

# Flexible Working Guidance

## 1 Introduction

- 1.1 All employees with 26 weeks service have the statutory right to request to work flexibly; the employer's reciprocal duty is to 'handle requests in a reasonable manner'. However, this does not imply an automatic right to change contractual hours which will be dependent upon the needs of the organisation, and in particular, the service needs of Healthwatch Worcestershire's partners and clients.

## 2 Occasional Flexible Working Agreements

- 2.1 On occasions, it may be appropriate for more temporary flexible working arrangements to be made by mutual agreement. For example, for operational reasons, a manager may request an employee to work temporary additional hours to cover for a colleague's absence, eg sickness or annual leave. In return, an employee may request to leave early to keep a personal appointment or to deal with a domestic matter. In both these cases, whilst there is no obligation on the other party, it would be reasonable to expect that they would give the request due consideration.

## 3 Eligibility

- 3.1 The Flexible Working Regulations 2014 amend the provisions under the Employment Rights Act 1996 and the Employment Act 2002.
- 3.2 The regulations extend the right to make a request for flexible working to any employee who has been employed for 26 weeks and has not made a previous application in the past 12 months.
- 3.3 The rights are detailed in ACAS Code of Practice 5, 'Handling in a reasonable manner requests to work flexibly'.

## 4 Making a request for Flexible Working

- 4.1 Eligible employees will be able to request:
- a change in the hours they work;
  - a change to the times when they are required to work;
  - to work from home or an alternative workplace location.

#### 4.2 Some examples of flexible working patterns:

- compressed hours: allowing employees to work their contractual number of hours over a shorter period, eg working their full weekly hours over 4 long days rather than 5 standard days;
- reduced hours: allowing employees to permanently reduce their working week where they can demonstrate that less hours would be no detriment to the organisation;
- flexitime: allowing employees some choice about their actual working hours (within agreed core times);
- homeworking: where the type of work allows, some work being carried out from home rather than attending Healthwatch Worcestershire premises (see Healthwatch Worcestershire Homeworking guidance);
- job-sharing: usually 2 part time employees working together to cover the hours of a full time post;
- staggered hours: 2 or more employees working staggered 'shifts' to cover the full operational requirements, eg 'earlies' and 'lates'.

#### 4.3 The employee must comply with the following requirements:

- the application must be in writing;
- the application must set out the employee's proposal and explain what effect the employee thinks this will have on the employer's business and how this may be dealt with;
- the application must specify a start date for the proposed change giving the employer reasonable time to consider the proposal and implement the change;
- the application must state whether a previous application has been made and if so, the date on which it was made;
- the application must be dated.

The employee should be aware that if their application is successful, the variation in contractual terms will be permanent and they will have no automatic right to change back to their previous pattern of work.

## 5 Responding to the request in a reasonable manner

5.1 Healthwatch Worcestershire has nominated the Managing Director to be the decision maker for all Flexible Working requests.

5.2 Where he/she is satisfied that the request can be permanently accommodated, no meeting will be required and he/she will notify the employee that the request is agreed.

5.3 On all other occasions, he/she will arrange a meeting with the employee as soon as possible to discuss the application. The employee will be entitled to be accompanied by a colleague.

- 5.4 The meeting will provide an opportunity to consider the request weighing up the benefits for the employee (and potentially the employer) against any adverse business impact of implementing the changes.
- 5.5 Once the decision is made, the employee will be informed as soon as possible. Wherever possible, the employee will be verbally notified and in all events this will be followed up in writing to ensure that the parties are absolutely clear on what has been decided.
- 5.6 If the employee's request is accepted (or accepted with modifications), a start date will be agreed. The employee will be issued with a new Written Statement of Particulars which confirms the new contractual working pattern.
- 5.7 Where the request is rejected, the decision maker will speak to the employee directly to ensure no information has been omitted or overlooked which may have been persuasive in reaching agreement.
- 5.8 Where the request is still rejected, the employee will be advised of their right of appeal.

## **6 Ground for refusing a Flexible Working application**

- 6.1 Applications can be refused for one of more of the following 8 reasons:
- 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;
  - a detrimental effect on ability to meet customer demand;
  - insufficient work during the periods the employee proposes to work;
  - a planned structural change to the business.
- 6.2 Full written reasons for the refusal must be supplied by the decision maker.

## **7 Appeal**

- 7.1 Where the application is refused, the employee may submit a written appeal; Healthwatch Worcestershire has nominated the Chairman to hear all appeals and he/she will arrange the appeal meeting as soon as possible after receiving the written appeal. The employee will be entitled to be accompanied by a colleague.
- 7.2 The outcome of the appeal will be notified to the employee as soon as possible. If the appeal is upheld, the written decision will include a description of the new working pattern and the effective date of change.

7.3 If the appeal is rejected, the written decision must include the grounds for the decision (see **6.** above) and how those grounds apply to the specific circumstances.

7.4 The appeal decision will be final and will conclude the process.

## **8 Time Limits**

8.1 It is a statutory requirement that all requests, including any appeals, must be considered and decided upon within a period of 3 months from receipt of the written request, unless an agreement is reached with the employee to extend this period. Where an extension is agreed, this should be time-bound and confirmed in writing to the employee.

## **9 Withdrawal of an application**

9.1 If an employee decides to withdraw their application, they should advise the decision maker in writing as soon as possible.

The application will be treated as withdrawn if:

- the employee fails to attend the meeting to discuss without good reason;
- the employee fails to provide extra information that the employer needs to make a decision.

9.2 Where the application is withdrawn, the employee will not be eligible to make another application for 12 months.

## **10 Trial Periods**

10.1 Where a new pattern of working is approved, it is highly recommended that a trial period of 3 months is agreed to test out the arrangements. Managers are responsible for ensuring that the arrangements are regularly reviewed during the trial period to confirm suitability or alternatively consider how they can be adjusted to support the service. Where the manager is not satisfied that the arrangements are working, and no suitable adjustments can be made, the employee will revert to their original contractual arrangements at the end of the trial.