



The right to request flexible working

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The right to request flexible working Guidance

Version control

This document is subject to regular review due to legislative and policy changes. The latest versions of all our publications can be found on our website. Before contacting us about the content of this document, we recommend that you refer to the most recent version on the website and any relevant guidance.

Version	Date approved	Approved by	Notes / changes
v1.0	27/07/2023		New guide

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The right to request flexible working

Please note that this is a statutory right under the Employment Rights Act 1996.

The Government is extending the right to request flexible working to all employees; removing the current statutory procedure for considering requests. Instead employers will have a duty to consider all requests in a reasonable manner; however, employers will have the flexibility to refuse requests on business grounds.

Employees who wish to make a request under the Employment Rights Act 1996 must make this in writing and must include the following information:

- The date of their application, the change to working conditions they are seeking and when they would like the change to come into effect.
- What effect, if any, they think the requested change would have on you as the employer and how, in their opinion, any such effect might be dealt with.
- A statement that this is a statutory request and if and when they have made a previous application for flexible working.

The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless you agree to extend this period with the employee.

A written request for flexible working can only be refused for the following reasons (under the legislation):

- the burden of additional costs,
- an inability to reorganise work amongst existing staff
- an inability to recruit additional staff
- a detrimental impact on quality and performance
- detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to your business

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Denbighshire County Council and The Right to Request Flexible Working

As a council, the rules have been relaxed and the right to request flexible working will be as follows:

- All employees have the right to request flexible working regardless of length of service (Employees do not require the 26 weeks' continuous service).
- Employees can make more than one request in a 12 month period.
- Employees must make a formal request for flexible working in writing by completing the 'Right to request flexible working form' which is available on the alongside the policy.
- Managers must seriously consider all written requests from employees and arrange a meeting within 30 working days from the date of application. Managers can only reject a request based on the eight reasons for refusal outlined above under the new changes in legislation.
- Managers must make a decision and respond to the employee in writing within 10 working days of the meeting.
- Employees have the right to appeal any decisions made by their manager and must do this within 10 working days of the receipt of the notification letter.
- Managers must arrange an appeal meeting as soon as possible to ensure that the whole process is completed within the statutory 3 month period.

Types of Flexible Working

Flexible working options may be needed to support a change in personal circumstances either on a temporary or fixed term bases.

Types of flexible working available in the council include:

- **Job sharing** - An arrangement where two part-time employees share the responsibilities of one position, either on a "shared" basis where they both carry out all duties, or on a "divided" basis, where duties are split between the two, each

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providing cover for the other for holidays and absence. All posts may be considered for job-sharing although certain roles may be unsuitable due to the nature of the work or service requirements. Job sharers will have separate contracts and may operate on a split- day or split-week basis, or any other reasonable arrangement, giving each employee a pro-rata share of the full-time hours of the post. Occasionally the hours may overlap if this meets the needs of the service.

- **Part-time working** - At certain times an employee may wish to reduce their working hours, either on a permanent or temporary basis. Depending on the nature of the role involved, various working patterns are possible; Varying hours and working days i.e. full working days, part working days, mornings, afternoons, split shifts, weekend working.
- **Term-time working** - This option allows employees to work either full or part time during term time and not work during the periods of school holidays. The employee's salary will be paid on a pro-rata basis over 12 equal monthly payments. Annual leave and bank holidays will be calculated on a pro-rata basis, both in terms of hours worked per week and weeks worked per year. Annual leave will not generally be granted in term time, although managers may use their discretion in approving unpaid leave or flexi.
- **Swapping hours** - Employees can swap hours or shifts with colleagues doing the same type of work, with management approval. Family contracts can be set up to allow friends or family members to share and cover each other's shifts.
- **Annualised hours** - A system where the employee's contractual working hours are calculated as the total number of hours worked over the year, allowing flexible patterns to be worked during the year, usually according to work demand (e.g. seasonal work).
- **Compressed hours e.g. 9 day fortnight** - An employee's total number of contractual hours can be worked over fewer working days – usually a 5-day week is compressed to 4 or 4.5, or a 9-day fortnight.**Voluntary reduced hours** - In some circumstances an employee may request a reduction to their working hours. This can work in a number of ways; reducing the working day, reducing the number of working days worked in the week, taking time off in blocks of working days, weeks or months. There is no minimum reduction in the number of hours that an employee can request

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- e.g. An employee may wish to reduce their working day by one or two hours.
- **Staggered hours** - Some departments may benefit from their employees starting and finishing their working day at different times, providing more cover at peak times while allowing employees the flexibility to manage their commitments.
- **Career breaks** - An opportunity for an employee to take unpaid time to fulfil personal ambitions or pursuits while retaining the right to return to their job after an agreed length of time – refer to Time Off Work Policy.
- **Reduced working week prior to retirement (Flexible Retirement)** - In the run up to retirement some employees may wish to reduce their working hours as a period of adjustment.

Application Process for ‘The Right to Request’ Flexible Working

Some of the types of flexible working described above will have the potential to impact on service delivery and on other colleagues; therefore, employees will need to complete the Right to Request Flexible Working Form and approval should be sought from the line manager. Once a request is received the employee’s manager will arrange a meeting within 30 working days of the application date.

After the meeting the line manager will consider the application and their decision will be sent in writing to the employee within 10 working days of the meeting. If the request is accepted the notification will include: -

- Details of the new working pattern – either the changes proposed by the employee or an agreed compromise
- The start date and agreed duration if temporary
- Review date
- Changes to pay, holidays and pension as a result of the new working pattern

The manager should arrange via HR for a new contract to be issued if the changes are permanent or if the changes to the working pattern involve a reduction in hours worked, pay, holidays and/or pension contributions.

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Refusal of an Application

If the manager feels that there is a genuine reason to refuse the request for flexible working, the employee will be notified as follows: -

- Details of any alternative suggestions the manager may have in relation to the application
- Sound business reasons if the manager refuses the employee's request

An application may be refused where there are good business grounds. For example:

- A cost is incurred by the Council
- Detrimental effect to the service provided to customers
- Inability to provide cover amongst existing staff
- Inability to recruit additional staff or cover hours
- Performance of work adversely affected
- Detrimental effect on other members of the team
- Insufficient work during proposed new working pattern
- Planned structural changes

Employees have the right to appeal against a decision refusing their application for flexible working. This should be done using the Corporate Appeals Procedure within 10 working days of receipt of the notification.