

# **FLEXIBLE WORKING**

This fact sheet gives you **FACTS** and **TIPS** regarding your rights when considering making a request to work flexibly.

**FACT – Asking for flexible working means asking your employer to change your working pattern**

## **TIPS:**

- **Common requests include finishing earlier, starting later, compressing your hours into fewer days, making your working days shorter, or dropping down to fewer days of work.**
- **Your request must be made in writing.**
- **Any change agreed will be a permanent change to your contract, so make sure you think carefully about what you are asking for.**
- **If you do not want a permanent change, your employer might be open to this but they are not required to consider this in the same way they are required to consider a request for a permanent change.**

**PREGNANT  
THEN SCREWED**



**FACT: You must be eligible to make a request.**

**TIPS:**

- ➔ **The eligibility requirements are currently that:**
  - ➔ **You have been working with your employer for more than 26 weeks**
  - ➔ **You have not made a request in the past 12 months**
  - ➔ **You are considered an employee by law (i.e. you have an employment contract)**

**FACT - Your employer must make their decision within 3 months**

**TIPS:**

- ➔ **Your employer should be referring to the ACAS Code of Practice on Flexible Working when considering your request. You should read this as it will give you a better understanding of what they are considering when making a decision:**

**<https://www.acas.org.uk/acas-code-of-practice-on-flexible-working-requests/html>**

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**FACT – There is no official form to fill in – but your written request must include specified information**

**TIPS:**

- ➔ Your employer may have a form they ask you to fill in, but if not, we recommend using the simple form available on the gov.uk website (<https://www.gov.uk/government/publications/the-right-to-request-flexible-working-form>). Using this form will help ensure that you do not miss any important information.
- ➔ To make it difficult for your employer to refuse your request, you should think carefully about, and include details of, how the request may benefit your business/employer, and how any potential effects of the change on your colleagues or clients could be dealt with.

## **FACT - Employers must deal with requests in a 'reasonable manner'.**

- ➔ **This includes:**
  - ➔ **Considering the advantages and disadvantages of the request - and not just dismissing it 'out of hand'**
  - ➔ **Holding a meeting with you to discuss the request**
  - ➔ **Offering an appeal process**
- ➔ **If you feel at any stage that your employer is not acting reasonably, tell them that by law, they must deal with your request in a reasonable manner.**
- ➔ **There is no legal right to an appeal, but employers who don't offer the right to appeal will be more likely to be considered not to be handling your request in a reasonable manner.**



## **FACT – There are valid reasons why a request may be refused**

### **TIPS:**

- ➔ **The reasons below are the ONLY reasons that employers are allowed to rely on when refusing a flexible working request. If your employer refuses for a reason not on the list below, you are entitled to appeal their decision not to grant your request and you may also have a legal claim against them:**
- ➔ **The change you are asking for will cost the employer too much**
- ➔ **The employer can't reorganise the work you are no longer doing among other staff**
- ➔ **they cannot recruit more staff to cover your request (this will arise with requests to drop your hours)**
- ➔ **there will be a negative effect on the quality of work, on performance or on your employer's ability to meet customer demand**
- ➔ **there's not enough work for you to do at the times you've requested to work**
- ➔ **the employer is planning changes to the business (e.g. reorganising the business) and thinks the request won't fit with these plans**



- ➔ If it is not clear exactly why your request is refused, press your employer for more detail about exactly which legal ground they are relying on.

**FACT - A flexible working request can only be made once every 12 months**

### TIPS:

- ➔ If you are considering different flexible working schedules, you should put forward both types in your request so your employer has more than one option to consider.
- ➔ **EXAMPLE:** If you need to work fewer days you could request to have your hours reduced OR work the same number of hours condensed into fewer days – this will give your employer greater flexibility, and you will only use up one request while putting forward a variety of options.
- ➔ The rule about only applying for flexible working every 12 months does not apply if your employer has not followed the required steps and/or has dismissed your request unfairly – in this case, you should be given a chance to reapply without having to wait a further 12 months.



## **FACT - You may have a claim if your request is denied**

### **TIPS:**

- ➔ You can't make a claim to the tribunal just because your request has been refused, BUT you can complain to an employment tribunal if the employer:
  - ➔ didn't handle the request in a reasonable manner
  - ➔ wrongly treated your application as withdrawn
  - ➔ rejected your request based on incorrect facts.
- ➔ If you make a claim about these issues, the tribunal can:
  - ➔ order your employer to reconsider your request
  - ➔ award you up to a maximum of 8 weeks' pay.
- ➔ Making a claim to the tribunal should be a last resort because it can often lead to a breakdown in the relationship between you and your employer. It is better to exhaust other options including using the appeal process and if relevant, your workplace's grievance process.
- ➔ If your employer dismisses you, demotes you or treats you badly because of your flexible working request, you should seek advice as you may have a tribunal claim.