



RealityHR

People Driven Business Growth

FLEXIBLE WORKING REQUESTS

FACTSHEET

JULY 2020

GET IN TOUCH TO FIND OUT HOW WE CAN HELP...



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Flexible working is a way of working that suits an employee's needs, for example changing the number of hours that they work, the times that they work or working from home.

The Coronavirus pandemic has effectively imposed a Flexible Working and Working from Home Trial on many businesses, and we anticipate that increasing numbers of employees will wish to continue working flexibly, even as the pandemic recedes, and work can go back to "normal".

All employees (with over 26 weeks service) have the legal right to request flexible working - not just parents and carers.

This factsheet provides the information you need to respond to a request for flexible working.

WHAT IS FLEXIBLE WORKING?

An employee may lodge a formal request to:

- Reducing working hours from full time to part time
- Work on different days of the week
- Be exempted from working on a particular day of the week
- Be exempted from shift working
- Move from night-shift to day-shift working
- Be exempted from overtime working
- Start earlier or later and finish earlier or later
- Work the same number of hours but spread over fewer days
- Have every second Friday off
- Work during school terms only
- Perform some or all work from home
- Enter into a job-share arrangement

WHO CAN MAKE A FLEXIBLE WORKING REQUEST?

All employees (with over 26 weeks service) have the legal right to make a statutory request, but they only have the right to make one request per year.

You can choose to consider requests from employees who don't have the required length of service, or who have already made a request in the calendar year, but there is no requirement to do so.

HOW ARE REQUESTS MADE?

The request should be put in writing by employee, and should 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, for example if they're not at work on certain days
- a statement saying if and when they've made a previous application

TIMESCALES

A decision must be made within 3 months of the initial request.

CONSIDERING YOUR RESPONSE

You should consider how the request could work in practical terms, and assess the advantages and disadvantages of the application.

You may wish to hold a trial period, to enable you and the employee to consider whether the change works for them and for the company. All details of the trial should be set out in writing, including start and finish dates and clear measurable objectives.

AGREEING TO A REQUEST

If you are agreeing to the request, you do not need to hold a formal meeting, but should set out the new details in writing, as this will be a permanent contractual change, and detailed records must be kept. The letter to the employee should state that it constitutes a Variation to Contract, and should clarify the date the new arrangement starts, and the details of the new working hours, location, salary, holiday accrual and arrangements and/or any other changes.

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

DO WE HAVE TO AGREE THE REQUEST?

Employers must consider the request in a reasonable manner, but they do not automatically have to agree to the request. The employee's right is to request flexible working, not to have it on demand.

TURNING DOWN A REQUEST

Where a request is refused, the reason for the refusal must be one of these reasons.

- extra costs that will damage the business
- the work cannot be reorganised among other staff
- people cannot be recruited to do the work
- flexible working will affect quality and performance
- the business will not 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

Managers are not entitled to invent their own reasons for refusing an employee's request for flexible working, however compelling they may think another reason might be.

There should always be concrete evidence to support the reason for a refusal to grant an employee's request.

RIGHT TO APPEAL

In cases where a request is refused, you should give the employee the right to appeal against the decision. There is no statutory right to appeal, but it demonstrates reasonable behaviour and can help avoid a time consuming and costly tribunal claim.