ENTITLEMENTS

As most public holidays (excepting December 25th, 26th and January 1st) fall on a Monday, Jennifer will benefit disproportionately. The aim should be to ensure that the job share partners benefit equally from all the conditions of employment, including public holidays. This could involve changing their working pattern by agreement in some weeks so that each benefits from an equal number of public holidays.

E OVERTIME

Michael began working a reduced hours pattern four months ago. He is now working three full shifts a week as opposed to five full shifts. The call centre he works in has seasonal peak periods, when staff can be rostered for overtime at time and a half, as per the collective agreement. During the recent peak, Michael was not offered any overtime, despite his seniority, and having previously worked overtime regularly during the peak period when he was a full-time worker. On querying this, he was told that his decision to work shorter hours implies that he is no longer available for or interested in overtime.

He rejects this suggestion and asks for your advice.

NOTES FOR TUTOR - QUESTION E - OVERTIME

- Michael, as a part time worker, is entitled to the same treatment as a comparable full time worker.
- He is entitled to access to overtime on the same criteria as a comparable full-time worker.
- If an overtime premium is paid Michael is entitled to payment of the same overtime premium as the comparable full-time worker.
- If he is called in to work on days when he would not normally have worked, but a full-time worker would have, he may only be entitled to normal flat rate of pay. In such a case this period is not considered overtime and the Union should negotiate an agreement with the employer that the normal flat pay for that period should be reckonable for occupational pension purposes, where an occupational pension operates. This period should also be reckonable for calculation of annual leave entitlements and any other entitlements calculated in relation to the number of normal hours worked.
- The issue of when the overtime premium should be paid should be negotiated and considerations given to:
 - how will hours worked before normal start time be paid?
 - how will hours worked after normal finish time be paid?
 - how will hours worked on non-rostered days be paid?
 - how will additional "unsocial" hours worked be paid?
 - how will equity between part time and full time workers in relation to overtime payment be achieved?

F TRAINING

Clare works as a cleaner three days a week i.e. Monday, Tuesday and Friday. A necessary training course related to her work is to be held Monday to Friday.

She seeks your advice on whether she can attend, and what the implications for her pay will be.

NOTES FOR TUTOR - QUESTION F - TRAINING

As a part time worker, Clare is entitled to be facilitated to attend training. She is also entitled to be paid for all the days training she undertakes, in the same way as a full time worker would be. In this case therefore if Clare attends the training course for 5 full days she is entitled to payment in respect of the 5 days. This has been established by the ECJ (see EU Case Law in Resources Section).

Another issue that may arise would relate to Clare's availability for training on the two days that she does not normally work i.e. Wednesday and Thursday. If for example she takes both days off to care for children she may not have other childcare facilities available to her. However every effort should be made to facilitate her attendance at the training course, including perhaps structuring the course so that she could attend two separate training sessions and cover the five days in that way. That may not always be possible and the issue of access for part-time workers to Training should be considered as part of an overall agreement on FF/WLB working arrangements.

G PARENTAL LEAVE (JOBSHARING)

Margaret O'Brien is a job sharer working week on and week off. She plans to take Parental Leave and she asks you for advice on her entitlements as a job sharer.

Please advise her and show her how the leave entitlement will be calculated.

NOTES FOR TUTOR – QUESTION G – PARENTAL LEAVE (JOBSHARING)

Job sharers retain their statutory entitlement to continuous period of 14 weeks Parental Leave. Margaret's entitlements are as follows:

1. A continuous period of 14 weeks parental leave.
2. Where there is agreement that the Parental Leave can be taken on a broken basis e.g. on one or more days per week, the Parental Leave entitlement is calculated as follows:
 - on the basis of the number of hours worked during a reference period of 14 weeks calculated in accordance with Section 7(2) of the Parental Leave Act, 1998 i.e. the total number of hours worked by the employee during the agreed reference period represents the total number of hours leave to which the employee is entitled irrespective of how the leave is spread.
3. If in a case where leave is taken on a broken basis the employee and employer do not agree on a reference period the Act provides that:
 - the parental leave equates to 14 times the average number of hours per week during which the employee worked in the employment in the period of 14 weeks immediately before the commencement of each week that he or she takes any of the leave.
4. In determining the 14 weeks mentioned above, absences as a result of Parental Leave during those 14 weeks are treated as if the employee was at work. Absences on Annual Leave, Public Holidays, Sick Leave, Maternity Leave, Adoptive Leave and Force Majeure leave are excluded and a corresponding number of days included immediately prior to the commencement of the period.

Note: See provisions of the Parental Leave Act 1998 and the Equality Authority example of how entitlement to 'Broken Parental Leave' is calculated if the employer and employee cannot agree on a reference period. (See Resources Section of Toolkit).

