

Flexible Working Factsheet

Flexible working patterns allow employees to manage the challenges of balancing work commitments and their caring responsibilities.

There are many different forms of flexible working that cover the way our working hours are organised, the place we work or the kind of contract that we are on.

Flexible working can include:

- part time working, flexi time, term time working, or annual hours where the hours an employee works over a year are calculated
- compressed working hours where an employee works their total agreed hours over fewer working days
- job sharing or working from home.

What is the law on flexible working?

In April 2003 the Employment Act introduced the right for parents of young or disabled children to apply to work flexibly. From April 2007 this right has been extended to cover employees who care for adults.

Who has the right to request flexible working?

You have the right to request flexible working if you are an employee with a contract of employment, have worked for your employer for 26 weeks continuously at the date you make an application, and you are:

- a parent with a child or children under 17 or a disabled child/children under 18
- a carer for an adult who is, or expects to be, caring for an adult who:
 - is married to, or the partner or civil partner of the employee; or
 - is a relative of the employee; or
 - falls into neither category but lives at the same address as the employee
- have not made another application to work flexibly under the right during the past 12 months.

Parents – To qualify the employee must have parental responsibility for the child. This includes biological parents, legal guardians, adoptive and foster parents and spouses of these, including same sex partners as long as they have parental responsibility for the child.

Relatives – The definition of a relative covers parents, parent-in-law, adult child, adopted adult child, siblings (including those who are in-laws), uncles, aunts, grandparents or step-relatives.

How do I make a request?

An application to work flexibly can cover hours of work, times of work, place of work (as between home and place of business only) and must be taken seriously by your employer.

The request to work flexibly must be made in writing, dated and state that the request is being made under the statutory right to apply for flexible working. The application should include:

- confirmation that you are eligible and meet the criteria to apply.
- confirm your relationship to the child or adult.
- an outline of the proposed working pattern you would like.
- an explanation of the effect, if any, you think the proposed change might have on your job and how you think this could be dealt with.
- the date on which you would like the proposed change to start. Remember to give your employer time to consider the proposal and implement it.
- state whether you have made a previous request and, if so, the date of that request.

Your employer may have a standard form for you to use or you could download a flexible working application template from <https://www.gov.uk/flexible-working/overview> .

What evidence of caring is required?

You are not required to prove the caring relationship but it may help your application to give as much information as possible.

'Caring' in this context includes not just personal care but also, for example, emotional support, keeping the cared for person company, helping with financial matters or paperwork, escorting them to medical appointments.

When can I make a request?

You can make a request at any time as long as you meet all the eligibility criteria. It is best to make the request as soon as possible as the application process can be lengthy.

If you have made a previous application within 12 months, your employer may be sympathetic if you find your circumstances have changed and you need to make a further application.

Can my employer refuse my request?

Your employer has to seriously consider your request for flexible working and can only refuse the request if they have good business reasons for it.

It is important to consider the needs of your company when you make your request and to include as much information as you can about how your proposed change will help the business as well as you, or how you can deal with any possible negative impact you think your employer may be concerned about.

Business grounds on which your employer can refuse your application include:

- burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to re-organise work amongst existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

If the request is rejected you can appeal in writing within 14 days of notification.

Hopefully most requests for flexible working will be resolved amicably and wherever possible it is best if an agreement can be reached in the workplace.

Where this has not been possible there are steps that you can take which may include further discussion with your employer, use of internal grievance procedure or assistance for example from a trade union representative or ACAS conciliation.

If a resolution cannot be found or you feel that the process was not followed correctly or you were treated unfairly, you may be able to take further action and make a complaint to an employment tribunal. Claims relating to the refusal of the request for flexible working must be made within 3 months of either the date on which the appeal decision was given or the date of any procedural breach by the employer. In these circumstances, seek legal advice.

Request for Flexible Working Process

There is a process and set timelines to be followed when requesting flexible working. These are outlined in the flexible working process flow chart, but it is also important that you read through your company policy and procedure for flexible working.

The flexible working procedure can be varied, such as extending time limits or having a trial period of the new working arrangements, where both parties are in agreement. The agreement must be recorded in writing and dated by the employer, specifying the dates of the extension and a copy given to the employee.

Sources of Support and Information

- **Carers Bucks** is a charity that supports unpaid family carers. Our working carer service offers advice, guidance and information on work and caring. Visit our website for more information at www.carersbucks.org or contact Sally Hearn on 0300 777 2722; email sally.hearn@carersbucks.org
- **ACAS** offers free, confidential advice on employment issues. Contact their helpline on 08457 47 47 47 or visit www.acas.org.uk
- **GOV.UK** provides comprehensive information on aspects of employment, including benefits and pensions www.gov.uk
- **Carers UK** is the national campaigning charity for carers. Contact their advice line 0808 808 7777 or visit www.carersuk.org
- **Working Families** is the UK's leading work-life balance organisation. Contact their parent and carer helpline for advice on rights at work 0300 012 0312 or visit www.workingfamilies.org.uk
- **Citizens Advice Bureau** visit their advice guide website www.adviceguide.org.uk
- **NHS Carers Direct** – for information, advice and support for carers visit www.nhs.uk/CarersDirect - Helpline is 0808 802 0202 for free, confidential information and advice.



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Dedicated to supporting carers

Flexible Working Process

Application for flexible working completed

Your employer should arrange a meeting to discuss the request with you within 28 days of receiving the application.

The meeting should be at a time and place that is convenient to both of you and you should be allowed to be accompanied by a companion, usually a work colleague, for support at the meeting if you wish to.

If the employer agrees to terms of the application, a meeting may not be required but your employer must notify you accordingly within 28 days of receiving application.

Your employer will notify you of their decision within 14 days of the date of the meeting

Their decision will either:

- Accept the request, establishing a start date and any other agreed actions
- Confirm a compromise that was agreed at the meeting
- Reject the request, setting out clear business reasons for the rejection. You should be notified of the appeal process and you can appeal against the decision

Flexible Working Agreed

Accept the new flexible working arrangements and start on agreed date.

Flexible Working Rejected

If the application has been rejected, you can appeal against the decision.

Appeal Process

If your application has been rejected and you choose to appeal against the decision you must do this in writing, setting out the reasons for the appeal, within 14 days of the date of the rejection of the application.

Appeal Meeting

All parties must meet within 14 days of the employer being informed of your decision to appeal. The meeting must be at a time and place convenient to both and you should be allowed to be accompanied by a companion, usually a work colleague, for support.

Appeal Decision

Your Employer will notify you of their decision within 14 days after the date of the appeal meeting. They must give a written and dated appeal decision.

Their decision will either:

- Uphold the appeal – specify agreed changes and start date
- Dismiss the appeal, stating grounds for decision and a sufficient explanation of the reason.

Hopefully most requests for flexible working will be resolved amicably, however where this has not been possible, you can make a complaint to an employment tribunal. In these circumstances, seek legal advice.