



## **FLEXIBLE WORKING: GUIDANCE AND FAQs**

*Please read this in conjunction with the University's Flexible Working [Policy](#) and [Procedures](#)*

### **FLEXIBLE WORKING: GUIDANCE FOR MANAGERS**

#### **The Benefits of Flexible Working**

Giving employees a reasonable degree of choice over their working hours and patterns is likely to bring substantial benefits to them in terms of their health, wellbeing, reduced stress levels and quality of work life balance. In return it is likely to bring substantial benefits to the University in terms of a more motivated, energetic, loyal and productive staff. Flexible working can also help someone to stay at work when circumstances might have otherwise prevented them from doing so.

Flexibility can improve the efficiency of the University: When flexible working options are managed well and offered proactively, they can support us to reach our business goals, manage space more efficiently and improve customer service. It can help the University to structure working patterns and staffing levels around peaks and troughs of demand. It can also positively affect the University's ability to recruit and retain skilled staff.

It is important to bear in mind that an employee's request to change his/her working hours does not mean a reduction in that person's commitment to the job or the University.

#### **Considering Requests for Flexible Working**

The University expects managers to consider any flexible working request in a reasonable manner. Managers have to weigh up the benefits to the employee and organisation against any adverse impact on the organisation whilst bearing in mind that the needs of the organisation must take priority.

You should encourage any employees who are considering making a request for flexible working to talk to you informally in the first instance. This will provide the opportunity to think through some of the implications; consider what the possible benefits are; if there are disadvantages, how they could be overcome, or what might outweigh them. It may be apparent at this stage that further information is needed before a request could be considered.

Assess the impact of the request on the service the employee provides. Applications for a change in working pattern will not always require a significant alteration, e.g. an employee may simply wish to start work half an hour later to take their child to school.

The request may support retention and/or maintain morale or may provide an opportunity to reduce costs. If additional costs are going to be incurred you will want to identify whether there are likely to be compensatory benefits. For example there may be an opportunity to re-structure; to make better use of space or to improve quality or provide a better customer service.

Identify any team-related issues that need considering. For example, there may already be staff working atypical patterns and it may not be practical to add another. In that case you might be able to propose a compromise arrangement. Similarly, multiple requests that are submitted around the same time may be difficult or impossible to accommodate. In general, requests should be dealt with on a 'first come, first served' basis.

It is important to ensure that in agreeing to a flexible working request you are not adversely affecting the required level of service/outputs from the School/Service overall, and that you are not unreasonably increasing the workload for the rest of the team.

Consider other practical issues:

- Are there issues of supervision/monitoring and are they manageable?
- If the employee's duties/responsibilities need to change to accommodate the request, is there a potential impact on job grade?
- Will the permission of an external funding body be required and is it likely to be given?
- Does anyone else need to be consulted before a recommendation is made?
- Will new equipment need ordering and what is the lead time?
- If the request is approved how soon could the new arrangements be put in place?
- Who needs to be informed of new arrangements?

Consider the possible effect on the employee of refusing a flexible working request. There may be a deterioration in their motivation or morale that requires attention and support to assist them towards a more positive outlook.

Occasionally an employee whose request has been refused will find it impossible to continue at work e.g. because of their caring responsibilities. If you consider this may be an outcome of a refused request you should discuss the request with HR before confirming your decision to the employee. Similarly, you should seek advice from HR if you feel unable to agree a request from an employee with a disability.

Flexibility involves give and take: responsibility for making it work must be shared by employees and managers. Together you need to assess opportunities and challenges in any proposed arrangement openly and honestly.

### **The Flexible Working Request Form**

Employees wishing to request flexible working (whether statutory or non-statutory requests) are required to complete application form FW1, available on the [HR webpage](#). If you receive a request that does not contain the required information, you should explain to the employee what additional or amended information he/she needs to provide and ask him/her to resubmit the request. Do not reject a request simply because a form has not been properly completed.

There are specific requirements in law associated with flexible working requests which are made under a statutory right (statutory requests) and these are explained in the [University's Flexible Working Procedures](#). See also the [flow chart](#) which sets out the steps for determining whether a request would be statutory or non-statutory.

Some flexibility requests do not require this formal application form. Employees wishing to make a temporary adjustment to the start/finish time of their working day (without a change in FTE) or occasionally to work from home may make a request informally and you can agree this informally. However, it is good practice to confirm, in writing, what has been informally agreed (e.g. by email).