DAY TWO SESSION ONE

OPTIONAL ADDITIONAL MINI CASE STUDIES

QUESTION H - BONUS PAYMENTS TO JOB SHARER / WORK SHARER / PART-TIME WORKER

An annual bonus payment of €500 is paid at the end of each calendar year to full-time workers with a full attendance record on each scheduled working day with no unauthorised absences including sick leave absences.

The requirements to achieve the bonus payment are:

- to attend 35 hours every working week.

A full-time employee who does not attend for the full 35 hours every scheduled working week does not achieve the full bonus or any part of the bonus. For example, if a full time worker is absent on one or two days in one week of the year i.e. 6 or 12 hours in any one year they do not receive the bonus or any portion of the bonus.

James O'Neill is a part-time worker who works 50% of the hours of a comparable full-time worker every working day of the week. James has a perfect attendance record and has no unauthorised absences, including sick leave absences. What are his entitlements in relation to payment of this bonus?

NOTES FOR TUTOR - QUESTION H -BONUS PAYMENT

This case is included to allow the participants to discuss the issue of objective justification for less favourable treatment of part-time workers. It is not intended to come up with a definitive outcome.

The following issues should be discussed:

- Under the Protection of Employees (Part-time Work) Act, 2001 a part-time worker cannot be discriminated against simply because he/she is a part-time worker.
- There are three provisions in the Act that must be considered:
 - Less favourable treatment is permitted if such treatment can be justified on objective grounds by the employer.
 - Less favourable treatment must:
 - be based on considerations other than the status of the employee as a part-time worker
 - be for the purpose of achieving a legitimate objective of the employer and
 - be appropriate and necessary for that purpose
 - Pro rata provision of certain conditions of employment

- The first question for the group to consider is whether or not less favourable treatment can be justified on objective grounds.
- If it is decided that less favourable treatment is not justified on objective grounds then a part-time worker is entitled to payment of the bonus subject to the same conditions as a fulltime worker i.e. a full attendance record at the end of each calendar year. The issue would then be whether or not James is entitled to the full bonus of €500 or a bonus calculated on a pro rata basis.
- The Act allows the application of 'proportionate provisions' (pro rata provisions) where the condition of employment is a condition, the amount of the benefit of which (in case the condition is of a monetary nature) or the scope of the benefit of which (in any other case) is dependant on the number of hours worked by the employee.
- If it is decided that a part-time worker is entitled to a proportionate bonus payment if they meet the requirement to attend for a half day every scheduled working day as in this case, then James would be entitled to 50% of the bonus i.e. €250 per annum.
- If a proportionate bonus is paid to James how will the position of full-time workers who fail the test of the full-time workers attendance requirements, but meet the test of part-time workers attendance requirements, be addressed?

Note: The outcome of such a case would depend upon a number of issues such as:

- whether a greater proportion of one sex than the other are treated less favourably
- agreement being reached between union/s and management;
- recommendation of a third party e.g. ODEI, Rights Commissioner, LRC or Labour Court

QUESTION I - SICK LEAVE

Where a paid sick leave scheme operates how should this apply to someone participating in work sharing/job sharing or part-time work?

NOTES TO TUTOR - QUESTION I - SICK LEAVE

The Union should negotiate an agreement with the employer covering how the sick leave scheme will operate in the case of work sharers/job sharers or part-time workers.

Under the Protection of Employees (Part-Time Work) Act, 2001 a part-time worker is entitled to no less favourable treatment than a comparable full-time worker and accordingly should have access to the sick pay scheme. The issue would be how the sick pay scheme should apply to the part-time worker.

The following issues would have to be addressed:

- Criteria for access to the scheme should be the same e.g. if there is a service qualification for full-time workers e.g. following completion of probationary period, then the same service qualification should apply for the part-time worker.
- The issue of pro rata application of the sick pay scheme should be addressed in a manner that covers:
 - Pro-rata equivalence
 - Maintenance of parity between full-time and part-time staff
 - Maintenance of parity in the calculation of the sick leave entitlement of the part-time worker and the value placed on each period of leave taken.
- If days that are not scheduled working days for full-time workers e.g., Saturday, Sunday or Public Holidays are not counted as sick days then they should not be counted as sick days for the part-time worker. However if the three days on which a part time worker is scheduled to work covers Friday, Saturday and Sunday then those days would be counted against sick leave entitlements if the part-time worker takes sick leave on those days.
- How should the sick leave entitlements of a part-time worker who works half days every working week be calculated? For example if a scheme provides for 20 days' paid sick leave for full time workers, a part time employee, working mornings only, may be entitled to 20 half days or only 10 half days, if each day's sick leave is viewed as a full day of absence, i.e two of the employee's working days.
- How should the sick leave entitlements of a part-time worker who works 50% of the weeks worked by a full-time worker be calculated?

