

A Manager's guide to managing a request for flexible working

Most employees have a 'right to request' flexible working, and in practice you may wish to extend this right to all your staff and to candidates for new roles, as it could be useful in helping you to attract new staff (particularly if you advertise roles as open to flexible working). Your legal responsibility is to handle any requests 'reasonably' (considering the impact on your business) and you should aim to take an open attitude, agreeing any request that you can reasonably manage, and thinking very carefully before turning down any requests.

The following pages set out a suggested process for dealing with individual flexible working requests, as well as ensuring that you comply with the [ACAS code of practice](#) in respect of any employees covered by the legislation. There are a small number of requests which won't be covered by the legislation (for example, employees with less than 6 months' service and those making a second request within a 12 month period) but you may find it helpful to follow this process in every case as a matter of good practice, and to ensure consistency of approach.



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Whilst you are not obliged to use a trial period, it is recommended to do so.

- if you have any uncertainties about simply saying yes, a trial period can be useful in enabling you to fully assess the impact, and providing reassurance
- it is very important to ensure that both you and your employee know how long the trial period will last, what factors will be considered to decide if it's working, and how much notice will be given if it is not

If the request is for a home-working arrangement, there are some particular considerations which apply. You may also wish to refer to the ACAS resource [Homeworking – a guide for employers and employees](#).

Request process

An employee who wishes to change their working pattern may make a verbal or written request to you. To be covered by the law on flexible working, they should make a written request containing certain information.

If you find it helpful, you may wish to ask your employees to use a standard form for their application. The Government Department for Business, Innovation & Skills has a useful template [standard form for requests for flexible working](#).

You will need to consider the impact of the request, using the framework for discussion/ impact checklist in Appendix 1 of this guide. Input from the employee will only be part of this consideration – there may be issues they have not thought of, or they may have misunderstood some of the impacts. You will also need to ensure that you have properly thought through the impact on the team, where appropriate, as it may be useful to discuss any possible issues with the team. In some cases you may wish to use this as an opportunity to think about how the whole team works.

Certain steps need to be followed and the whole process (including any appeal) completed within a maximum of 3 months. There are no specific timescales within this (other than your obligation to handle the request reasonably). If you are concerned about your ability to ensure the process is completed within the overall timescale, you may find it helpful to use the suggested indicative timescales for the individual steps, which are shown in italics, where relevant, below.

Here is a list of steps to be taken when an employee requests flexible working.

Step 1: Acknowledge the request

- when you receive a request from an employee, send them a dated written acknowledgement, (this may be by email or letter) as soon as possible after receipt
- if the flexible working application submitted does not contain sufficient information for you to make a decision, you may need to ask the employee for additional information in order to make a decision

Step 2: Investigate and consider possible solutions

- explore whether the original role could be done on the requested basis, using the 'Framework for discussion' in appendix 1 of this guide, to help you. Each case must be considered on its own merits, taking into account the situation in your team at the time. This means that two similar requests will not necessarily always lead to the same outcome
- consider possible ways to accommodate the request and overcome any barriers. Keep an open mind and try to be creative
- if the request is for part-time work, but you think it is a full-time role, consider whether this or an equivalent role could be done as a job-share
- if the request is for homeworking and where IT software and equipment requirements are not standard you should explore with the IT function whether the IT requirements can be provided before making a decision. If IT resources might take some time to organise, the start date of homeworking should be agreed after the IT resources have been put in place
- remember that if you believe that the role cannot be done on the suggested basis you need to make a detailed note to show that you have considered it fully, and the business reasons why you think it cannot be accommodated (see list of reasons under step 4 'Making the decision'). If you are unsure, a trial period may be a good way to assess the request more fully



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Step 3: Arrange a meeting

- hold a meeting (or discussion) with the employee as soon as possible, to discuss the request, and potential business impacts and solutions. Suggested timescale: within 28 days of receipt of the initial request.
- the employee may be accompanied to any meeting by a colleague, or Trade Union representative, or other agreed companion, if they wish. The companion is able to address the meeting, to confer with the employee but not to answer questions on the employee's behalf.
- during the meeting, you should attempt to reach agreement about the way forward. If there are particular business issues which make it difficult to accommodate the request, you should give the employee the opportunity to suggest potential solutions, and discuss any other ideas you may have, including alternatives.
- the meeting should take the form of a constructive dialogue in an atmosphere that fosters an open and honest exchange of views.
- you may need more than one meeting to come to an agreement, e.g. if you need to explore the feasibility of suggested solutions.

