

Flexible working in practice

This note outlines how your business should respond to a flexible working request from one of your employees, or how you should expect your employer to respond if you are an employee.

Who can make a request?

The right to request flexible working is available to employees who have been continuously employed for at least 26 weeks and who have responsibility to care for either a child or an adult.

Caring for a child

An employee can make a request to care for a child under the age of 17 (18 if the child is disabled). From April 2011, the right to request flexible working will be extended to cover all children under the age of 18. The right to request applies to those who have responsibility for the child's upbringing and are either:

- The child's mother, father, adoptive parent, guardian or foster parent.
- The spouse, civil partner or partner of the child's mother, father, adoptive parent, guardian, or foster parent.

Caring for an adult

An employee can make a request if they expect to be caring for a person aged 18 or over who is in need of care and is one of the following:

- Married to, or the civil partner or partner of the employee.
- A relative of the employee.
- Falls into neither category but lives at the same address as the employee.

Patterns of care giving will vary considerably. However, care-giving activities are likely to include:

- Help with personal care (for example, dressing or bathing).
- Help with mobility (for example, getting in and out of bed).
- Giving or supervising medicines.

What kind of change can be applied for?

The employee must make a written request for flexible working. In doing so, they must set out their proposed pattern of flexible working and how they believe the business can accommodate it. In making a request, the employee can ask to change the:

- Hours they work.
- Times they work.
- Location they work (for example, by asking to work from home).

The right to request procedure

There is a detailed statutory procedure that the business must follow once it has received a flexible working request. You should take legal advice as soon as you receive a request to ensure that you comply with your obligations to consider the request. As an employee, if you have any concerns about how your employer has handled the request, again you may wish to seek legal advice.

Rejecting or refusing the request

The business may have legitimate reasons for being unable to accommodate a flexible working request. In rejecting a request, the employer must identify one or more of the following grounds as the reason for doing so:

- It would have a detrimental impact on the quality of the employer's product or service.
- There is insufficient work available during the times when the employee wants to work.
- The employer is planning structural changes to the organisation of the business.
- The work cannot be re-organised among existing staff.
- There would be a detrimental impact on the business' performance.
- The employer is unable to recruit the additional staff that the employee's proposal would require.
- There would be a detrimental impact on the business' ability to meet customer demand.
- The burden of additional costs that would be incurred.

The employer can request evidence of the employee's relationship with the person they are caring for before agreeing to the request.

More information

If you require any further information, or if you have any queries about the content of this note, please contact Helen Essery at helene@n-v.co.uk.