How the above is achieved will depend upon how the sick pay scheme is structured.

QUESTION J - ANNUAL LEAVE ENTITLEMENTS

Joe is a middle manager. Working full time, he is entitled to 22 days annual leave per year.

He worked three days (7.5hrs per day) per week from January to December, and also took six weeks Parental Leave in April - May. He availed of a day's Force Majeure leave in August.

What is his total Annual Leave entitlement?

NOTE FOR TUTOR - QUESTION J - ANNUAL LEAVE ENTITLEMENTS

Calculated on a pro rata basis, Joe is entitled to 3/5ths of 22 days, ie 13.2 days.

The Organisation of Working Time Act provides that that most employees are entitled to four weeks' annual holidays for each "leave year" with pro-rata entitlement for periods of less than a year.

Parental leave, although it is unpaid, is counted in calculating statutory minimum holiday entitlement. Force majeure leave is also counted, so these leave periods are disregarded in Joe's calculation.

Calculating Joe's annual leave entitlements by one of the following methods as provided in the Act could produce different entitlements.

Depending on time worked:

- a) **4 working weeks** in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment)
- b) **One third of a working week per calendar month** that the employee works at least 117 hours.
- c) **8% of the hours an employee works in a leave year** (but subject to a maximum of 4 working weeks)

Sample calculations:

- a) Joe worked $52 \times 7.5 \times 3$ hours = 1,274 hours. This is less than 1,365 hours so he does not qualify for 4 working weeks (12 days) by this method.
- b) Per calendar month, Joe worked (approx) either $(3 \times 7.5 \times 4)$ hours = 90 hours or $(3 \times 7.5 \times 5)$ hours = 112.5 hours. As this is less than 117 hours, he does not qualify for 4 working weeks (12 days) by this method.
- c) 8% of Joe's hours worked would be $7.5 \times 3 \times 52 \times .08 = 93.6$ hours, divided by 7.5 = 12.48 days

In each case above, the pro-rata entitlement of 13.2 days leave is the longest, and so should be applied.

DAY THREE SESSION TWO

PARTICIPANT ACTIVITY SHEET: NEGOTIATING EXERCISE

CASE STUDY 2

INTRODUCTION

H.S.P. is a retail outlet in a large regional town. It has 49 staff. It is open seven days a week, including late night (until 8.30pm) on Thursdays and Sunday afternoon 2.00pm to 6.00pm. It is fully unionised, with one union representing managerial staff, and another representing the rest of the staff.

There are existing collective agreements between both unions and the company, covering rates of pay, recruitment and promotion and bullying and harassment.

THE CASE

Recently, members have been raising the issue of family friendly working at the branch committee meetings. Several staff are commuting long distances.

One man and one woman wish to reduce their hours to care for their small children.

Other issues are childcare for school age children, adapting to the recently extended opening hours, further education and training, time off for trade union activities.

Following consultation (a mock survey by group will suffice), the union negotiators prioritise some FF/WLB options and begin negotiations with the company to reach agreement to implement them.

NOTES FOR TUTOR – NEGOTIATING EXERCISE

The following additional points could be suggested to relevant groups during their preparation:

CASE STUDY ONE**SOME PREPARATION POINTS - MANAGEMENT SIDE**

- Who will work the 4- 12 shift which may be generally less popular?
- FFWA are on an individual basis in the admin area. If the union got an agreement in production, what implications would there be for existing individual agreements?
- Turnover rates are higher than average for production, this creates an overtime cost to cover vacancies plus a recruitment cost estimated at €300 per production worker
- How will peaks in demand be addressed?
- What are the minimum/maximum legal entitlements?

SOME PREPARATION POINTS - UNION SIDE

- How many people will want it?
- What options should we look for? Should we look for more than one?
- How will it fit into the shift system?
- What supporting evidence of need can be brought forward? (You can assume a survey has been carried out...)
- If flexible working is agreed, how will participants for the pilot be selected? (Seniority has been the rule for allocating overtime, etc.)

CASE STUDY TWO**SOME PREPARATION POINTS - MANAGEMENT SIDE**

- How will cover be provided for all opening hours?
- How will workers using FF/WLB options be managed and supervised?
- What will the costs be?
- How will any overtime be dealt with?
- What advantages are there for the company?

SOME PREPARATION POINTS - UNION SIDE

- Which options are most urgently required?
- Which department/section might be most suitable for a pilot arrangement?
- What is the situation in other stores in the town?
- What are the key steps to implementation?
- What other working conditions/arrangements might be relevant or affected by any change?
- Could childcare facilities be organised/subsidised?