

Flexible Working

Guidance Notes

In the Employment Act 2002, statutory flexible working opportunities were introduced. They were amended in 2007 and again in April 2009.

To have the statutory right to make a flexible working request, an employee has to meet certain criteria – although there is no reason for an employer not to consider requests from employees without the right.

To be eligible to make a statutory flexible working request, an employee must:

- have been employed continuously for at least 26 weeks on the date they make their request
- not have made another statutory request during the previous twelve months

An employee can only make an application to care for either:

- a child aged 16 or under
- a disabled child who is under 18 and who is in receipt of disability living allowance (DLA)
- certain adults who require care

It is important to bear in mind that a 'parent' who makes a request could be someone other than the mother or father of the child. The person could be married to or the partner or civil partner of the child's mother; they could be a special guardian, foster parent or a person who has been granted a residence order in respect of a child. Similarly, a 'carer' could be someone other than the spouse or partner. The applicant should confirm their 'relationship' with the child or adult in their request and if an employee wishes to check, a full list of who is eligible to apply can be found on the Business Link website.

Flexible Working Requests should be made in writing and there is a form employees can use (FW(A)) from the Department of Business Innovation & Skills (BIS). Alternatively, the employee could find out what their application should include from the Business Link website.

Employees should allow plenty of time between the date of the application and the date they expect the flexible working arrangement to start. This is to allow employers time to look at the application and assess whether or not it can be accommodated. The decision should be made on business grounds rather than the employee's personal circumstances. If a request is accepted, this may lead to a permanent change to the employee's contractual terms and conditions. If this is the case, then the employee may not revert back to the previous working pattern unless the employer agrees otherwise. If an employee is concerned about this, the employer could either suggest that they work flexibly over a trial period or agree that the arrangement will be temporary.

The websites for Acas, Business Link and BIS (see Section 17 for details) provide detailed guidance on Flexible Working Requests, should further information be required.

While every care has been taken in compiling these notes, Action in rural Sussex cannot be held responsible for any errors or omissions; the notes are not intended to be a substitute for specific legal advice.