Step 4: Making the decision

- after the meeting, you will need to carefully consider the request, taking into account the discussions you have had with the employee, and weighing up the benefits to your team and the employee against any possible disadvantages of the change
- each request must be considered on a case-by-case basis, taking into account all the circumstances at the time and will not set a precedent for future requests
- you will need to make a decision based on all the information discussed. Remember that you should always aim to accommodate any request if at all possible
- if you are unsure as to whether a particular arrangement will work in practice, it is a good idea to put in place a trial period. This will give you an opportunity to assess the real impact, and identify and iron out any difficulties that could arise
- if you have decided that the role is suitable for job-sharing, ask the employee for any suggestions and consider how an appropriate job-share partner might be found whether internally or externally (for example

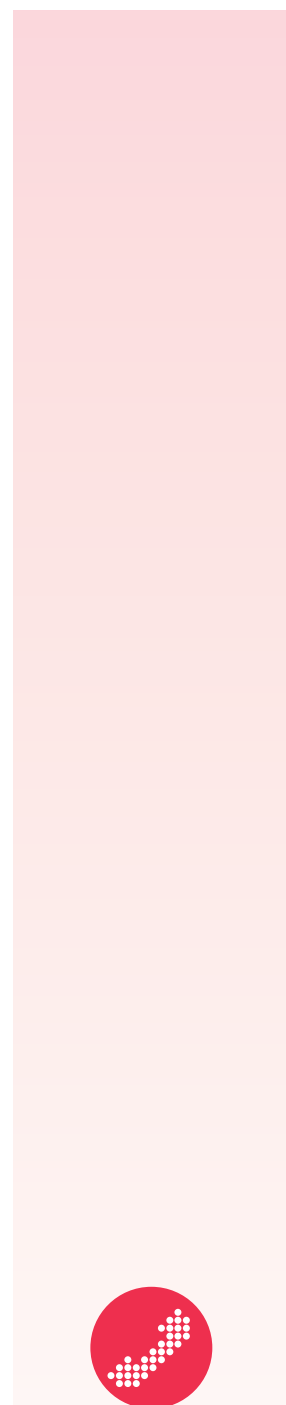
you might want to talk to HR, discuss with any recruitment providers you use or approach specialist providers, or talk to other managers in your company about whether there is a suitable internal match)

- if you feel the role cannot be job-shared you will need to make a written note to show that you have considered the option and why this is not appropriate
- if the role is suitable for job-sharing, but after a reasonable search you are unable to find a suitable job-share partner, you need to document the steps you have taken
- if the role requires home-working, you should check (with whoever is responsible for IT in your organisation) that any required IT software and equipment can be provided and the timescales required to set everything up before confirming your decision

If you cannot accommodate the request, you will need to justify objectively why this is the case, and you should make a detailed note of your decision and any steps you have taken to try to make the arrangement work. Legally, you only refuse a request on the basis that one or more of the following grounds applies:

- burden of additional costs (this would need to be disproportionate, and you will also need to consider whether there are any cost savings that might partially offset this)
- detrimental effect on ability to meet customer demand (e.g. in a small team)
- inability to re-organise work among existing staff (make sure you have fully considered all options for doing this)
- inability to recruit additional staff
- detrimental impact on quality or performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

Before giving any of these reasons for rejecting a request you should carefully consider whether they present insurmountable obstacles, or whether there are ways of overcoming the possible barriers. If you are unsure as to whether one of these reasons might apply, the ACAS resource [The right to request flexible working: an ACAS guide](#) gives very useful guidance on the topic, including some helpful examples.



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A request can only be rejected on the basis of one of these reasons. However, if there are additional reasons why you have decided to reject the request, these should also be explained. In addition to providing a specific business ground, you must provide an explanation about why the business ground applies in these circumstances. Bear in mind that if the argument does not look convincing to you, it is unlikely to look convincing to the employee.

