



The Right to Request Flexible Working Policy

1. Policy Statement / Purpose

1.1 The Employment Act 2002 and the Work and Families Act 2006 introduced legislation which provided employees with children or those caring for an adult with a right to submit a request for a flexible working pattern.

1.2 Following the introduction of the Children and Families Act 2014, from 30 June 2014 every employee has the statutory right to request flexible working if they have been employed by the University continuously for 26 weeks at the date the application is made. Employees who have been employed for less than 26 weeks, agency workers and office holders do not have a statutory right to request flexible working. However, all staff are welcome to speak to their line managers if they have suggestions about their working patterns outside of the statutory procedure.

1.3 The associated guidelines cover the key points concerned with flexible working. Please note that the right is to submit a request for flexible working. There is no presumption that an application will be granted.

1.4 Anyone thinking about submitting a request to change their work pattern should speak to their Line Manager/Head of Department/School or College as early as possible so that you can explore the available options.

1.5 Should the request be linked to a restriction regarding teaching hours for an academic member of staff, please view the Teaching Availability

Request Policy and speak to your Head of Department and/or HR Business Partner before progressing via this policy. If a request to restrict teaching hours is made via the Right to Request Flexible Working Policy the agreed principles agreed under the Teaching Availability Request Policy will be applied as appropriate.

2. Scope

2.1 With the introduction of the Children and Families Act 2014, from 30 June 2014 every employee has the statutory right to request flexible working if they have been employed by the University continuously for 26 weeks at the date the application is made.

2.2 You can only make one statutory request in any 12-month period.

2.3 You do not have an automatic right to change your working pattern, but you do have a right to request a change. Employers have a statutory duty to consider applications seriously but are able to refuse any application for one of the “business grounds” specified in the legislation. The main aim of the right is to facilitate discussion and encourage both the employee and the employer to consider flexible working patterns, and to consider whether there is a solution that suits both parties, where it is practicable to do so.

You may request:

- a change to the hours that you work
- a change to the times that you work
- a change to the place of work. You can also contact your HR representative who will be able to advise you on different options and answer any questions that you may have on the process.

3. Responsibilities

3.1 Submitting the written request will help to facilitate a discussion which enables both you and your manager to gain a clear understanding of each other's position. Once your written response has been submitted, your Line Manager/Head of Department/School or College should arrange to discuss your request. Normally this would be in a meeting, but if you and your manager are in agreement the discussion could take place in other ways, for example, by telephone. During the meeting you will both explore any potential issues, such as impact on the teaching timetable or delivery of work plans for example and consider alternative working patterns if this is appropriate.

3.2 You will be able to bring a work colleague or recognised trade union representative to the meeting if you would like to for support. They will be able to address the meeting and confer with you during it, but they are not allowed to answer questions on your behalf. You will be made aware of this right prior to the meeting taking place and sufficiently in advance so that you can arrange the attendance of your work colleague or trade union representative.

4. Policy, Procedures and Enforcement

4.1 You will need to put your request in writing addressing it to your Line Manager/Head of Department/School or College, using the request for flexible working application form Flexible Working Application Form (Part A) which can be found in the related information section below.. You must include the following information in your written request before it can be considered:

- Date of your application;
- Your current working pattern (days/hours worked);
- The change/s to the working conditions you are seeking (days/hours worked); • Date you would like the change to come into effect;
- What effect, if any, you think the change would have on the Department/Section and how you think any impact could be mitigated;

- A statement that this is a statutory request and if approved you understand that this may be a permanent change to your working pattern/terms and conditions of employment (the University reserves the right to grant requests on a temporary or trial basis subject to review depending on business needs, for example teaching requirements);
 - State if you are making the request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability; and
 - If and when you have made a previous application for flexible working
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5. Frequently asked questions from applicants

5.1 How can I prepare for the meeting? You should:

- Be prepared to expand on any points within your written submission;
- Be prepared to discuss what effect changes to your working pattern will have on completion of the work you normally carry out, and how this might impact both upon colleagues and students. You should highlight potential benefits, and suggest how any potential impact upon colleagues or the work of the department might be overcome;
- Prepare to be flexible. Think about any other working patterns you would be willing to consider, or if you would be willing to consider another start date or a trial period;
- If you are taking a work colleague or trade union representative along to the meeting, make sure they are fully briefed on your request beforehand, provide them with a copy of your written submission, and inform your Line Manager/Head of Department/School or College, that a companion will be present;
- Familiarise yourself with information on flexible working; and
- If your request relates to a restriction regarding teaching hours for an academic member of staff you should consider the Teaching Availability Request Policy which can be found on the Policy Zone.

5.2 Could the meeting be postponed for any reason?

5.2.1 If you, your work colleague or trade union representative are unable to make the meeting it should ordinarily only be rearranged once. The rearranged meeting should take place at a time that is convenient to everyone and to take place as soon as is practically possible. If your Line Manager/Head of Department/School or College, is absent at the time that you submit your application, the meeting will take place as soon as is practically possible after his/her return to work or the meeting may be delegated to another manager. If you are unable to attend the meeting without notification, you should contact your Line Manager/Head of Department/School or College as soon as possible. If you fail to attend the meeting twice without a reasonable explanation the University will consider the application as withdrawn. Prior to this decision your Line Manager/Head of Department/School or College will endeavour to find out and consider the reasons for you failing to attend the meetings.

