



Sheffield Occupational Health Advisory Service (SOHAS)

Working to Prevent and Alleviate the Effects of Work on Health

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THIS FACTSHEET IS PART OF THE **MOTHERS AT WORK SERIES**

Return to work

The right to ask for flexible working

Some employees with children, or with caring commitments, have the right to apply for flexible working. The request can cover hours of work, times of work, or place of work. Under the Work and Families Act 2006, from 6 April 2007 the right to ask for flexible working is extended to include eligible employees who care for adults, as well as children.

Who does the right to ask for flexible working apply to?

You must:

- be an employee, and
- have worked for your employer for 26 weeks by the time you make your request, and
- have not made a request for flexible work in the last twelve months, and
- be the parent, adoptive parent, guardian or foster carer of a child under six or a disabled child under 18 (or you are married to, living with or the partner of that person), and have or expect to have responsibility for the upbringing of the child, or
- be the carer of an adult who is your spouse/partner (including same sex couples), or your relative, or someone who lives with you.

How do I apply?

- In writing, stating that you are making an application for flexible working.
- The application can be on paper, e-mail or fax and must be dated. Check if your employer has a standard form or you could use the form in the Department of Trade and Industry (DTI) 'Guide on flexible working', which also contains case studies and help on how to make your application (see Useful Information).
- Explain that you are the parent/carer or have parental/caring responsibilities.



- State what flexible work pattern you are applying for and the date you would like to start.
- Explain what effect your new working pattern would have

EXAMPLES OF FLEXIBLE WORKING

flexitime • term time working • working from home • different shift patterns • job sharing • self rostering • part time • staggered hours • compressed hours



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Altered hours case study

Emma, an assistant in a clothes shop asks the shop manager if she can change her working hours from 8am to 1pm to 10am to 3pm. In the application she states that early mornings in the shop tend to be the quietest time and that the other two assistants who would be in at that time agree that they could cover this period. She also states that the lunch period is the busiest time and that her new working pattern would result in an increase in the number of customers who could be served. After consideration, the shop manager agrees to the request and welcomes the fact that it will enable the business to better manage the lunch period.

From Flexible Working: The right to request and the duty to consider: A guide for employers and employees, 2003, DTI.



on your employer and how you would deal with this. It is to your advantage to provide as much detail as possible about the pattern you would like to work.

- State whether a previous application has been made to your employer and if so when.
- There is no set time limit, but the government suggests that the whole procedure could take up to three months.

Making your proposal

You know your job better than anyone else, so think about how your proposed pattern could work.

- Is there someone who could cover when you are not there?
- Are there any advantages to your employer in what you propose?
- If you have any friends or colleagues who are already working flexibly, ask them how it works for them.

- Think how any potential problems to your employer could be overcome.

Many organisations now offer flexible working and there are many case study examples available. Working Families has an interactive guide to help you make a proposal and case studies (see Useful Information).

What does my employer have to do?

Your employer has to consider all applications. There is a set procedure which must be followed.

- They must hold a meeting with you within 28 days of receiving the application.
- You have a right to have a companion (e.g. a colleague or a trade union representative from work) with you when you meet your employer. Your companion may address the meeting. They may also confer with you during the meeting.

- The meeting should discuss your application in depth and consider how it might be accommodated. The meeting also provides an opportunity to see if an alternative working pattern may be appropriate.
- They must give you notice of their decision, in writing, within 14 days of the meeting and tell you about your right of appeal. This must be dated.

There isn't an absolute legal right to change your working pattern, but if you need to change the way you work because of your childcare or other caring responsibilities, your employer must seriously consider your request, otherwise you may have a claim for indirect sex discrimination. See 'Useful Information' for the Equal Opportunities Commission or Sheffield Law Centre contact details.

- If the request is turned down, the notification must state the business reasons for refusing and explain why these reasons apply in your circumstances.

What are the business reasons for refusing?

Your employer can only refuse a request for one of the following business reasons:

- the burden of additional costs,
- the detrimental effect on the ability to meet customer demand,
- they are unable to reorganise work among existing staff,
- they are unable to recruit additional staff,
- the detrimental impact on quality,
- the detrimental impact on performance,
- there is not enough work during the period you propose to work or
- planned structural changes.

Other points:

- If your employer agrees to your request without requiring a meeting, they must write to you within 28 days of receiving your request confirming the arrangements and the date on which it will start.
- A new working pattern will be a permanent change, unless otherwise agreed. You could consider asking for a variation for a specified period only, or for a right to return to your old arrangements on giving appropriate notice.

What if my employer refuses my request?

- You are allowed to appeal within 14 days of receiving the notice of refusal.



- You must write to your employer stating your reasons for appealing and sign and date the letter.
- If they agree to your appeal they must inform you in writing of their decision, giving the change agreed and when it will start, within 14 days of receiving your notice of appeal.
- Otherwise they must hold the appeal meeting within 14 days of receiving your notice of appeal.
- You have the right to be accompanied at a meeting (see details above).
- They must notify you of their decision within 14 days of the meeting, giving reasons for their decision.

Useful information

ACAS National helpline 08457 47 47 47 or see www.acas.org.uk. A free booklet 'Flexible working' is available from ACAS publications 08702 42 90 90. Also see www.acas.org.uk

Directgov has a useful website with more detailed information and links about flexible working. See <http://www.direct.gov.uk/en/Employment/Employees/WorkingHoursAndTimeOff/DG10029491>.

Department of Trade and Industry (DTI). A pack 'Flexible working: Work and Parents', which contains a guide for employees and employers and can be ordered from DTI publications 0870 1502500. See <http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page16358.html>.

Equal Opportunities Commission. If your request has been refused and you are considering pursuing your

claim to an employment tribunal. Helpline 0845 601 5901 9am–5pm Monday–Friday or see www.eoc.org.uk.

Sheffield Law Centre gives free employment advice to employees who live or work in Sheffield. Advice line 0114 273 1888 10am–1pm Monday–Friday.

Trades Union Congress (TUC). For a copy of 'Flexible working for parents' phone the TUC Know your rights line 0870 600 4 882 or see www.worksmart.org.uk.

Working Families for free legal advice for working parents on maternity/paternity leave and pay, rights in family emergencies, help to negotiate family-friendly hours, advice on tax credits and benefits. Tel: 0800 013 0313. Free factsheets, including 'Flexible Working' and an interactive flexible working guide to help you put together a proposal available at www.workingfamilies.org.uk. For case studies visit the Employer Zone.