



# Carers and Employment: A guide to the right to request flexible working

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## The right to request flexible working

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The right to request flexible working was introduced in 2003 for parents of young and disabled children. Since April 2007 the Work and Families Act 2006 (The Work and Families (Northern Ireland) Order 2006 in Northern Ireland) has given carers, as well as parents, the right to request flexible working. The request can cover changing hours, times or place of work. A flexible working pattern might be the difference between a carer continuing to work or having to resign and yet flexible working opportunities benefit everyone – employers, employees and their families.

Evidence has shown that a flexible working approach attracts and retains staff, reduces stress and sick leave, increases productivity, improves service delivery, produces cost savings and improves people management.

The latest CBI Employment Trends Survey 2008 has revealed that 96% of requests from carers have been accepted and that the overall impact on employers has been a positive one:

- 69% report a positive impact on employee relations
- 63% report a positive impact on recruitment and retention
- 35% report a positive impact on absence rates
- 28% report a positive impact on productivity.

The survey also revealed that 47% of employers are going beyond the law and offering flexible working to all employees. Employers tell us that, among their reasons for offering the right to all employees, they consider that it can help to counter negative attitudes within the workplace and promote a more positive culture. Having a policy where the right to request flexible working is applicable to all helps to reduce the tensions which can sometimes develop between parents and non-parents/carers and non-carers.

***“The average increase in productivity for flexible workers is 21% - worth at least £5-6 million on the company bottom line.”***

Director of People Networks,  
telecoms company



## What is flexible working?

Flexible working could include:

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- **Flexi-time**

Employees may be required to work within set times but outside of these 'core hours' have some flexibility in how they work their hours.

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- **Home working or teleworking**

Teleworking is where employees spend part or all of their working week away from the workplace. Homeworking is just one of the types of teleworking, along with mobile working and hot-desking.

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- **Job sharing**

Usually two employees share the work normally done by one person.

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- **Part time working**

Employees might work shorter days or fewer days in a week.

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- **Term-time working**

Employees don't work during school holidays and either take paid or unpaid leave or their salary is calculated pro-rata over the whole year.

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- **Shift-swapping or self-rostering**

Employees agree shifts among themselves and negotiate with colleagues when they need time off with the process being overseen by managers.

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- **Staggered hours**

Employees have various starting and finishing times meaning that goods and services are available outside traditional working hours.

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- **Compressed hours**

Employees work their total hours over fewer working days eg a ten day fortnight is compressed into a nine day fortnight.

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- **Annualised hours**

Employees' hours are calculated over a whole year and then split into 'fixed shifts' and 'reserve shifts' which can be agreed on a more flexible basis.

## Examples of requests

**Barry requested to work from home:** Barry works full time as an account manager for a large company and cares for his son who has learning disabilities. Barry has a 1½ hour journey to and from work and is finding the long days very hard to cope with on top of his caring responsibilities. Barry makes a request to work three days a week from home. He and his manager work out how they can set up all the systems he needs from home so that office-based staff will be able to contact him easily and that most of the work he does can be done remotely. He will also still be able to attend meetings on the days he is in the office and can be flexible about moving his 'home work days' if necessary.

**Diane requested to work compressed hours:** Diane works as a sales assistant and cares for her husband who has cystic fibrosis. Her husband currently receives care from social services for three days a week, and his sister looks after him for one day a week. Diane now works her 30 hour week in four days instead of five to enable her to look after her husband for the rest of the week.

**Conrad requested to work annualised hours:** Conrad works in a call centre and cares for his wife who has been diagnosed with manic depression. Conrad's wife's condition is such that her need for support varies; some months she needs very little looking after, other months she needs someone to be with her almost all the time to make sure she is safe. Conrad asks to work annualised hours so that he has some flexibility to meet her needs but can carry on working - from the 2080 hours a year he must work, Conrad has a set pattern of work for 1040 hours (20 hours a week). The remaining hours he agrees on a monthly basis with his employer; during the months his wife is well, he works extra hours, when she is unwell, he reduces his hours.

## Who has the right to request flexible working?

Employees who have worked for their employer for 26 weeks at the date an application is made and who are:

- a parent with a child(ren) under 6 or a disabled child(ren) under 18 or
- a carer.

Employees have the right to make one application per year, however, employers can grant further changes if employees find that their circumstances have changed and need to make a further application. The change to a working pattern will mean a permanent change to the employee's contract, unless agreed otherwise, eg a trial period or time-limited change.

The Act currently defines a carer as someone who cares for, or expects to care for, a spouse or partner or civil partner, a relative such as a parent, parent-in-law, adult child, sibling (including those who are in-laws), uncle, aunt, grandparent and step-relative, or someone who falls into neither category but lives at the same address as the carer.

Under the National Carers Strategy, published in June 2008, the government has committed to review the definition of 'carer' in the Flexible Working Regulations to consider extending it to the 20% of carers who currently miss out. These are carers who are not a close relation of the person they care for or who do not live with them. Evidence shows that most employers are open to requests from people not currently eligible under the new law, such as those who care for, say, an elderly neighbour.

