

MANAGERS GUIDE – Flexible Working

Purpose

The purpose of these guidance notes is to aide a manager through the Flexible Working process. This document must not be used in isolation as it is not a policy. This information is intended to help managers deal with an employee's request for flexible working.

What is Flexible Working?

Flexible Working means an "eligible" employee can request to change their working pattern. This can include:

- Changing working hours
- Changing working times or shift pattern
- Changing work location

As the employer you have a legal duty to seriously consider the request within a strict timetable. This includes holding a formal meeting with the employee whereby they have the right to be accompanied, responding to their request in writing and giving them the right to appeal the decision if they are unhappy with it. Please note that the legal right to request Flexible Working does not guarantee that their request will be granted, but means that their request will be considered. Rejections will be based on genuine business reasons.

Who is eligible to apply for Flexible Working

In order to eligible for Flexible Working an employee must:

- Have 26 weeks continuous service with the company
- Not have applied for Flexible Working within the past 12 months
- Be one of the following:

How does a colleague apply for Flexible Working?

An employee can make a request to apply for flexible working in writing and then they should be given the **Application for Flexible Working Form**, this should then be completed and returned to the line manager.

The reason for the flexible working request is not important as employees may need flexibility for many reasons.

Likely Requests

If an employee is eligible to apply for flexible working possible requests may include, amongst others:

- Asking to fit their working day around school hours

This may be a possibility if there are sufficient colleagues to cover the lost hours.

- Asking to work at another location
Colleagues may ask to move to another location, for example another dealership, nearer their home if reducing their journey time enables them to spend more time with their child. Each application would have to be considered in light of the staff available at both locations.
- Asking to work from home all or some of the time
This would depend on the position. It may be possible for some colleagues who work on projects rather than on day-to-day duties but it may not work for dealership based colleagues if their job entails actual face-to-face customer contact on a daily basis.
- Asking to work different hours in school holiday times and term-time
This would depend on the level of work generated at particular times of the year.
- Asking to be allowed to work flexi-time
Flexi-time entails working core hours of, for example 9:30 – 4:30, but choosing when to come in to make up the additional hours. It may be a possibility depending on the hours that your department or dealership operates but would not be suitable if there is no one available to cover at a particular time or if early mornings or late afternoons are the busiest time of the working day.
- Asking for a job-share
This may be a possibility for most roles although you would need to consider what hand-over might be needed each day between the job sharers. Not all jobs are suitable for job sharing.
- Asking to go part-time after maternity leave
This may encourage a job share or mean that the colleague has to complete more tasks in a shorter time. If a lunch-break is usually an hour, this could be reduced to half an hour for example.
- Asking to work longer hours over a shorter period of time
This may mean, for example, working the full weekly hours in only four days instead of five. This may be possible depending on the available cover for the un-worked day. It may also provide a solution to covering early mornings and late afternoons.

The Process

Invitation to a Flexible Working Meeting

Once an application has been received, you should invite the employee to attend a formal meeting to discuss their application. You must hold a meeting with the employee within 28 days of receiving their request and formally invite the employee to the meeting in writing. If you fail to respond or fail to keep to the timetable the employee may make a complaint to a tribunal. At the meeting the employee will be entitled to be accompanied by a colleague.

Before the Meeting

You should set aside time before the meeting to properly consider the employee's request. You should have an idea as to whether or not the request would be a possibility but you should still go to the meeting with an open mind.

Think about whether the request could actually be a viable option. If your department is very small, it will probably be more difficult to accommodate requests that require a substantial change. Take into consideration the nature of the employee's job, department resources and workforce and how easy it is to recruit additional staff.

Be prepared to compromise. If, for example, it would be difficult to let an employee start later every day, see how they would feel about starting later on perhaps two mornings a week or, if they want to work from home, consider if it would be possible for them to work from home some of the week and come in to the office at other times. You should bear in mind that accommodating requests will be motivating to employees and allow you to retain good workers.

During the Meeting

This meeting does not have to be very formal but you should follow a format. You should take notes of what is said or have someone there to take notes for you. The employee should be provided with a copy of the notes taken at the meeting.

- Discuss the application with the employee.
- Talk about their choice of change and ask for their solution on how the business could accommodate their request.
- Ask any additional questions to which they have not provided answers.
- If there is no way that your department could accommodate their request you should be prepared to discuss alternatives.
- Give the employee the chance to ask you any questions.
- Let the employee know that they will receive your response within 14 days.
- Do not make any false promises and unless you are absolutely certain, do not tell the employee that their request can be accommodated.

