



Flexible working requests

By **Natasha Adom** - 5 July 2021

Employees have a statutory right to make flexible working requests. This can cover requests to work from home, to work reduced hours or to move to a more flexible schedule. This is a summary of who has this right and some key things for employers to be aware of when dealing with flexible working requests.

Who has the right?

All employees with more than 26 weeks' continuous service have a right to request flexible working. To apply, employees must submit an application in writing. The request must contain certain information, including what change they want to make, the date when they want the change to take effect, the impact they believe it will have and how that effect can be dealt with. It should also state that it is a flexible working application. An employee is only legally entitled to make one request every 12 months.

Do I have to agree to the request?

Employers do not have to grant all flexible working requests, but they must do three key things:

Handle the request in a reasonable way:

This includes discussing the request with the employee (normally at a meeting), acting in a timely way and making sure the decision is reasonable. Employers should follow the ACAS [Code of Practice](#) and ACAS [Guide](#) to handling flexible work requests which provide guidance on how to handle requests reasonably. ACAS is a quasi-government body that publishes best practice.

Inform the employee of the outcome and comply with statutory time periods:

The employee must be informed of the outcome in writing. The whole process (including any appeal) must be completed within three months of the date the request is made, unless you have agreed with the employee to extend that time period.

To reject a request for flexible working, employers must rely on at least one of the following eight statutory reasons:

- 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 the employee proposes to work
- Planned structural changes.

What if the request is granted?

If a flexible working request is granted, then this would constitute a permanent change to the employee's terms of employment and therefore cannot simply be reversed at will (unless it has been agreed to on a "trial" basis). You should confirm this in writing along with any trial or review period. The employee should be given a new contract or letter amending their contract.

Legal risks

It is important to consider requests reasonably. An employee who feels that their flexible working application is not being treated seriously or has been unreasonably refused may try to bring a discrimination claim. Note that compensation in such cases is uncapped. The risk of such a claim is especially high for those with childcare responsibilities or with disabilities.

As well as this, an employer could face particular claims if they do not give reasonable consideration to an employee's flexible working request, reject the application for a reason other than one of the statutory grounds, or do not give their decision within the period explained above. If the employee successfully brings such a claim, Tribunals can order reconsideration of the application and award up to eight weeks' pay.

Employers should therefore ensure they act reasonably in line with the statutory timescales and should ensure they properly document their decisions.

This guide is for information only and is not legal advice. It reflects the position as of 5 July 2021. For any questions, please get in touch with our Knowledge Management and Training Director [Natasha Adom](#) or your normal GQ|Littler contact.