**Under the National Carers Strategy, published in June 2008, the government has committed to review the definition of 'carer'**



# Application for flexible working

Employees can use this tear-out form to make an application under the legal right to apply for flexible working. However, its use is not mandatory; an application can be made in whatever form is most suitable to the employee, eg a letter, a form provided by the employer or by e-mail - it will however help employees to ensure that all the necessary information is provided to avoid any delay.

Additional sheets can be added if more information is required.

## Personal details

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Manager: \_\_\_\_\_

NI no: \_\_\_\_\_

Staff or payroll no: \_\_\_\_\_

I would like to apply to work a flexible working pattern that is different to my current working pattern under the right provided in law. I am requesting this change to help me manage my work and caring responsibilities.

## I meet each of the eligibility criteria:

I care or expect to be caring for (name): \_\_\_\_\_

who is my (relationship): \_\_\_\_\_

I have worked continuously as an employee of the company for the last 26 weeks.

I have not made a request to work flexibly under this right during the past 12 months.



[www.employersforcarers.org](http://www.employersforcarers.org)  
email [employers@carersuk.org](mailto:employers@carersuk.org)  
telephone 020 7378 4975

**Current work pattern**

My current working pattern (days, hours, times and/or location) is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Requested work pattern**

I would like to work (days, hours, times and/or location):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I think that the effect on my employer(s) and colleagues can be dealt with as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I would like this new pattern of work to start on: (date)

\_\_\_\_\_

**Impact on my employer and colleagues**

I think that this change in my working pattern will affect my employer(s) and colleagues as follows:

\_\_\_\_\_

I understand that this change would mean a permanent change to my contract, unless agreed otherwise.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Employers Confirmation of Receipt**

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. Cut this slip off and return it to your employee in order to confirm your receipt of their application.

Dear: \_\_\_\_\_

I confirm that I received your request to change your work pattern on: \_\_\_\_\_

I will arrange a meeting to discuss your application within 28 days of this date.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary of employees' and employers' rights and responsibilities

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## Employees' Rights

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- To apply to work flexibly.
- To have your application considered properly and refused only where there is a clear business reason for doing so.
- To bring along a companion to the meeting with your employer to discuss your application.
- To receive a written explanation, if your application is refused.
- To appeal against an employer's decision to refuse an application.
- To take a complaint to a tribunal in certain circumstances.
- To be protected from detriment or dismissal for making an application.

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## Employees' Responsibilities

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- To provide a carefully thought-out application.
- To ensure your application is valid by checking that you meet all the eligibility criteria and that you have provided all the necessary information.
- To ensure your application is made in good time.
- To arrive at meetings on time and to be prepared to discuss your application in an open and constructive manner.

- To be prepared to be flexible yourself in order to reach an agreement with your employer.

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## Employers' Rights

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- To reject an application if the desired working pattern cannot be met within the needs of your business.
- To seek your employee's agreement if you need to extend any of the timescales.
- To consider an application withdrawn in certain circumstances.

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## Employers' Responsibilities

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- To consider requests properly in accordance with the legislation.
- To ensure you stick to the set time limits.
- To provide your employee with appropriate support and information during the course of their application.
- To decline a request only where there is a recognised business reason and to explain to your employee in writing why this is so.
- To agree, in advance, any variation of the procedure with the employee and record this in writing.
- To ensure that you do not subject an employee to detriment or dismissal for making an application.

# About Employers for Carers

Employers for Carers is a membership forum for employers who want to support the people in their workforce who are carers. Set up with support from Carers UK, its purpose is to:

- identify and promote the business benefits of supporting carers in the workplace
- influence employment policy and practice to create a culture which supports carers in and into work
- provide a service to employers seeking to develop best practice in the workplace.

Employers for Carers also provides a consultancy and training service to assist employers in developing their work with carers.

At the core of the forum is a leadership group of employers who are already rising to the challenge of supporting carers in their workforce and have a wealth of good practice and experience to share.

**For more details visit  
[www.employersforcarers.org](http://www.employersforcarers.org),  
email [employers@carersuk.org](mailto:employers@carersuk.org)  
or telephone 020 7378 4975.**

## About Carers UK

Carers UK is the voice of carers. Carers UK fights to end the ill health, poverty and discrimination faced by carers as a direct consequence of caring. Carers UK improves carers' lives by providing information and advice on carers' rights and campaigning for changes that make a real difference for carers.

### Join Carers UK

Join Carers UK and help us win better support for carers. As a member you will receive our magazine *Caring* full of the latest information on caring,

carers' stories and how Carers UK is making a difference. Adding your voice strengthens our campaigning power to improve recognition and support for all carers. Carers UK has offices in England, Scotland, Wales and Northern Ireland – contact details are to be found at the end of this leaflet.