Step 5: Advising the decision

- if the decision is that you cannot accommodate the requested working pattern, you will need to write to the employee as soon as possible after the meeting to explain the business reasons for this, explaining what you have done so far (i.e. the steps above), advise of the right of appeal and explain the next steps. Ensure you have kept written evidence of the steps you have taken and the reasons for your decision. Suggested timescale: within 14 days of the meeting
- if the decision is that you are able to accommodate the request, you will need to write to the employee to confirm this. See 'follow up' section below
- in some cases you may need to agree the request on a modified basis (e.g. with a small adjustment to the requested timings, or with a different day off to that originally requested) or with a trial period. Such modifications should be discussed and agreed with the individual

Appeal stage

- should the employee wish to appeal against the decision (whether this is a rejection or a modified acceptance), they will need to do so in writing, setting out the grounds of appeal. The appeal should be heard by a different individual – usually a more senior manager. The manager hearing the appeal will acknowledge their appeal and confirm the arrangements for the appeal hearing as soon as possible. The employee may be accompanied to the appeal hearing by a colleague, or another agreed companion from outside the company (e.g. a Trade Union representative) if they wish
- the decision made at the appeal hearing must be confirmed to the employee in writing as soon as possible, setting out the business reasons for the decision

Suggested timescales for appeal:

- appeal to be received within 14 days of initial written decision
- appeal meeting to be held within 14 days of receipt of written appeal
- decision to be communicated in writing within 14 days of the appeal meeting

Remember that the whole process, from receipt of application to confirmation of the outcome of any appeal, must be completed within 3 months at the most.

Follow up

- if no appropriate role can be found in your own team, in some cases it might be appropriate to explore other options within your organisation. For example, there may be another role of the same status which the employee might be able to undertake during the requested working pattern
- please note that if you decide to accept the employee's request to work flexibly, this will (subject to any trial period) be a permanent change to the employee's working arrangement and neither you nor the employee will have the right to unilaterally decide that he or she reverts to his or her previous working pattern (although of course the employee could request the change)
- for this reason, it is often a good idea to arrange a trial period before making a final decision. Make sure the trial is sufficiently long to make a proper assessment, and ensure that you monitor closely from the start and take any steps to iron out difficulties at an early stage. At the end of this trial period, if you do not believe the arrangement is working effectively, it may be possible to ask the employee to revert back to their previous working pattern or you may decide that you need to extend the trial period. Remember, you will need to objectively justify any decision to ask the employee to revert to their former terms and conditions
- the new arrangements should be confirmed in writing. As you are making a permanent change to the employee's contract you may also wish to issue a revised contract or letter confirming that the contract is varied, and setting out the details of any resulting changes to terms and conditions (e.g. if working hours are reduced there will be a reduction in salary, holiday entitlement and some other benefits)



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Appendix 1: Framework for discussion/ impact checklist

You may find it helpful to have a checklist to use when considering the impact of a particular working request. The following checklist can be adapted to fit the needs of your organisation. The aim here is to help you think about how the role could be done on the employee's proposed flexible working arrangement. We recommend that you work through the checklist in advance of the meeting and then use it as a basis for discussion with them. The employee may have provided some or all of the relevant information with their original application, and you may find it helpful to provide them with a copy of the checklist so that they can also think about how the arrangement will work, and come up with solutions to possible problems.

How could their role be done using the proposed working arrangement?

- what are the particular features of their role? Think about the regular deadlines that they have to meet. Does the employee work independently or is there a lot of interaction with colleagues/clients?
- how might responsibilities need to be altered in order to suit a change of working arrangement?
- you may find it helpful to list the employee's responsibilities and then look at each one in turn. You should look at the employee's job description and also consider what the employee is doing on a day to day basis in order to be able to assess the situation fully
- consider particular deadlines and other dependencies of role, i.e. when some employee activity is responsible for impacts on another job/team. Consider how these requirements can be met or whether there might be scope to change the operation of the role
- consider whether any additional IT support, software or equipment might be required (especially in the case of home-working)

