



## Q And A

### Shifts don't cover childcare: ask the expert

I am going back to my weekend job in two weeks. I used to work 16 hours a week on a rotational shift from 8 am till 10pm. My work firstly stated that I was expected to work my previous shift pattern. I requested flexible working, first stating that I can only do from 10 am to 4pm as after 5 I have no one looking after my little one. But according to the operational requirements I have to do 16 hours shift on weekends and need to provide some degree of flexibility. I then offered that I will be able to do 9 to 5 once I had spoken to my mum who would be looking after my little boy. However, they have now stated that I have to work 16 hours from 8 till 4, 9 to 5 and 10 till 6. So I have had to rearrange with my mum, and wrote back to my manager stating I can do 16 hours 8 to 4, 9 to 5 but can't do anything after 5pm as no childcare is available for my little one. But that has now also been rejected and I have been asked to make an appeal. I am now worried that it will be rejected. What do I do? I can't do anything after 5pm. Will they force me to work? I don't want to resign either.. but would this mean they will dismiss me?



#### Answer by Sandra Beale

Your employer's inflexibility with regards to the working hours could constitute indirect sex discrimination as women are more likely to be affected than men because they are more likely to have caring responsibilities.

If your employer insists on the stipulated working hours and you do not work after 5pm on the days where you are required to work till 6pm then your employer could dismiss you.

That would be fair provided they follow a disciplinary procedure during which you would have the opportunity to comment on your situation. If you were dismissed, however, you would then need to decide if you wanted to raise a claim of indirect sex discrimination in an employment tribunal.

*\*Sandra Beale is Workingmums.co.uk's newest HR expert and can respond to questions on employment law from both employers and employees. If you need advice with a maternity or pregnancy issue call her on 07762 771290 or contact her via [www.sjbealehrconsult.co.uk](http://www.sjbealehrconsult.co.uk)*