

Factsheet

Flexible
Working



The IET Benevolent Fund

If you are the parent of a child under seventeen, or under 18 if the child is disabled, you have the right to ask to work flexibly and your employer is obliged to consider their request seriously. Flexible working can include hours worked, times of work and working from home.

This factsheet deals with legislation around flexible working for people with child caring responsibilities. The legislation, applies to people with a parental responsibility with young or disabled children.

It is important to understand that any agreed change is permanent, so if you only want a temporary change then you must make this clear when you negotiate with your employer.

Patterns of Flexible Working

The most common types of flexible working include:

- Part time working - for example, mornings or afternoons, or fewer days in the week.
- Term time working - enables an employee to be on a permanent contract and take paid or unpaid leave in school holidays.
- Flexitime – allows the employee to chose the hours they work within agreed time limits. Employees must work within specified core hours and work an agreed number of hours within an accounting period – for example a month. Employees can then carry forward any additional hours or make up a deficit in hours in the next accounting period.
- Home working - is where someone can work at home for all or part of the time. Technology has made this option increasingly popular.

- Job sharing – is where two people share the work at different times from each other during the week or month. There is no set pattern.
- Shift working - is where one employee replaces another on the same job within a 24-hour period. They tend to operate over morning, afternoon and night periods.
- Compressed hours - enables an employee to work more hours than usual in fewer days - for example doing a normal five days work in four days.

There are other types of flexible working, including career breaks, where your employer may offer an unpaid break – in some cases up to two years, with a guarantee that they will hold your job open for you to return to at the end of the agreed break.

Annual hour agreements are where the employee's contract specifies an agreed number of hours during the year. Hours tend to be split into two parts, and there are specified shifts in one part and the other part has unallocated shifts. The employee is paid for the latter, when not working them but builds up time, which is then owed to the employer. S/he can be called upon at busy periods when needed.

Right to request

In order to qualify for the right to request flexible working you must:

1. Have parental responsibility for a child under 17 years old, or under 18 years old if the child receives Disability Living Allowance. (Parental responsibility means biological parents, legal guardians, adoptive and foster parents and same sex partners)
2. Make the request no later than two weeks before the child's 16th (or 18th) birthday
3. Be responsible for the child and the reason for the request must be for you to care for the child
4. Have worked for your employer for at least 26 weeks when you make the request
5. You cannot be an agency worker or a member of the armed forces
6. You can only make one request in a year.

Under the legislation your request must be made in writing (this includes emails and faxes) containing the following information:

- Date of the application
- State that it is an application under the statutory right to request flexible working
- Confirm that you have responsibility for the upbringing of the child and state your relationship to the child.
- Explain what, if any, effect the change would have on your employer and how this could be dealt with.
- State what working pattern you are applying for
- State what date you want the change to start
- State whether you have made an application before and if so when (you can only make one application a year).

Your employer must arrange a meeting with you to discuss your request within 28 days of receiving it, although this time limit can be extended either if you agree to an extension or if the person who has to make the decision is away on leave or is ill. You have the right to be accompanied to the meeting by a colleague or a representative from your Trade Union, if you have one. A meeting is not needed if the employer agrees to the terms of the application and notifies you within 28 days of receiving it.

Your employer must give you a decision in writing within fourteen days after the meeting.

An employer can only refuse your request for one or more of the permitted reasons and if it is declined the reason must be stated. The reasons are:

- The burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods you propose to work
- Planned structural changes.

If your request is rejected, then your employer must explain why. If your employer does not give you reasons in writing or does not explain them, you should ask him/her to do so. If you want to appeal, you will need to know the reasons so that you can address them properly.

You have 14 days from being given the written reasons to appeal the decision. If you do appeal your employer must organise another meeting 14 days after you have made your appeal in writing. You can appeal on any grounds. For example, your

employer may not have taken something into account when s/he made the decision or you may want to challenge the business reason s/he has given you.

Fourteen days after the appeal meeting your employer must tell you whether or not your appeal was upheld. Again, this must be in writing and reasons must be given. If your appeal is not upheld and you want to take matters further, you should raise a grievance (see below).

It is always best to reach an agreement within the workplace where possible and there are several options available if the employer refuses the appeal:

- An informal discussion with the employer – this is especially helpful if there may have been some misunderstanding by either party
- Using the employer's grievance procedure
- Help from a third party such as a trade union representative or other experienced person

If a solution cannot be reached the case can be referred to the ACAS Arbitration Scheme or via an employment tribunal. The ACAS scheme was set up to provide a quick and informal alternative to an employment tribunal. An arbitrator hears the case from both parties and makes a decision, which is then legally binding. A case must be referred within 3 months of the appeal decision being notified to the employee. (See below for ACAS contact details and other useful contacts.)

An Employment Tribunal complaint under the right to request only can only be made on certain grounds.

These are:

- The employer has not followed procedure correctly
- The employer has refused the application for a reason not specified in the Employment Relations Act (see above)
- The employer's decision to refuse was based on incorrect facts
- The employer refused to allow the employee to be accompanied.

Many employers are realising the benefits of flexible working arrangements, which enable their employers to get a better work-life balance. Some employers recognise the benefits for all staff and now have flexible working policies for all having realized that

better quality of life can help to increase productivity and staff morale.

IET Connect offers a confidential free legal helpline to IET members and former IEE members, and their families. Please contact IET Connect on 0845 685 0685 for more information.

Useful contacts

ACAS

Telephone: 0845 747 47 47
www.acas.org.uk

Citizen's Advice Bureau

www.nacab.org.uk
www.adviceguide.org.uk

Community Legal Service (Directory)

Telephone: 0845 608 11 22
www.justask.org.uk

Employment Tribunal Enquiry Line

Telephone orderline: 0845 795 9775
www.ets.gov.uk

Orderline for booklets about Employment Tribunals.

Department of Trade and Industry (DTI)

Orderline: 0870 1502 500
www.dti.org.uk

Equal Opportunities Commission

Telephone: 0845 6015901
www.eoc.org.uk
info@eoc.org.uk

Working Families

1-3 Berry St, London, EC1V 0AA
Telephone: 0800 013 0313
Orderline for factsheets: 020 7490 2414
Waving not drowning project for parents of disabled children: Janet
on 020 7253 7243
www.workingfamilies.org.uk
info@workingfamilies.org.uk

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This information is intended as a guide only. For advice on your specific situation, please phone our helpline. We will then put you in touch with our legal helpline which can provide individual advice on your particular situation.