



Flexible Working (for parents of children and carers of adults making applications for flexible working to commence on or after 6 April 2009)

The right to request Flexible Working

The following guidelines set out the right to request flexible working, under the Employment Act 2002 as amended by the Work and Families Act 2006 and the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2009, for employees who are parents caring for children aged 16 years and under (or 18 years and under for a child with disabilities) or are carers of adults.

From 6 April 2009 eligible parents of children aged sixteen or under, or of disabled children aged eighteen or under and employees who are carers of adults will have the right to apply for flexible working. The University will give full consideration to such requests. The right enables eligible employees to apply for flexible working.

Based on good practice, the right aims to encourage both employees and employers to find solutions that suit them both. The employee has a responsibility to think carefully about their desired working pattern when considering making an application and the University will follow the procedure identified below to ensure that applications are considered properly. A set of forms is available from the Human Resources Division to assist with an application.

The right to flexible working is separate from and additional to the existing right of parents to take specified maximum amounts of (unpaid) Parental Leave and of all employees with care responsibilities to take reasonable amounts of (paid and unpaid) time off to deal with a range of incidents or circumstances relating to their dependants. Details of these additional rights can be found in the University's guidelines on Parental Leave and Time Off Work: Employee Rights and Management Guidelines.

Who is eligible to make an application?

In order to make a request the individual will need to be an employee and have worked for the University continuously for 26 weeks.

In addition, to be eligible to make an application for the care of a child, the individual will need to:

- have a child aged sixteen or under, or eighteen or under in the case of a disabled child; and
- be either:

- the child's mother, father, adopter, guardian, or foster parent,
- OR
- married to, or the partner of, the child's mother, father, adopter, guardian, or foster parent;
- AND
- be making the application no later than two weeks before the child's seventeenth birthday, or eighteenth birthday in the case of a disabled child; and
 - have, or expect to have, responsibility for their child's upbringing; and
 - be making the application to enable them to care for their child.

In order to be eligible to make an application for the care of an adult, the employee will need to:

- be the sole or main carer for a person aged 18 or over; and
- show some relationship with the person receiving the care (e.g. be married to, the partner or civil partner or a relative of the person that requires care, or live at the same address as the person that requires care); and
- be making the application to enable them to care for that person.

Types of flexible working patterns

The law allows eligible employees to request:

- a change to the hours they work;
- a change to the times when they are required to work;
- to work from home.

The procedure in summary

- Employees have a right to make **one application a year**, and an accepted application will result in a **permanent** change to the employee's terms and conditions of employment. *Form FW(A) Flexible Working Application Form*, which is available from the Human Resources Division. The Form must be completed in full and returned to the Human Resources Division, setting out the working pattern required and suggesting how it could be made to work.
- Within **28 days** after an application has been received in the Human Resources Division a meeting will be arranged with the employee, line manager and relevant Human Resources Manager to explore the desired working pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired work pattern outlined in the application. The employee has a right to bring a companion to the meeting (a friend, colleague or a trades union representative).
- Within **14 days** after the date of the meeting the Human Resources Division will confirm whether or not the application has been accepted by sending to the employee either *Form FW(B) Flexible Working Application*

Acceptance Form, or Form FW(C) Flexible Working Application Rejection Form.

- The employee has a right to appeal against the decision within **14 days** of it being notified to them. Form FW(D) Flexible Working Appeal Form should be used in this respect.

Declining an Application

There will always be circumstances where, due to the needs of the business, the University is unable to accept a request for flexible working. Requests will only be turned down where the business ground for refusal falls with those recorded by legislation and which are:

- burden of additional costs,
- detrimental effect on ability to meet customer demand,
- inability to re-organise work among existing staff,
- inability to recruit additional staff,
- detrimental impact on quality,
- detrimental impact on performance,
- insufficiency of work during the periods the employee proposes to work,
- planned structural changes.

The appropriate business ground(s) will be stated on the Form declining the application along with a sufficient level of explanation as to why the business ground for refusal applies in the circumstances, together with details of the employee's right to appeal. Employees who remain unhappy with the outcome will be able to pursue their request via the relevant University Grievance Procedure

Extension of time limits

There are two specific circumstances where the time limits as laid out in previous sections might be extended by the Human Resources Division:

1. *through agreement with the employee:*

There may be occasions when it is not possible to complete a particular part of the procedure within the specified time limit. For example, the Human Resources Division may need to speak to an employee who is on holiday to establish whether they can cover the applicant's requested change to their working pattern. Such extensions of time limits will **only** take place if agreed to by the employee and a record of agreement in writing will be kept on file (using *Form FW (F) Flexible Working Extension of Time Limit Form*);

2. *through the employer's absence:*

Where an application involves consultation with a manager who is absent from work due to short-term leave or illness, an automatic extension applies. The Human Resources Division will arrange for the meeting to take place after a further 28 days or the day of the manager's return, whichever is sooner.

Appeals – further information

Employees have a right to appeal if their application to work flexibly has been rejected or they don't agree with a proposed revision to their original application. The appeal must be made within 14 days after the date they receive written notice that their request has been rejected using Form FW(D) Flexible Working Appeal Form. There are no constraints on the grounds under which an employee can appeal. It may be that they wish to bring to attention something that the Human Resources Division may not have been aware of when the application was rejected, e.g. that another member of staff is now willing to cover the hours the applicant no longer wishes to be worked. Or, it may be to challenge a fact that has been given in the explanation as to why the business ground applies.

The Human Resources Division will arrange the appeal meeting within 14 days after receiving notification that the employee wishes to appeal. The meeting will usually involve the line manager with whom the original application was discussed. Following this meeting notification must be given within a further 14 days using Form FW(E) Flexible Working Appeal Reply Form.

Human Resources Division (April 2009)

The Procedure – a summary