**To join, visit our website  
[www.carersuk.org](http://www.carersuk.org), email  
[membership@carersuk.org](mailto:membership@carersuk.org)  
or call 020 7378 4931.**

## How do employees make a request?

The request to work flexibly must be made in writing, dated and should include:

- confirmation that the employee is eligible, ie that they are a carer
- an outline of the working pattern they would like
- an explanation of the effect, if any, they think the proposed change might have on their job and, how they think this could be dealt with
- the date on which they would like the proposed change to start
- details, including the date, of any previous requests.

It is important to consider the needs of the company or organisation when a request is made, and that as much information is included about how the proposed change will help the business as well as the employee, or how any possible negative impact can be dealt with. This will ensure that the employer and employee have a productive discussion about how the request can work.

**Example:** Neela is a hairdresser and works in a busy salon. She cares for her husband who has Multiple Sclerosis and requests to start work half an hour later so that she can help him get ready for his day. In her application she suggests that this will have a minimal impact on the business as it is the quietest part of the day and that she will make up the time during the lunch period when it is far busier.

**Some employers have a standard form, however there is a sample form in the middle of this booklet.**

**It is important to consider the needs of the company or organisation when a request is made**



## What evidence of caring is required?

Carers do not have to prove the caring relationship but it may help an application if as much information as possible is given. 'Caring' in this context includes not just personal care but also, for example, emotional support, giving/supervising medication, keeping the cared for person company, helping with financial matters or paperwork, helping with practical household tasks and escorting them to medical appointments.

## When can employees make a request?

Employees can make a request at any time as long as they meet all the eligibility criteria. However, the application process can be lengthy (around 14 weeks) so it is better if requests are made as soon as possible.

## Can an employer refuse a request?

An employer can only refuse a request if they have good business reasons for it and this must be explained in writing, including relevant and accurate facts. The business reasons for refusing a request are:

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

Employers should also ensure that they are not discriminating against employees with caring responsibilities. In July 2008 the European Court of Justice ruled in the Sharon Coleman case that laws relating to discrimination of disabled people should also apply to their parents and carers.

## What can an employee do if their request is refused?

Employees can appeal in writing within 14 days of receiving notification of the refusal and an appeal meeting must be held.

It is worth thinking about whether a trial period might help – this gives both the employer and employee an opportunity – without commitment – to test out the suggested flexible working pattern to see what impact it has both on the business and the employee.

**Example of appeal:** Alice works full time as a receptionist and looks after her mother who has dementia. To ensure she is able to take her mother to a day service and pick her up again at the end of the day, Alice asks to reduce her hours and work shorter days. At a meeting to discuss the request, Alice's employer raised concerns about the change, saying that reception needs to be covered at all times. Following the meeting, Alice's request is refused on the grounds that the company cannot afford to recruit a job share. Alice appealed the decision and in a further meeting demonstrated that the hours she would be working were the busiest time of the day, when two people are needed, and so the workload would be manageable during the times that the other receptionist would be alone. She also suggested that another member of staff could be trained up to do some of her tasks, which would cost less than recruiting a new member of staff. Her request was allowed following the appeal meeting.

**Carers do not have to prove the caring relationship but it may help an application if as much information as possible is given.**



## What can an employee do if their request is refused at appeal?

Wherever possible it is better to reach agreement on flexible working within the workplace, however, there are a number of options open if an employer refuses the application at the appeal stage of the procedure including:

- informal discussions - there may be some simple misunderstanding of the procedure or facts which can be resolved informally
- use of the employer's internal grievance procedure
- assistance from a third party such as a trade union representative or some other suitably experienced person
- use of the Acas Arbitration Scheme to help find a solution - by providing information or where appropriate through a process of conciliation.



**Employees who believe they have suffered a detriment or dismissal for making an application under the right can make a complaint to an employment tribunal.**

Employees can make a complaint to an employment tribunal if their appeal is unsuccessful, provided they feel that:

- the process was not followed correctly
- proper consideration was not given to (some of) the facts of the case
- they have been discriminated against in some way.

There is a strict 3 month time limit and in most cases employees have to go through the statutory grievance procedure before they can apply to tribunal. Employees should seek legal advice at this point.

### **Are employees protected for making an application under the right?**

Employees who believe they have suffered a detriment or dismissal for making an application under the right can make a complaint to an employment tribunal.

#### **The application process**

- ✓ **Employer receives an application**  
within 28 days the employer must agree in writing to the request or hold a meeting to discuss it
- ✓ **Meeting is held\***  
within 14 days the employer must notify the employee of the decision in writing
- ✓ **If the request is rejected**  
within 14 days of notification the employee can appeal in writing
- ✓ **The employer receives the appeal**  
within 14 days the employer must arrange an appeal meeting\*
- ✓ **Appeal meeting is held\***  
within 14 days the employer must send the employee written notification of the decision

\*Employees can take a colleague to the meeting with them. This can be the workplace union representative.

## Carers UK

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**CarersLine:** 0808 808 7777

(open Wednesday and Thursday  
10am-12pm and 2pm-4pm)



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**CARERS UK**  
the voice of carers

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