

## What is the entitlement?

Employees who are parents of those children aged under 6 (or of disabled children aged under 18) have had the right to apply to work flexibly. You now have a legal duty to seriously consider employees' requests for flexible working. Although this means that any request for flexible working has to be considered very carefully, this right does **not** mean that employees have an automatic right to work flexibly. You may have very good reasons why you cannot agree to your employee's request to work flexibly.

## Who can make a request?

In order to be eligible to apply to work flexibly, an individual must be an employee and:

- have a child under the age of 6 (or under 18 if child is disabled);
- be the child's mother, father, adopter, guardian or foster parent (or be their partner or married to)
- have worked with their employer continuously for 26 weeks at the time when their application is made;
- have or expect to have responsibility for the child's upbringing; and,
- be making the request in order to care for the child.

OR

- be or expect to be caring for an adult aged 18 or over who is either married to or the partner or civil partner of the employee, or who is a relative of the employee, or who is living at the same address as the employee;
- have worked for their employer for a continuous period of at least 26 weeks at the date the application is made;
- be making the application in order to enable them to care for the adult;
- not have made another application to work flexibly under the right during the past 12 months.

A 'relative' for these purposes includes parents, parents-in-law, adult children, adopted adult children, siblings (including those who are in laws), uncles, aunts, grandparents and step relatives.

Employees who have children under the age of 6 must make the request no later than two weeks before their child's 6th birthday (or 18th birthday in the case of a disabled child) and are prohibited from making more than one application to work flexibly per year in order to prevent an employer being inundated with requests.

Employees may request a change in the hours/times they work or request to work from home e.g. flexitime, compressed hours or job-sharing. Before making the request, the employee is obliged

to give careful consideration to how their employer can adopt the suggested working pattern. It is up to the employee to suggest how you can reorganise your business around their request. The request must be in writing and, if accepted by you, will entail a **permanent** change in the employee's contract of employment.

### What is the procedure?

The flexible working procedure is set down by law and details of the exact procedure that must be followed can be found on the DTI website at: [www.dti.gov.uk/er/individual/flexible-pl516.htm](http://www.dti.gov.uk/er/individual/flexible-pl516.htm).

The DTI has also published a series of Flexible Working Forms for employers and employees to use. You can download these forms from [www.dti.gov.uk/er/individual/flexforms.htm](http://www.dti.gov.uk/er/individual/flexforms.htm).

You will be expected to meet a tight deadline in response to an employee's request for flexible working. You will be required to meet with the employee within 28 days of receiving the employee's written request. The employee will be entitled to bring a companion to the meeting if desired. During the meeting you will have to seriously consider the proposed working pattern and discuss the options with the employee.

You will then only have **14 days** from the date of the meeting to write to the employee and either:

1. agree the new work pattern and a start date for the new flexible working to take effect; or,
2. set out clear business grounds why the request for flexible working is not acceptable and the reasons behind the decision.

### Can the time limits be extended?

You can extend these time limits only where both you and the employee agree. Any extensions must be recorded by you in a written record of agreement and copied to the employee and should include the following information:

- What period the extension relates to.
- The date on which the extension is to end.
- The date of the agreement.

### Can the employee appeal against my decision?

Yes, the employee has **14 days** in which to appeal against your decision. The purpose of the appeal procedure is to encourage "both parties to reach a satisfactory outcome at the workplace".

## What are the reasons for refusing requests?

The law on flexible working only gives an employee an opportunity to request flexible working: it does not give them an absolute right to work flexibly from now on. There are a series of specific business grounds on which you are entitled to turn down an application. The reasons are as follows:

- Burden of additional costs;
- Detrimental effect on ability to meet customer demand;
- Inability to reorganise work among existing staff;
- Inability to recruit new staff;
- Detrimental impact on performance;
- Insufficiency of work during proposed hours;
- Planned structural changes.

You should be aware however that an employee can still bring a claim under the Sex Discrimination Act if they feel that you have discriminated against them. If a tribunal believes that you cannot justify a refusal to allow flexible working, it can award compensation for discrimination and/or recommend that the employer grants the employee's request.