



Supporting working carers

A guide to requesting flexible working

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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. The right was then extended from 30 June 2014 to all employees who had worked for their employer for 26 weeks at the date of their request application.

An updated right to request

From 6 April 2024 the right to request flexible working is as follows:

- All employees in England, Scotland and Wales can request flexible working from the first day of employment.
- Up to two requests are allowed in a year. Any request granted will mean a permanent change to terms and conditions unless a trial period is agreed or a time-limited change.
- Employers are now required to consult with an employee before rejecting a flexible working request.
- There is a reduced waiting time for decisions to be made (for the employer to administer the statutory request) from three months to two months.
- Employees are no longer required to explain what effect, if any, the change applied for would have on the employer and how that effect might be dealt with.

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.

1. What is flexible working?

Flexible working is a broad term used to describe any working arrangement that meets the needs of both the employee and employer regarding when, where and how an employee works.

Examples include (but are not limited to):

- **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 or remote working.** Employees spend part or all of their working week from their home or from another location. Some employees request this through a statutory flexible working request, but some may ask for this arrangement on a temporary or informal basis.
- **Hybrid working.** Employees split their time between the workplace and remote working.
- **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.
- **Compressed hours.** Employees work their total hours over fewer working days e.g. 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.
- **Staggered hours.** Employees have various starting and finishing times meaning that goods and services are available outside traditional working hours.
- **Shift-swapping or team-based rostering.** Employees agree shifts among themselves and negotiate with colleagues when they need time off with the process being overseen by managers.

2. How do employees make a request?

From 6 April 2024 the revised **ACAS Code of Practice (2024)** must be followed where an employee makes a statutory request for flexible working.

A 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 – this could be in relation to their hours, times or place of work
- 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.

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.

It is helpful to consider the needs of the organisation when a request is made, and for both employee and employer to approach this with an open mind so that, if required, there can be a constructive discussion to find a mutually agreeable solution.

Examples of requests

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.

Barry requested to have a hybrid working arrangement: 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 Bipolar Disorder. 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.

Request for flexible working – sample form

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, e.g. a letter to the employer, or on a form provided by the employer or by email. 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 am an employee of the organisation. ☐
- » I have not made a request/have only made one request (tick where applicable) to work flexibly under this right during the past 12 months ☐
- » I do not have a current (live) request for flexible working in process at this time ☐

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):

Considering the needs of the organisation, how will any possible impact be dealt with?

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

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

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:

3. Can employees make more than one request?

An employee may make two statutory requests for flexible working within a year. They may only have one live request with their employer at any one time.

Once a request has been made it remains live until any of the following happen:

- a decision about the request is made by the employer
- the request is withdrawn by the employee
- an outcome is agreed by the employer and employee
- the statutory two-month period for employers to decide on the request ends.

Every employee in England, Scotland and Wales has a statutory right to request flexible working from the first day of employment.



4. How should employers consider a request for flexible working?

The revised **ACAS Code of Practice** on requests for flexible working (2024) states that “employers must handle every request in a reasonable manner”. This should include carefully assessing the effect of the requested change for both the employer and employee, such as the potential benefits or other impacts of accepting or rejecting it.

A failure to follow the Code does not, in itself, make a person or organisation liable to legal proceedings. However, employment tribunals will take the Code into account when considering relevant cases.

Employers must agree to a flexible working request unless there is a genuine business reason not to. A decision to reject the request must be made for one or more business reasons which are set out in the law (Employment Rights Act 1996):

- the burden of additional costs
- an inability to reorganise work amongst existing staff, or to recruit additional staff
- a detrimental effect on quality, performance or ability to meet customer demand
- insufficient work available for the periods the employee proposes to work
- planned structural changes to the employer’s business.

In handling a request, and any information an employee discloses as part of this, employers must not discriminate unlawfully against the employee in relation to any of the protected characteristics set out in the Equality Act 2010. (These are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation).

If an employee seeks a reasonable adjustment for their disability through a request for flexible working the employer must consider this in line with its legal obligations under the Equality Act. (The legal obligation to make reasonable adjustments is separate to the legal obligation to consider a request for flexible working).

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 protected against direct discrimination by association or harassment because of their caring responsibilities under the Equality Act. 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.

