



Supporting working carers

A guide to requesting flexible working

The right to request flexible working

The right to request flexible working was first introduced in 2003 for parents of young and disabled children. From April 2007 the Work and Families Act 2006 (The Work and Families (Northern Ireland) Order 2006 in Northern Ireland) gave specified carers, as well as parents, the right to request flexible working.

Requesting flexible working

Since 30 June 2014 all employees who have worked for their employer for 26 weeks at the date an application is made can request flexible working. This could include changing working hours or working from home.

Only one request is allowed in a year and any request granted will mean a permanent change to terms and conditions unless a trial period is agreed. Employers can refuse a request, but must give good business reasons from a specific list which is set out in the law. Employees can appeal against this decision.

There is a duty on employers to deal with requests in a reasonable manner, considering whether the request can be accommodated on business grounds. ACAS has produced a Code of Practice which will be taken into account by employment tribunals.

A request can cover changing hours, times or place of work. A flexible working pattern might be the difference between a carer continuing to work or having to resign and yet flexible working opportunities benefit everyone – employers, employees and their families.

Since the right to request was introduced, evidence has shown that most requests are accepted and that the overall impact on employers has been a positive one. A flexible working approach attracts and retains staff, reduces stress and sick leave, increases productivity, improves service delivery, produces cost savings and improves people management.

A CBI Employment Trends Survey revealed that 96% of requests from carers have been accepted and that the overall impact on employers has been a positive one:

- 69% report a positive impact on employee relations
- 63% report a positive impact on recruitment and retention
- 35% report a positive impact on absence rates
- 28% report a positive impact on productivity.

“The average increase in productivity for flexible workers is 21% – worth at least £5-6 million on the company bottom line.”

Director of People Networks, telecoms company



What is flexible working?

Flexible working could include:

- **Flexi-time**

Employees may be required to work within set times but outside of these 'core hours' have some flexibility in how they work their hours.

- **Homeworking**

Homeworking is where employees spend part or all of their working week from their home. Some employees request this through a flexible working request, but some may request this on a temporary or informal basis.

- **Job sharing**

Usually two employees share the work normally done by one person.

- **Part time working**

Employees might work shorter days or fewer days in a week.

- **Term-time working**

Employees don't work during school holidays and either take paid or unpaid leave or their salary is calculated pro-rata over the whole year.

- **Shift-swapping or self-rostering**

Employees agree shifts among themselves and negotiate with colleagues when they need time off with the process being overseen by managers.

- **Staggered hours**

Employees have various starting and finishing times meaning that goods and services are available outside traditional working hours.

- **Compressed hours**

Employees work their total hours over fewer working days eg a ten day fortnight is compressed into a nine day fortnight.

- **Annualised hours**

Employees' hours are calculated over a whole year and then split into 'fixed shifts' and 'reserve shifts' which can be agreed on a more flexible basis.

Examples of requests

Barry requested to work from home: Barry works full time as an account manager for a large company and cares for his son who has learning disabilities. Barry has a 1½ hour journey to and from work and is finding the long days very hard to cope with on top of his caring responsibilities. Barry makes a request to work three days a week from home. He and his manager work out how they can set up all the systems he needs from home so that office-based staff will be able to contact him easily and that most of the work he does can be done remotely. He will also still be able to attend meetings on the days he is in the office and can be flexible about moving his 'home work days' if necessary.

Diane requested to work compressed hours: Diane works as a sales assistant and cares for her husband who has cystic fibrosis. Her husband currently receives care from social services for three days a week, and his sister looks after him for one day a week. Diane now works her 30 hour week in four days instead of five to enable her to look after her husband for the rest of the week.

Conrad requested to work annualised hours: Conrad works in a call centre and cares for his wife who has been diagnosed with manic depression. Conrad's wife's condition is such that her need for support varies; some months she needs very little looking after, other months she needs someone to be with her almost all the time to make sure she is safe. Conrad asks to work annualised hours so that he has some flexibility to meet her needs but can carry on working - from the 2080 hours a year he must work, Conrad has a set pattern of work for 1040 hours (20 hours a week). The remaining hours he agrees on a monthly basis with his employer; during the months his wife is well, he works extra hours, when she is unwell, he reduces his hours.