### **Holding a meeting with the employee**

On receipt of a request, you will need to arrange a meeting with the employee as soon as possible but ideally within 28 calendar days. If the employee is making a **statutory request** he/she may be accompanied at the meeting by a work colleague or TU representative.

There may be circumstances in which the request can be agreed without a meeting, for example if you can see straight away that the employee's suggestion is easily workable or informal discussions have already taken place. However, ***you must not reject a request without holding a meeting.***

If you are likely to reject a statutory application on one of the eight prescribed grounds set out in the University's procedures for flexible working, this should be raised and discussed with the employee. Any compromises or alternative solutions can then be explored.

### **Confirming your decision**

Confirm your decision in writing, giving reasons if a request is rejected in full or in part. See suggested wording [here](#).

If you are unable to grant an employee's request in full or part, you may suggest a compromise. Employees whose statutory request is not fully upheld have the right of appeal.

Remember that you can only reject a statutory request (whether in full, or in part) on one or more of the prescribed business reasons, which are set out in the procedures. ***You must not reject a statutory request for any other reason.***

You will also need to let HR know the decision on the flexible working request so that any relevant contractual changes can be put in place. (HR also maintain a log of all flexible working requests and the outcomes of those requests for monitoring and for Athena SWAN reporting.)

## **FLEXIBLE WORKING: MANAGERS' FREQUENTLY ASKED QUESTIONS**

*Managers may also find it useful to read the FAQs for Employees, which are after these Managers' FAQs*

Q: Where can I get advice on considering a flexible working request?

A: *Read the University's Policy, Procedures and Guidance in the first instance and if you cannot find the answers you need within those, contact your HRD Partner or your HR Consultant*

Q: Can I reject a statutory request for flexible working?

A: *There is no obligation on the University to agree automatically to a request for flexible working. The employee's right is to request flexible working, there is no right to have the requested work*

*pattern implemented. However, statutory requests to work flexibly must be considered objectively and reasonably. You can only refuse the request on one of the prescribed business reasons set out in legislation, which are detailed in the University's Flexible Working Procedures.*

**Q:** Do the same business reasons apply for rejecting a non-statutory request?

*A: It is good practice to consider a non-statutory request in the similar way to a statutory one. However, non-statutory requests are not covered by legislation and therefore your reasons for rejecting a non-statutory request are not limited to the prescribed business reasons set out in legislation, which are detailed in the University's Flexible Working Procedures.*

**Q:** An employee has asked about a flexible working arrangement but they don't have the 26 weeks service – am I obliged to consider it?

*A: Yes, managers should consider ALL flexible working requests – even where the employee doesn't have the statutory right to make the request. This would be classed as a non-statutory request and is covered by the University's Policy and Procedures on Flexible Working.*

**Q:** Can an employee make a non-statutory request for a permanent change to their working arrangements?

*A: Yes. Even if the employee doesn't meet the criteria for a statutory request, has no legal right to make that request and no right of appeal if it is rejected, you should still consider their request in a reasonable manner.*

**Q:** Can I use a trial period to test whether a proposed flexible working arrangement would work?

*A: Yes. In fact it is preferable to offer a trial period, if possible, than to reject the request outright. You would need to consider how the long a period would be required to allow adequate assessment and how success would be measured. Before the end of the trial period you would need to hold another meeting with the employee to discuss whether the original request can now be agreed.*

**Q:** I have a team of 6. One of the team has requested to work Mon-Thurs only. I'm concerned that if I agree to this request others in the team will also want the same arrangement. I won't be able to agree to more than one of the team having every Friday off and that doesn't seem fair. Can I refuse this request on that basis?

*A: Flexible working requests should be considered on a case by case basis in the order they are made and you cannot reject a request on the basis that someone else might want the same pattern in the future. If other members of the team request flexible working at a later date, your decision will take account of the working patterns you already have in your team and how further change would impact on that team and the service which that team provides.*

**Q:** I'd like to accommodate my employee's flexible working request but I already have a number of staff working flexibly and it would negatively impact on the service if I was to agree this latest request. I've discussed other possibilities with the employee but he/she tells me those do not meet his/her needs

*A: There will be times when it will not be possible to agree a request, even partially. You could put the new request on a 'waiting list' to be considered if circumstances change, such as a member of staff with a flexible working pattern leaving the team. If an employee will find it impossible to*

*continue at work if their request is refused (e.g. because of caring responsibilities) you should discuss with HR before confirming your decision to the employee. You also need to keep in mind the duty to make reasonable adjustments under the Equality Act 2010 when considering a request for flexible working from an employee with a disability. If you feel unable to agree a request from a disabled employee, please seek further advice from HR before any decisions are communicated to the employee.*

Q: What if I receive a number of competing requests at the same time, which, if any, should take priority?