Employers must also not reject a request without first consulting the employee. Unless the employer decides to agree to a written request in full, they must consult the employee before they make a decision.

5. How should an employer consult an employee about a request?

The employer should invite the employee to a consultation meeting to discuss their request. This can help make sure that all relevant information is understood before a decision is made.

The meeting should be held without unreasonable delay and the employer should notify the employee of the time and place in advance. The employee and employer should both have reasonable time to prepare for the discussion, while taking into account the statutory two-month period for deciding requests including any appeal (see **Q10** below).

The meeting should be held privately and can take place in person or remotely via online video-conferencing, or where neither of those are possible, via telephone.

The content of the meeting and the way it is conducted should allow for a reasonable discussion and consideration of the request. The ACAS Code of Practice recommends that: *“it will usually be helpful to discuss, for example, the potential benefits or other impacts of accepting or rejecting the request, and any practical considerations involved in implementing the request.”*

6. Can an employee be accompanied at a meeting to discuss a request?

There is no statutory right for an employee to be accompanied at a meeting to discuss a request for flexible working. However, the ACAS Code recommends this as good practice.

The ACAS Code recommends that, if the request to be accompanied is reasonable, the employer should allow the employee to be accompanied by “a fellow worker, a trade union representative or an official employed by a trade union”. The employer should also inform the employee prior to the meeting that they may request a companion.

An employee’s request to be accompanied does not have to be in writing or within a certain timeframe. However, an employee should provide enough time for the employer to deal with the companion’s attendance at the meeting. Employees should also consider how they make their request clearly understood, for instance by letting the employer know in advance the name of the companion where possible and whether they are a fellow worker or trade union official or representative.

The employer should allow the employee to be accompanied by “a fellow worker, a trade union representative or an official employed by a trade union”.



7. What happens if an employee does not attend a meeting?

The employer's arrangements for a meeting should provide a reasonable opportunity for the employee to attend.

However, if the employer arranges a meeting to discuss the request (including any appeal), and the employee fails to attend both this meeting and a rearranged meeting without a good reason, the employer may consider the request withdrawn. If the employer does consider the request withdrawn, they must inform the employee of this, and should do this in writing.

8. What happens if an employer doesn't accept a request?

If the original request can't be accepted in full, the ACAS Code recommends that the employer and employee should discuss if it may be possible to secure some of the benefits that the request sought.

They should discuss, for example, any potential changes to the original request, or any alternative flexible working options that may be available and suitable for both sides. The Code also recommends that it may be helpful to discuss whether a trial period may be appropriate to assess the feasibility of a flexible working arrangement.

9. How should employers communicate a decision about a request?

Once the employer has made a decision, the ACAS Code recommends that they should confirm this in writing without unreasonable delay, taking into account the statutory two-month period for deciding requests including any appeal.

If the employer **agrees to the request** (or if a modified or alternative arrangement is agreed after consulting with the employee), the written decision should confirm the details of the agreed arrangements.

The written decision should offer the employee an opportunity for a discussion to clarify any further information that may be helpful for implementing the new arrangements. An accurate record of any such discussion should be kept in writing. The employer and employee may, however, mutually agree that such a discussion is not necessary.

If the employer **rejects the request**, the written decision should clearly explain the business reason(s) described above and set out any additional information which is reasonable to help explain the decision.

All requests, including any appeals, must be decided and communicated to the employee within a period of **two months** from when the employer first receives the request (this was previously three months). The employer and employee may agree to extend this period. If an extension is agreed, the employer should confirm this in writing to the employee.

10. Can an employee appeal against an employer's decision to refuse a request?

There is no statutory right to appeal against a decision about a request for flexible working. However, the ACAS Code recommends that it is good practice to allow an employee to appeal.

It also recommends that the employer's written decision should make it clear that the employee has an option to appeal the decision.

If an employee wishes to appeal the decision, they should let their employer know the reasons for their appeal in writing. For example, this may be that there is new information they wish to be considered, or they believe the employer has not handled their request in a reasonable manner.

If the employer receives an appeal, they should arrange an appeal meeting without unreasonable delay following the steps described for arranging a consultation meeting with the employer.

