

## Employers Guide – Flexible Working

Perceptions of working routines have changed in recent years, the perception of working routines has changed. Many think it is the end of the traditional 9-5. With changes in flexible working laws, there is more opportunity for employees to request this.

Offering flexible working is a great employee benefit. If done correctly it can provide a massive boost to employee morale and actually increase productivity.

However, for some roles, flexible working simply isn't an option.

So where do you draw the line? What are the pros and cons? Can anyone request flexible working in the UK? And, if they do, what are your responsibilities as an employer?

### **What is Flexible Working?**

It's a way of working that suits an employee's needs, for example having flexible start and finish times, or working from home.

There are several practices that can use flexible working.

It's not just letting employees come and go as they please. The term actually refers to any type of work pattern that differs from your existing one.

Flexible working practices won't affect your statutory employment rights, including:

- Claiming
- Itemised pay statements
- A written statement of terms and conditions
- Statutory minimum notice
- The longer period of

### **Do Employees Have the Right to Request Flexible Working?**

Yes, your staff can make a claim for flexible working hours. And there are two types of requests they can make. These are:

1. **Statutory requests:** A request made under the law on flexible working
2. **Non-statutory requests:** One which isn't made under the law on flexible working.

Legally, employees can only make a statutory request after 26-weeks of service. However, you may allow them to do so earlier.

An employee can only make one statutory request in 12 months. If it is a non-statutory request, they can make as many requests as they wish, unless their contract states otherwise.

It doesn't matter which department the employee is in, anyone can make a request, and you legally have to consider it. You don't—legally—have to grant the request.

To make a request, the employee must:

- Make the request in writing
- State when they made their last request (if applicable)
- What changes they're seeking
- State that it is a statutory request for flexible working (if applicable)

## Refusing Flexible Working Requests

You must have a sound business reason for rejecting the request, and you should decide and respond to the request within 3 months.

A sound business reason must be reasonable. Examples of unreasonable grounds for refusal would be: "The management team don't like employees working part-time or working from home" or "It doesn't fit into our culture".

When responding, there should be a letter refusing the flexible working request sent to the employee stating the business reasons.

You should also ensure it is not grounds for flexible working, so there should be no business reasons related to protected characteristics, this can lead to a discrimination claim.

## Types of Flexible Working Arrangements

Some of the most common types of flexible working include:

- Part-time work.
- Compressed hours.
- Job sharing.
- Annualised hours.
- Staggered hours.
- Phased retirement.

With so many methods of flexible working, it's often difficult to retain all the information you need. To avoid confusion, we'll skip part-time working and shift work, as these are common work patterns and often have a flexible working contract, anyway.

Let us look at those 3 types of arrangements and give some examples of flexibility at work brought about by them. We'll focus on compressed hours, flexitime, and home working.

### Compressed Hours

This arrangement allows employees to work their contracted hours over a fewer number of days. If an employee normally works 30 hours a week over four days, they could now work three 10 hour days instead.

Or, they could choose to work five 6 hour days.

So long as they fulfil their contractual hours, they can split them however they like.

### Flexitime

This arrangement establishes core working hours and flexible working hours. So, for example, 10:00-16:00 would be core hours, then you could make flexible working hours 7:00-10:00 and 16:00-19:00. What this means is that an employee **has** to work between 10 am and 4 pm, but may arrive at any time between 7 am-10 am and leave any time between 4 pm-7 pm.

You'd also agree on a contractual total number of hours to work and count these over a 4 week accounting period or quarterly.

So, if your employees work 9-5, they'd still have to do their 8 hours, they'd just get to choose when to work them, having flexible start and finish times.

### **Home Working**

Employees will spend all or part of the week working from home or somewhere else away from the working premises.

### **Flexible Working Request After Maternity**

Many female employees find it difficult to return to work after maternity due to childcare responsibilities. This can make flexible working for women important to keep these employees. often see refusal for flexible leave as sex discrimination. While it is not direct discrimination, they see it as an indirect form of it.

Indirect discrimination is where the employer cannot prove that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

For example, If your policy or practice is to not agree to requests from anyone (though all requests should need to be considered), you aren't treating women any differently from a man making the same request.

However, statistically, the rule places women at a disadvantage because more working women than men have childcare responsibilities.

The rejection must base any justification provided on fact and not assumptions. For example, if you state that flexible working would disrupt business, you need to show a proportionate means of achieving a legitimate aim.

### **Benefits of Flexible Working**

There are some key benefits to flexible working in your business. The first and most obvious benefit is that it will help you retain key talent and recruit new talent.

Flexible working reduces fatigue and stress and allows employees to work to their strengths. All of this contributes to a boost in productivity and a better work-life balance.

In addition to employee benefits, there's also a financial incentive. Whichever arrangement you choose, it's likely to significantly reduce employee absenteeism, tardiness and sick leave. Greater retention also means less money spent trying to recruit new talent. And flexible working arrangements are generally inexpensive and quick to implement.

### **Disadvantages of Flexible Working**

Usually, you'll find that the disadvantages come from the type of employee. If they're likely to take advantage of company time, they'll do so even more with a flexible working arrangement.

## **Implementing Flexible Working Policy**

It is essential you know how to manage flexible working. If you want to implement a flexible approach to work, you should do so in writing, and detail the following:

- What type of arrangement you're putting in place
- Provisions for who can request such an arrangement (those who've been with the company for 26 weeks or more)
- Eligibility of roles
- How to make an application
- The criteria you'll consider when deciding whether to approve a request
- Terms and conditions of employment
- Cover for absence
- Trial periods (if applicable)
- Appeal procedure upon rejection of the request

## **Flexible Working Legislation Changes**

There are no major changes to flexible working legislation or flexible working rights currently in the works.

The right to request flexible working only became law in recent years. The legislation states that you can only reject a request for one of the following reasons:

- Additional costs.
- An effect on the ability to meet customer demand.
- Inability to reorganise work among existing staff.
- Inability to recruit new staff.
- A detrimental impact on quality.
- A detrimental impact on performance.
- Insufficiency of work during the period of work proposed by the employee.
- Planned structural changes.

Again, you should consider all requests, decide, and respond within three months of the initial request. You can agree on extensions with the employee if necessary.

## **Health & Safety for Remote Working**

Managing health and safety for employees working from home is essential for employers as they are still responsible for them.

While it is unlikely you can carry out risk assessments at employee's homes, you should still check the following:

- Employees feel they can manage their work safely from home
- They have the right equipment to work safely
- They are in regular contact with management, so it does not isolate them
- You make reasonable adjustments for an employee who has a disability