After the Meeting

You need to make your decision on the employee's request. It may be that you and the employee reach an amicable decision at the meeting but this still needs to be followed up in writing.

If the change is substantial, you must discuss it with your line manager before agreeing to it as it may involve recruiting additional staff. Substantial changes include any change to work location or any change to hours in excess of one hour per day.

You must inform the employee of your decision within 14 days of holding the meeting.

Accepting the Request

Providing you have authorisation to agree to the request, you should write to the employee, confirming that their request has been accepted and the date by which the change is to take effect.

If the change constitutes a change in hours or anything else that has an effect on salary, you must complete a **Change of Employee Details Form** so that the change can be implemented and the amendment to their terms and conditions can be confirmed in writing.

Refusing the Request

There are only seven grounds for refusing a request. These are listed below. You cannot refuse the request for any other reason.

You need to ensure that you can properly justify your refusal. It is not enough simply to say there would be a detrimental impact on the employee's performance; you have to be able to substantiate your decision and be able to provide evidence where necessary.

Agreeing to a Compromise

If you agree to a compromise to the original request, you will still need to justify why you have not accepted the original request.

You should then write to the employee, confirming that their request has been accepted and the date by which the change is to take effect.

The employee will have the choice of accepting the compromise or appealing on the basis of the original request. Alternatively, they could withdraw their application completely and revert to their existing terms if they do not wish to take the matter any further.

If the compromise is accepted and the change constitutes a change in hours or anything else that has an effect on salary, you must complete a **Change of Employee Details Form** so the change can be implemented and the amendment to their terms and conditions can be confirmed in writing.

Reasons for Refusal

The seven grounds for refusal have already been mentioned. Below are some examples of how you should justify them. Remember you cannot just invent a reason, if it's possible for you to accommodate the employee's request, you must accommodate it.

The advantage to the employee is outweighed by the burden of additional costs

This would be very difficult to prove taking in to account the size of the company. The only way costs could be really considerable is where an employee wants to work from home and needs access to the IT network.

A detrimental effect on the company's ability to meet customer demands

If there was no one (or very limited cover) to cover certain hours such that your department would not be able to provide an efficient and effective service to its customers in that we could not deliver on time for example, we may be able to justify that we would not be able to meet customer demands.

An inability to reorganise work among existing staff

If the other employees in your department were not willing to alter their hours in order to accommodate a change for another employee they cannot be forced to do so and, therefore, this could constitute a justification.

An inability to recruit additional staff

If you have tried recently or on more than one occasion to recruit for your department using several means and it is not possible to find a suitable candidate, this could be a justifiable reason. However, this would be difficult to prove for the more basic positions.

A detrimental impact on the employee's quality of work or performance

If the employee proposes to reduce their working hours and you feel that they would not be able to satisfactorily complete their work in the new time-scales you may have a justifiable reason, however this reason is based on speculation and not fact and so it is more difficult to justify.

Insufficient work during the periods the colleague intends to work

If for example the employee wishes to only work in term-time and therefore not work during the school summer holidays, we may be able to justify a refusal on the grounds that summer is our busiest time of year and there is less work generated during term-time.

Planned structural changes within the company

If there are changes planned in your department/company you may be able to justify refusing the employee's request because of uncertainties relating to the changes.

Appeal Procedure

If the employee is not happy with the decision made, they have the right to appeal within 14 days of receipt of the outcome letter. The appeal meeting is structured in a similar way to the first meeting but is only to discuss the points of contention, not to repeat all the issues again.

The appeal meeting should be held by another manager, preferably a more senior manager and should be discussed with Go HR in all instances. The appeal meeting must take place within 14 days of the request and the decision must be given to the colleague within 14 days from the appeal hearing.

Complaints Procedure

If the employee is still not satisfied with the decision made at the appeal meeting, they have the right to bring a claim in an employment tribunal within three months from the date on which the employee is notified of the appeal decision.

If the claim is successful, the tribunal will have the power to order us to reconsider the request. The tribunal will also have the power to consider whether an award of compensation should be made.

The colleague can also bring a claim if we fail to follow the correct procedure or keep to the timetable and so you must ensure that the policy and guidelines are properly adhered to. Go HR should be contacted for advice if necessary.