The appeal should be dealt with impartially and wherever possible handled by a manager who has not previously been involved in considering the request.

Once the employer has made a decision about the appeal, they must inform the employee of that decision. They should confirm this in writing without reasonable delay, taking into account the statutory two-month period for deciding requests. The decision should make clear what has been decided and why.

A written record of the appeal meeting should be kept which provides an accurate reflection of the discussion that has taken place.

As mentioned earlier (see [Q9](#) above) all requests, including any appeals, must be decided and communicated to the employee within a period of two months from when the employer first receives the request (this was previously three months). The employer and employee may agree to extend this period. If an extension is agreed, the employer should confirm this in writing to 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.

11. 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.

12. Are employees protected for making a request to work flexibly?

An employer must not subject an employee to any detriment or dismissal because the employee has made or intends to make a request for flexible working.

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.

Employees have the right to make two applications for flexible working per year.



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 or more of the business reasons specified under the law.



Employee is consulted

Employer must consult an employee if considering rejecting a request (or part of a request) and do this by holding a consultation meeting with the employee.



Request is discussed

There is no statutory right for the employee to be accompanied at a meeting to discuss flexible working requests but the ACAS Code of Practice recommends that employees should be allowed to be accompanied by fellow worker or trade union representative.



Employee is informed of decision

The ACAS Code of Practice recommends that employers should inform the employee of the decision in writing.



If request is refused

The ACAS Code of Practice recommends that employees should be allowed to appeal and that employers should arrange an appeal meeting following the steps outlined in the Code for consultation meetings.



Deal with requests promptly

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

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 and only after your employer has held a consultation meeting with you.
-

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 (or part of a request) only if the desired working pattern cannot be met within the needs of your business (for business reasons as specified in the law) and only after consulting your employee.
 - 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 make a final decision 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

Informed by business and supported by the specialist knowledge of Carers UK, Employers for Carers (EfC) provides practical, 'hands-on' help to employers to support the carers in their workforce.

Member services include a dedicated web platform with a range of practical resources including e-learning, toolkits, model policies and case studies, access to expert training and consultancy and employer networking events.

Member organisations of Employers for Carers and their employees get free access to guides and resources specifically designed to help make working and caring easier.

Contact Employers for Carers

T 020 7378 4956

E client.services@carersuk.org

employersforcarers.org



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.

Across the UK today 5.7 million people are carers – supporting a loved one who is older, disabled or seriously ill. Caring will touch each and every one of us in our lifetime, whether we become a carer or need care ourselves. Whilst caring can be a rewarding experience, it can also impact on a person's health, finances and relationships. Carers UK is here to listen, to give carers expert information and tailored advice. We champion the rights of carers and support them in finding new ways to manage at home, at work, or in their community.

We're here to make life better for carers.

Contact Carers UK

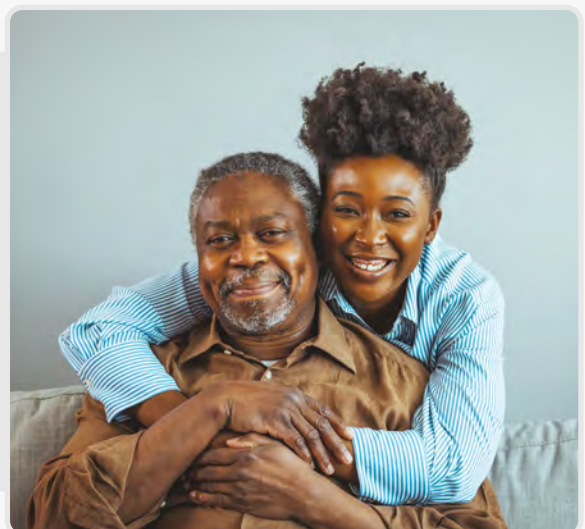
T 020 7378 4999 | **Helpline** 0808 808 7777

E info@carersuk.org

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Join Carers UK, and become part of our supportive community and movement for change. Here you'll find expert information about every aspect of caring and a world of support from other carers who know what it can feel like to look after loved ones and live your own life too.



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

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



Employers for Carers

Carers UK, 20 Great Dover Street, London SE1 4LX

T 020 7378 4956 | **E** client.services@carersuk.org

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