Who has the right to request flexible working?

Since 2014 all employees who have worked for their employer for 26 weeks at the date an application is made can request flexible working.

Employees have the right to make one application per year, however, employers can grant further changes if employees find that their circumstances have changed and need to make a further application. The change to a working pattern will mean a permanent change to the employee's contract, unless agreed otherwise, eg a trial period or time-limited change.

The ACAS Code of Practice and the ACAS good practice guide recommend that an employee should be allowed to be accompanied to meetings to discuss flexible working requests.

The employer can treat a request as withdrawn if the employee fails to attend, without good reason, two consecutive meetings to discuss the request for flexible working (the employer must then inform the employee of that decision). It is therefore advisable that an employee informs their employer as soon as possible if and why they are not able to attend a meeting.

Employees have the right to make one application for flexible working per year.



Request for flexible working

Employees can use this tear-out form to make an official request to work flexibly. However, its use is not mandatory; a request can be made in whatever form is most suitable to the employee, eg a letter to the employer, or on a form provided by the employer or by e-mail. However, this sample form will help employees to ensure that all the necessary information is provided.

Additional sheets can be added if more information is required.

Personal details

Name: _____

Position: _____

Manager: _____

NI No: _____

Staff or payroll no: _____

I would like to make a statutory request to work a flexible working pattern that is different to my current working pattern. (Optional: I am requesting a change to my working pattern to help me manage my work and caring responsibilities.)

I meet each of the eligibility criteria:

I have worked continuously as an employee of the company for the last 26 weeks.

I have not made a request to work flexibly under this right during the past 12 months.

www.employersforcarers.org

employers@carersuk.org
020 7378 4956



Current work pattern

My current working pattern (days, hours, times and/or location) is:

Requested work pattern

I would like to work (days, hours, times and/or location):

I think that the effect on my employer(s) and colleagues can be dealt with as follows:

I would like this new pattern of work to start on: (date)

Impact on my employer and colleagues

I think that this change in my working pattern will affect my employer(s) and colleagues as follows:

I understand that this change would mean a permanent change to my contract, unless agreed otherwise.

Signed: _____

Date: _____

Employer's confirmation of receipt

Cut this slip off and return it to your employee in order to confirm your receipt of their request.

Dear: _____

I confirm that I received your request to change your work pattern on: _____

I shall be arranging a meeting to discuss your request as soon as possible. In the meantime, you might want to consider whether you would like a colleague to accompany you to the meeting.

Signed: _____

Date: _____

Summary of employee and employer rights, responsibilities and requirements

Employee rights

- To request to work flexibly.
- To have your request dealt with in a reasonable manner in line with the ACAS Code of Practice which recommends that:
 - you should be allowed to bring along a companion to meetings with your employer to discuss your request
 - you should be allowed to appeal against an employer's decision to refuse your request.
- To take a complaint to a tribunal in certain circumstances.
- To be protected from detriment or dismissal for making a request.
- To have your request refused only where there is a clear business reason for doing so.

Employee responsibilities

- To provide a carefully thought-out request.
- To ensure your request is valid by checking that you meet the eligibility criteria and that you have provided all the necessary information.

- To arrive at meetings/discussions on time and to be prepared to discuss your request in an open and constructive manner.
- To be prepared to be flexible yourself in order to reach an agreement with your employer.

Employer rights and requirements

- To reject a request only if the desired working pattern cannot be met within the needs of your business.
- To seek your employee's agreement if you need to extend any of the timescales.
- To consider a request withdrawn in certain circumstances.
- To consider requests properly in accordance with the ACAS Code of Practice.
- To ensure you stick to the time limit.
- To decline a request only where there is a recognised business reason.
- To ensure that you do not subject an employee to detriment or dismissal for making a request.

About Employers for Carers

Employers for Carers is Carers UK's membership forum for employers who want to support the people in their workforce who are carers. Its purpose is to:

- provide practical advice and support for employers seeking to develop carer friendly policy and practice and retain skilled workers
- identify and promote the business benefits of supporting carers in the workplace
- influence employment policy and practice to create a culture which supports carers in and into work.