Keeping in touch

- what would be the most appropriate medium for the employee to keep in touch with you, the team and the customers? Consider the following questions: How do you keep in touch with your team now? Is there anything you can do to improve this? How will it work? Will any additional equipment (e.g. mobile or laptop) be needed? Impact on

the organisation and on others. For each group of people (team, manager/supervisor, internal and/or external customers, anyone else who depends on employee to get their work done), think about how the new arrangement will alter working relationships (e.g. if employee works from home, they will not be available for impromptu team meetings)

- identify or suggest issues, including obvious ones, as well as some of the more subtle issues (e.g. measuring performance, ensuring employee gets appropriate personal development opportunities). Consider possible solutions (e.g. could the employee working from home join meetings by conference call?)
- consider a possible solution for each issue (e.g. can the employee join in a team meeting through a conference call from home if there is a urgent need? If a job share has been requested do you already know of an appropriate person for the role?)

Benefits

- consider both the benefits and disadvantages of the proposed change
- are there any advantages that offset the disadvantages that the employee's proposed work arrangement may create?
- consider benefits both to the employee and the running of their team/department, to the manager/supervisor and other members of the team. For example, reduction in stress and absenteeism, retention of employee who might otherwise leave, improved punctuality and/or productivity and the ability to provide better coverage for customers across the whole team
- consider performance and any other impacts
- consider the employee's work objectives, and think about how these objectives can be measured. If you believe that the measurement of an employee's performance may have to be changed (e.g. because your current methods of measurement won't work remotely, or targets will have to be adjusted to reflect reduced working hours) and think about why and how
- is there any other relevant information that supports your decision?



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Appendix 2: What the law says

The law says that the statutory right to request flexible working applies to all employees who have at least 26 weeks' continuous employment, irrespective of whether they have family or caring responsibilities. Some specified categories of workers are excluded, such as 'employee shareholders' and some agency workers. Under the legislation an employee can make a statutory request once in any 12 month period.

As an employer, you have a legal duty to consider a statutory request for flexible working (i.e. one made by an eligible employee under the legislation) in a reasonable manner.

ACAS has issued [guidance and a Code of Practice](#) for employers on handling such requests in a reasonable manner. The guidance in the Code of Practice will also be taken into account by employment tribunals when considering relevant cases.

Any statutory request made should be in writing and should state that it is a statutory request as well as if (and when) the individual has previously made a request. Any requests should also include the date, the change of working pattern (time or location) requested, the date the employee would like the change to come into effect, what impact the employee thinks the request would have on the business and how they believe such an effect might be dealt with.

When you receive a request you must:

- consider the request carefully, including weighing the benefits against any possible adverse impact on your business
- it is recommended that as a matter of best practice you should meet with the employee to discuss their request, and allow them to be accompanied to the meeting by a work colleague
- inform the employee of your decision as soon as possible and in writing
- if you accept the request (or accept it with modifications) you should discuss with the employee how and when the change will come into force

If you reject the request it must be for one of the following business reasons:

- burden of additional costs
- detrimental effect on the ability to meet customer demand

- inability to rearrange work amongst existing staff
- inability to recruit additional staff
- detrimental impact on quality or performance
- insufficiency of work when the employee proposes to work
- planned structural changes
- if you reject the request the employee has the right to appeal. Such appeals must be considered and decided on within 3 months from first receipt (unless an extension is agreed with the employee)

To comply with the Employment Rights Act 1996 and discrimination legislation, it is important to ensure that the procedure is followed correctly, and that any decision to reject a request can be objectively justified.

The ACAS code of practice gives further guidance. You are not legally obliged to follow the best practice guidance given, but doing so (and using the advice in this guide) should help to ensure that you do meet your legal obligation to handle the request in a 'reasonable manner'

Finally you should be aware that all employees are protected against being subjected to any unfair treatment as a result of their having made an application to work flexibly (whether such an application was successful or not)

Useful sources of information and additional reading

ACAS guide: [Code of practice on handling in a reasonable manner requests to work flexibly](#)

ACAS guide: [Homeworking: a guide for employers and employees](#)

[The right to request flexible working: An ACAS Guide](#)

[Guidance on the process for dealing with requests for flexible working](#), from the Government Department for Business, Innovation & Skills

[Standard form](#) an employee can use to make a statutory application for flexible working provided by the Government Department for Business, Innovation & Skills

[Guidance on Health and Safety aspects of home-working](#) by the Health and Safety Executive.



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