

# Right to Request Flexible Working

## Overview

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'Flexible working' describes a type of working arrangement which gives a degree of flexibility on how long, where, when and at what times employees work.

- The statutory 'right to request flexible working' applies to all employees with at least **26 weeks of continuous employment**, regardless of parental or caring responsibilities. NB – This is a right to *request* flexible working, not a right to flexible working.
- An employee can only make a statutory request once in any **12-month period**.
- Employers **have a duty to consider a request in a reasonable manner** and can only refuse a request for flexible working if they can show that one of a specific number of grounds apply.

## Handling Requests in a Reasonable Manner

### *The Request*

A flexible working request from an employee must be in writing and must include the following information:

- The date of their application, the change to working conditions they are seeking and when they would like the change to come into effect.
- What effect, if any, they think the requested change would have on you as the employer and how, in their opinion, any such effect might be dealt with.
- A statement that this is a statutory request and if and when they have made a previous application for flexible working.

You should make clear to your employees what information they need to include in a written request to work flexibly.

### *What Should You Do With a Request?*

Once you have received a written request, you must consider it.

- You should arrange to talk with your employee as soon as possible after receiving their written request. If you intend to approve the request, then a meeting is not needed.
- You should allow an employee to be accompanied by a work colleague for this and any appeal discussion and the employee should be informed about this prior to the discussion.

## ***Consider the Request***

You should consider the request carefully, looking at the benefits of the requested changes in working conditions for the employee and your business, and weighing these against any adverse business impact of implementing the changes.

In considering the request, you must not discriminate unlawfully against the employee.

## ***The Decision***

Once you have made your decision, you must inform the employee of that decision as soon as possible. You should do this in writing as this can help avoid future confusion on what was decided.

If you accept the employee's request, or accept it with modifications, you should discuss with the employee how and when the changes might best be implemented.

If you reject the request, it must be for one of the following **business reasons** as set out in the legislation:

- the burden of additional costs;
- an inability to reorganise work amongst existing staff;
- an inability to recruit additional staff;
- a detrimental impact on quality;
- a detrimental impact on performance;
- detrimental effect on ability to meet customer demand;
- insufficient work for the periods the employee proposes to work; or
- a planned structural change to your business.

If you reject the request, you should allow your employee to appeal the decision. It can be helpful to allow an employee to speak with you about your decision, as this may reveal new information or an omission in following a reasonable procedure when considering the application.

## ***Deal With Requests Promptly***

All requests, including any appeals, must be considered and decided on within a period of **3 months** from first receipt, unless you agree to extend this period with the employee.

If you arrange a meeting to discuss the application, including any appeal, and the employee fails to attend both this and a rearranged meeting without a good reason, you can consider the request withdrawn. If you do so, you must inform the employee.

This is a summary of the rules and the nuances of the regime can be complex. Please let us know if you have any further questions—we would be happy to help.



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