Employers for Carers believes that carers should have choices about work. It is important that those carers who want to work, and are able to do so, get the right support.

At the core of the forum is a leadership group of employers who are already rising to the challenge of supporting carers in their workforce and have a wealth of good practice and experience to share.

For more details visit employersforcarers.org, email employers@carersuk.org or telephone 020 7378 4956.

About Carers UK

Carers UK is the national membership charity for the millions of people who look after older, ill or disabled family and friends in the UK.

At times, caring can be profoundly joyful. There's nothing more natural and human than helping our loved ones get the most out of life.

There's also nothing more difficult than focusing on someone else's needs without neglecting our own. Whether we're caring around the clock or balancing caring with work and family life, it can be exhausting. The 'system' can be bewildering. The emotions can be shattering.

However caring affects you, we're here with support, information and advice, campaigning for lasting change and innovating to find new ways to make life better.

carersuk.org

info@carersuk.org | 020 7378 4999 | Adviceline: 0808 808 7777

How do employees make a request?

The request to work flexibly must be made in writing, dated and should include:

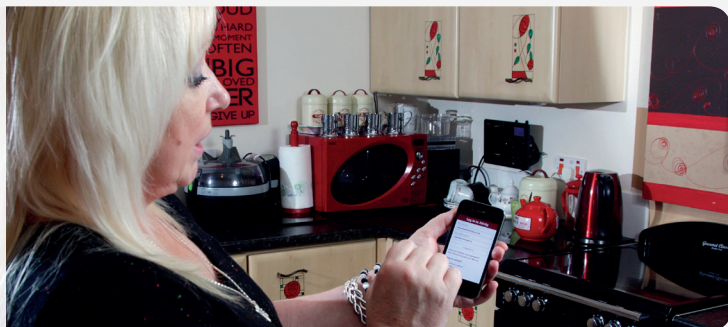
- an outline of the working pattern that the employee would like to change to
- an explanation of the effect, if any, they think the proposed change might have on their job and, how they think this could be dealt with
- the date on which they would like the proposed change to start
- a statement that it is a statutory request for flexible working and the dates of any previous requests.

It is important to consider the needs of the company or organisation when a request is made, and that as much information as possible is included about how the proposed change will help the business as well as the employee, or how any possible negative impact can be dealt with. This will ensure that the employer and employee have a productive discussion about how the request can work.

Example: Neela is a hairdresser and works in a busy salon. She cares for her husband who has multiple sclerosis and requests to start work half an hour later so that she can help him get ready for his day. In her application she suggests that this will have a minimal impact on the business as it is the quietest part of the day and that she will make up the time during the lunch period when it is far busier.

Some employers have a standard form and there is a sample form in the middle of this booklet.

It is important to consider the needs of the company or organisation when a request is made.



Should employees explain why the request is being submitted?

Employees do not have to provide proof of their circumstances when they are requesting to work flexibly but it may help a request if as much information as possible is given. Managers will need to look across teams when considering requests and it is good practice to involve the whole team, and in particular, the people who would be affected by the change in working pattern when introducing change. Team members may have suggestions of their own which would accommodate a range of working patterns.

Can an employer refuse a request?

An employer can only refuse a request if they have one of the following business reasons which are set out in legislation:

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

The ACAS Code of Practice recommends that the employer should explain their reasons in writing as this can help avoid future confusion.

Employers should also ensure that they are not discriminating against employees with caring responsibilities. People who are looking after someone who is elderly or disabled are now protected against direct discrimination by association or harassment because of their caring responsibilities under the Equality Act 2010. In July 2008 the European Court of Justice ruled in the Sharon Coleman case that laws relating to discrimination of disabled people should also apply to their parents and carers.

What can an employee do if their request is refused?

Wherever possible it is better to reach an agreement on flexible working within the workplace. Employees should be allowed to appeal a refusal and the ACAS Code of Practice recommends that it can be helpful to allow an employee to speak with the employer about the decision as this may reveal new information. It is also good practice to allow employees to be accompanied by a work colleague or union representative to any meetings.

