

## Flexible Working

Flexible working is a way of working that suits an employee's needs, eg having flexible start and finish times, or working from home.

All employees have the legal right to request flexible working - not just parents and carers.

This is known as 'making a statutory application'.

Employees must have worked for the same employer for at least 26 weeks to be eligible.

### What employers must do

Employers must deal with requests in a 'reasonable manner'.

Examples of handling requests in a reasonable manner include:

- assessing the advantages and disadvantages of the application
- holding a meeting to discuss the request with the employee
- offering an appeal process

If an employer doesn't handle a request in a reasonable manner, the employee can take them to an employment tribunal.

**An employer can refuse an application if they have a good business reason for doing so.**

### Types of flexible working

There are different ways of working flexibly.

Job sharing - Two people do one job and split the hours.

Working from home - It might be possible to do some or all of the work from home or anywhere else other than the normal place of work.

Part time - Working less than full-time hours (usually by working fewer days).

Compressed hours - Working full-time hours but over fewer days.

Flexitime - The employee chooses when to start and end work (within agreed limits) but works certain 'core hours', e.g. 10am to 4pm every day.

Annualised hours - The employee has to work a certain number of hours over the year but they have some flexibility about when they work. There are sometimes 'core hours' which the employee regularly works each week, and they work the rest of their hours flexibly or when there's extra demand at work.

Staggered hours - The employee has different start, finish and break times from other workers.

Phased retirement - Default retirement age has been phased out and older workers can choose when they want to retire. This means they can reduce their hours and work part time.

## Applying for flexible working

Employees can apply for flexible working if they've worked continuously for the same employer for the last 26 weeks. It's known as 'making a statutory application.'

The basic steps are:

1. The employee writes to the employer.
2. The employer considers the request and makes a decision within 3 months - or longer if agreed with the employee.
3. If the employer agrees to the request, they must change the terms and conditions in the employee's contract.
4. If the employer disagrees, they must write to the employee giving the business reasons for the refusal. The employee may be able to complain to an employment tribunal.

## Writing to the employer

An employee should email or write a letter to their employer.

Employers may ask employees to use a standard form to make an application.

What the email or letter must include

The application must include:

- the date
- a statement that this is a statutory request
- details of how the employee wants to work flexibly and when they want to start
- an explanation of how they think flexible working might affect the business and how this could be dealt with, e.g. if they're not at work on certain days
- a statement saying if and when they've made a previous application

## Withdrawing an application

Employees should tell their employer in writing if they want to withdraw their application.

The employer can treat an application as withdrawn if the employee misses 2 meetings to discuss an application or appeal without good reason, eg sickness.

The employer must tell the employee they are treating the request as withdrawn.

They should usually make a decision within 3 months of the request (or longer if agreed with the employee).

## Agreeing the application

The employer should write to the employee with:

- a statement of the agreed changes
- a start date for flexible working

They should also change the employee's contract to include the new terms and conditions.

This should be done as soon as possible but no later than 28 days after the request was approved.

### **Rejecting an application**

The employer must tell the employee that they've rejected the application.

### **Reasons for rejecting**

Employers can reject an application for any of the following reasons:

- extra costs that will damage the business
- the work can't be reorganised among other staff
- people can't be recruited to do the work
- flexible working will affect quality and performance
- the business won't be able to meet customer demand
- there's a lack of work to do during the proposed working times
- the business is planning changes to the workforce

### **Appeals**

Employees no longer have a statutory right to an appeal.

But offering an appeals process helps to demonstrate that the employer is handling requests in a 'reasonable manner'.

### **How to appeal**

The employee must follow the company's procedures for appealing.

The employee or employer should follow the company's procedures for solving a workplace dispute if a rejected application causes problems.

Going to an employment tribunal

Employees can complain to an employment tribunal if the employer:

- didn't handle the request in a 'reasonable manner'
- wrongly treated the employee's application as withdrawn
- dismissed or treated an employee poorly because of their flexible working request, eg refused a promotion or pay rise
- rejected an application based on incorrect facts

Employees can't complain to a tribunal just because their flexible working request was rejected.

An employee should complain to the tribunal within 3 months of:

- hearing their employer's decision

- hearing their request was treated as withdrawn
- the date the employer should have responded to their request (but failed to do so)

