

June 2014

Code of Practice 5



Handling in a reasonable manner requests to work flexibly

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advise

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work
with you



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First published 2014

ISBN 978 0 11 708246 5

Printed in the United Kingdom by The Stationery Office.

J002923456 07/14 41480

Further copies may also be obtained from Acas Publications, Swallow Field Way, Hayes, Middlesex, UB3 1DQ. Tel: 0870 242 9090.

Explanatory Note

Throughout this Code the word “should” is used to indicate what Acas considers to be good employment practice, rather than legal requirements. The word “must” is used to indicate where something is a legal requirement.

Further information for employees and employers with practical examples on making and managing requests for flexible working can be found in the good practice guide ‘The right to apply for flexible working: an Acas guide’.

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Introduction

1. Every employee has the statutory right to ask to work flexibly after 26 weeks employment service. An employee can only make a statutory request once in any 12 month period. This Code is intended to help employers deal with written requests made by employees to change their working hours or place of work under the statutory right in the Employment Rights Act 1996 to request flexible working.
2. The guidance in this Code, as well as helping employers, will also be taken into account by employment tribunals when considering relevant cases.

Keys to handling requests in a reasonable manner

The Request

3. A request from an employee under the Employment Rights Act 1996 and regulations made under it must be 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.

You should make clear to your employees what information they need to include in a written request to work flexibly.

What should you do with a request?

4. Once you have received a written request, you must consider it. You should arrange to talk with your employee as soon as possible after receiving their written request. If you intend to approve the request then a meeting is not needed.
5. You should allow an employee to be accompanied by a work colleague for this and any appeal discussion and the employee should be informed about this prior to the discussion.

Discuss with employee

6. You should discuss the request with your employee. It will help you get a better idea of what changes they are looking for and how they might benefit your business and the employee.
7. Wherever possible the discussion should take place in a private place where what is said will not be overheard.

Consider the request

8. You should consider the request carefully looking at the benefits of the requested changes in working conditions for the employee and your business and weighing these against any adverse business impact of implementing the changes, see paragraph 11. In considering the request you must not discriminate unlawfully against the employee.
9. Once you have made your decision you must inform the employee of that decision as soon as possible. You should do this in writing as this can help avoid future confusion on what was decided.
10. If you accept the employee's request, or accept it with modifications, you should discuss with the employee how and when the changes might best be implemented.
11. If you reject the request it must be for one of the following business reasons as set out in 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
 - a detrimental impact on 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.
12. If you reject the request you should allow your employee to appeal the decision. It can be helpful to allow an employee to speak with you about your decision as this may reveal new information or an omission in following a reasonable procedure when considering the application.

Deal with requests promptly

13. 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.
14. If you arrange a meeting to discuss the application including any appeal and the employee fails to attend both this and a rearranged meeting without a good reason, you can consider the request withdrawn. If you do so, you must inform the employee.

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