*A: You should explain the difficulties with the individuals involved and look for possible compromises that might allow you to agree, or partially agree the requests. You must take care to avoid any form of discrimination when dealing with multiple requests, as employees have the right under the Equality Act 2010 not to be treated unfavourably on the grounds of sex, pregnancy and maternity, marriage or civil partnership, gender reassignment, race, religion or belief, sexual orientation, age or disability. Therefore, when dealing with competing requests you would need to look at the reasons why the employees want to work flexibly, and give priority to an employee whose request is linked to one of these protected characteristic. However, such cases would not have priority over existing flexible working arrangements which other staff have in place. HR are available to offer guidance in such cases.*

Q. If I agree the request can I ask the employee to change it back later if it doesn't work?

*A: In agreeing to a statutory request for flexible working, you are agreeing to a **permanent** change to the employee's contract. While discussions may be held with any member of staff on changing hours to meet University needs, no pressure can be applied to members of staff to change their existing permanent arrangements. Changes to contractual working patterns would normally only be agreed by mutual consent. If you have concerns about the practicality of the proposed changes you could consider a trial period in the first instance.*

Q. I don't feel able to agree a permanent change. Is there another option?

*A: If there are good business reasons for rejecting the request on a permanent basis, you could consider the option of a fixed-term change, if that is feasible. However, you would be rejecting the statutory request for (permanent) flexible working and so the reason for rejecting the request would have to fit into one of the prescribed reasons listed in the University's Procedures document. You could also consider offering the employee a trial period to enable you to determine whether this is a change you could agree to on a permanent basis.*

Q: I've got a request for semester only working but I'm not sure that I can recruit someone to do the vacation hours – is that good enough reason to say no?

*A: "Not being sure" isn't a good reason to reject a request. You should consider how you can address any concerns before refusing a request. In this instance you might agree the request in principle but subject to you being able to make arrangements to cover the vacation period.*

Q: The request I have received doesn't state a reason. Can I insist on knowing why the employee wants flexible working?

*A: Employees are not obliged to provide a reason although we do ask them to do that. There is nothing in the legislation to prevent you from asking the employee why he or she is making the request, and knowing more about the employee's needs may assist you in suggesting a way in which those needs can be met. However, you cannot use the lack of a good reason as a ground for refusing the request.*

## **FLEXIBLE WORKING: EMPLOYEES' FREQUENTLY ASKED QUESTIONS**

**Q:** What's the difference between a "statutory" request and a "non-statutory" request?

*A: Under employment legislation you have the right to make a statutory request for flexible working if:*

- (i) You are seeking a permanent change to your working arrangements, and*
- (ii) You are an employee of the University with at least 26 weeks' continuous service, and*
- (ii) If you have previously made a statutory request for flexible working, at least 12 months have elapsed since then*

*If you cannot answer YES to each of the above 3 points, then you can still make a (non-statutory) request to work flexibly, The procedure for making a non-statutory request differs to that of statutory requests and is set out in the University's Flexible Working*

**Q:** How do I apply for flexible working?

*A: The details of how to apply are contained in the University's [Policy](#) and [Procedures](#) on Flexible Working*

*Talk to your manager informally in the first instance. That will enable you both to think through some of the implications and consider whether you need to seek out further information before making a formal request. Submit your request as soon as possible and certainly not less than 12 weeks before you want the new arrangements to start. If your request is approved, your manager may need to put in place other changes locally and will need time to do that. There may be occasions where an unexpected change to your personal circumstances makes this length of notice impractical and your manager will do their best to respond rapidly.*

*Your manager is more likely to be able to respond positively to your request if you have thought through the implications for your colleagues and for the service you provide. If there are disadvantages you should try to consider how they could be overcome, or what benefits might outweigh them.*

*On a personal note, give some thought to the financial implications for your salary, pension, benefits etc. and seek advice from relevant people if you are unsure.*

**Q:** Why do I have to give a reason for a request?

*A: There is no legal requirement for you to provide a reason for your request but we ask for this information so we can monitor it for equal opportunities purposes and consider whether any of our equal opportunities obligations are triggered. It also helps your manager understand what you are trying to achieve so that if your original request cannot be accommodated you and your manager can discuss possible alternatives.*

Q: Why can it take up to three months to get a request agreed?