All requests and appeals must be considered and decided on within three months from first receipt of the request, unless an extension is agreed.

It is worth thinking about whether a trial period might help – this gives both the employer and employee an opportunity – without commitment – to test out the suggested flexible working pattern to see what impact it has both on the business and the employee.

Example of appeal: Alice works full time as a receptionist and looks after her mother who has dementia. To ensure she is able to take her mother to a day service and pick her up again at the end of the day, Alice asks to reduce her hours and work shorter days. At a meeting to discuss the request, Alice's employer raised concerns about the change, saying that reception needs to be covered at all times. Following the meeting, Alice's request is refused on the grounds that the company cannot afford to recruit a job share. Alice appealed the decision and in a further meeting demonstrated that the hours she would be working were the busiest time of the day, when two people are needed, and so the workload would be manageable during the times that the other receptionist would be alone. She also suggested that another member of staff could be trained up to do some of her tasks, which would cost less than recruiting a new member of staff. Her request was allowed following the appeal meeting.

What can an employee do if their request is still refused?

Wherever possible it is better to reach agreement on flexible working within the workplace, however, there are a number of options open if an employer refuses the request including:

- informal discussions - there may be some simple misunderstanding of the procedure or facts which can be resolved informally
- use of the employer's internal grievance procedure
- assistance from a third party such as a trade union representative or some other suitably experienced person
- use of the ACAS Arbitration Scheme to help find a solution - by providing information or where appropriate through a process of conciliation.

Employees can make a complaint to an employment tribunal if, at the end of the process, their request is still not accepted, based on the following:

- the request was not dealt with in a reasonable manner
- the employee has been discriminated against in some way
- the request was rejected on the basis of incorrect facts
- the employer's reasons for refusing the request are not allowed, i.e. they are not one of the specified business reasons
- the employer wrongly treats the request as withdrawn or the employer's decision is not made in time.

Some employees may be able to make a claim under Equalities legislation if they feel they have been discriminated against. This is a complicated area of law and specialist advice should be sought by anyone considering this course of action.

There are strict time limits on taking a complaint to an employment tribunal and employees should seek legal advice as soon as possible.

Are employees protected for making a request to work flexibly?

Employees who believe they have suffered a detriment or dismissal for making a request to work flexibly can make a complaint to an employment tribunal.

Requesting flexible working – the process

▼ **Employer receives a written request to work flexibly**

The employer should talk to the employee as soon as possible after receiving the request. A meeting is not necessary if the employer intends to accept the request.

▼ **Request is considered carefully**

In considering the request employers must not discriminate unlawfully against the employee and can only refuse the request on one of the specified business reasons.

▼ **Request is discussed**

There is not a statutory right to be accompanied by a work colleague/ union representative to a meeting to discuss flexible working requests but the ACAS Code of Practice recommends that employees should be allowed to be accompanied.

▼ **Employee is informed of decision**

The ACAS Code of Practice recommends that employers should inform the employee of the decision in writing, as this can help to avoid future confusion.

▼ **If request is refused**

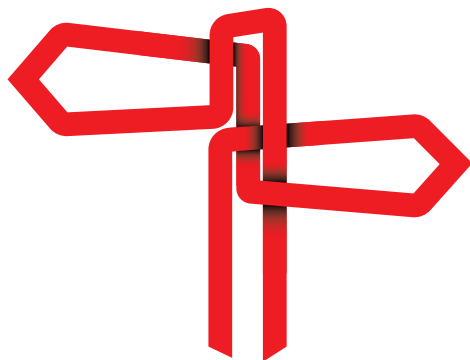
The ACAS Code of Practice recommends that employees should be allowed to appeal. It can be helpful to have a further discussion with the employee about the decision as this may reveal new information.

▼ **Deal with requests promptly**

The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless an extension is agreed.

Enabling carers to combine work
with care is better for business
and better for everyone.

We are building a
network of carer
positive employers
to lead the way.



Employers for Carers

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EfC is an employer membership service provided by Carers UK



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