A: *Three months is the time limit laid down in legislation. Most requests are likely to be dealt with in a shorter timescale. In some cases there may be additional information needed, or other actions to be taken, before a request can be agreed. For example in order to agree a reduction in hours the manager might have to seek approval to create a part-time post to cover the shortfall in hours.*

Q: I'm just seeking a very short term change to my working pattern. Do I have to make a formal flexible working request for that?

A: *You should discuss your request with your manager. It may be that your manager is able to informally agree a short term change which does not have contractual implications. For example if you wanted to shift the start and end of your working day without reducing your hours for a short period, and your manager agreed your request, then it could be done without the formal application but we would recommend that any informal arrangement is still confirmed in writing between manager and employee (e.g. by email).*

Q: Can my manager refuse my statutory flexible working request?

A: *Even where staff have a statutory right to request flexible working, there is no obligation on a manager to agree automatically to the request. Statutory requests to work flexibly must be considered reasonably and objectively. Your manager can only refuse a statutory request for certain prescribed business reasons, which are detailed in the University's Flexible Working [procedures](#).*

Q: I asked for a particular working pattern but my manager is suggesting an alternative arrangement. Can they do this?

A: *If it is not possible to agree to your request as it stands, your manager may suggest an alternative arrangement for you to consider. It is sensible to be prepared to discuss a compromise, but in the event that an agreement cannot be reached your current working arrangements will remain unchanged. Flexibility involves give and take: responsibility for making it work must be shared by employees and managers. Together you need to assess opportunities and challenges in any proposed arrangement openly and honestly.*

Q: A member of my team had his/her flexible working request agreed a few months ago but my request has been rejected. Doesn't my manager have to treat us all the same?

A: *Your manager has to reasonably consider all flexible working requests. However, it may be difficult to accommodate the flexible working requests of a number of employees in the same area. Each time a manager considers a request he/she has to take account of the existing work patterns in the team and it may not be possible to agree a later request if, for example, it would leave the team short staffed at particular times.*

Q: My manager has agreed a change on a fixed-term basis, what happens at the end of that period?

A: *On the completion of the agreed period your working pattern would revert to the previous arrangement unless otherwise mutually agreed between you and your manager e.g. via a further flexible working request. You should arrange to meet with your manager, before the period comes to an end, to discuss whether you would like to extend the arrangement and whether s/he can agree to it.*

Q: I made a statutory request five months ago which was approved, but my circumstances have changed. Can I make another request to change my working pattern again?

A: *You can only make one statutory request in a 12 month period. You therefore do not have a legal right to make another statutory request at this time. However, you could make a non-statutory request now and it might be that your manager can accommodate it. Alternatively, you will have the right to make another statutory request in seven months but, of course, there is no guarantee that your next request will be agreed.*

Q: I reduced my hours under flexible working over a year ago but now I want to return to full time work, can I do this?

A: *As it is over 12 months since your last request, you can make a further statutory request to change your hours. Whether that request can be approved will depend on what the current business need is. There is no automatic right to revert back to your previous working pattern and you should have no expectation that you will be able to revert to your previous work arrangements*

Q: I have a flexible working arrangement in place but my manager has asked me if I would consider changing it. Can he/she do that?

A: *It is reasonable for managers to discuss a possible change in working patterns to meet changing University needs, However, no pressure should be applied to staff to change already contractually agreed work patterns. Any such changes would normally have to be agreed by mutual consent.*

Q: My manager has said that if the changes I want are agreed, my grade might be affected. Why is that?

A: *In most cases, changes to working pattern does not impact on grade. However, if the responsibilities of your role have to be adjusted to accommodate your request, that could have an impact on the grade of your role, depending on the extent of the changes that are made to the duties you normally carry out. HR would be consulted in the first instance and if necessary, a job evaluation would be undertaken to confirm the effect (if any) on the grade.*