5.3 When will I know the decision?

5.3.1 All requests, including appeals, must be considered and decided on within a period of three months from first receipt. This time limit may be extended if you and your Line Manager/Head of Department/School or College agree. For example, you may conclude at the first meeting that more time is needed to explore the consequences of your proposed work pattern. Your manager will inform you in writing of their decision as soon as possible to either:

- accept the request, establish a start date and any other action;
- confirm a compromise which has been agreed with you, such as a temporary agreement to work flexibly or trial period including review period
- Refuse the request, setting out clear business reasons relating to one of the "business grounds" (which are outlined below).
- Suggest that the request should be dealt with under the Teaching Availability Request Policy as it relates to a temporary restriction to the hours you are able to teach.

<https://www.dur.ac.uk/resources/hr/password/TeachingAvailabilityRequestPolicy-RevisedJuly19.pdf>

5.4 If I do change my working pattern, could I change it back again?

5.4.1 An accepted application may mean implementing a permanent change to your terms and conditions of employment. In such cases you will therefore not be able to choose to revert to your previous working arrangements and you will not be able to make a further flexible working request for 12 months.

5.4.2 However, in all cases the University reserves the right to implement a trial period to ensure that any changes are acceptable and that such changes do not adversely affect any business processes. Trial periods may be agreed up to 12 months and will be documented and reviewed to see if the arrangements are suitable to all parties.

5.4.3 The University reserves the right to grant flexible working requests on a temporary basis, subject to review, depending on business needs, e.g. the ability to deliver ongoing projects. If circumstances change during a trial period e.g. a job-share partner resigns and it is not immediately possible to recruit a replacement, review timescales may be amended.

5.4.4 If there are any concerns at the end of the trial period these will be discussed with your Line Manager/Head of Department/School or College and HR.

5.5 Why might my application be unsuccessful?

5.5.1 The University is able to refuse your request for one or more of the "business grounds" specified in the legislation. These are:

- burden of additional costs;
- detrimental effect on the ability to meet customer demand (this would include the ability to fulfil the academic activity of the University; this may include the impact on the ability of the University to schedule the teaching timetable mindful of room availability);
- 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 period the employee proposes to work;
- planned structural changes; or
- other such grounds as the Secretary of State may specify by regulations.

5.6 Can I appeal if I do not agree with the decision?

5.6.1 If your Line Manager/Head of Department/School or College refuses your request, you can appeal the decision. This appeal should be made in writing within seven working days of receipt of the written decision to the HR Director clearly stating your grounds of appeal.

5.6.2 The HR Office will arrange a meeting to consider your appeal as quickly as possible. You will be able to bring a work colleague or trade union representative to the meeting if you would like to for support. Your work colleague or trade union representative will be able to address the meeting and confer with you during it but is not allowed to answer questions on your behalf.

5.6.3 The meeting will be chaired by a member of the University who has had no previous involvement in the process.

5.6.4 You will be notified of the decision as quickly as possible after the date of your appeal meeting.

5.7 What if I don't want to make a permanent change to my working pattern, can I do this?

5.7.1 As an employer the University aims to be as flexible as it can subject to business needs. We understand that for some our colleagues (or for the University) a permanent change is sometimes not the answer to a situation that may only need to be adjusted for a short period of time. The University has included as part of this revised policy the ability for individuals to plan a temporary or trial period, with the agreement of your Head of Department/School or College, of up to 12 months. This trial period will have a review meeting built into the timescales to ascertain if the trial is working for the individual and for the University. This arrangement may or

may not be renewed depending on the circumstances at that time and if not renewed, the end of the arrangement will be agreed.

5.7.2 It is imperative that when agreement is reached on a permanent change or a temporary/trial period that this is captured and recorded. This is for the benefit of both parties and thus a new form Flexible Working Application Form (Part B) has been included to capture the agreement.

5.8 What if the request relates to a temporary restriction in the member of staff's availability to teaching?

5.8.1 The request should be processed via the Teaching Availability Request Policy ([link](#)). This policy provides temporary support for academic staff that due to specific circumstances would like to request some flexibility around their teaching responsibilities. An annual teaching availability request is a request to restrict hours of teaching to certain days or times of the day. It does not reduce the overall working hours and, as such, a successful application will have no impact on overall workload or on an individual's contract of employment.

5.8.2 Please speak to your HR representative if you receive a Formal Flexible Working Request that requests flexibility in teaching hours but not a reduction in working hours.

5.9 What if I think I cannot accommodate a request for reasons other than the business grounds above?

5.9.1 Please contact your HR representative to discuss the application.

5.10 What if I, as a Manager, receive more than one request for flexible working, or other staff already have flexible working arrangements making it difficult to agree to further changes?

5.10.1 If you receive more than one request, you are not required to make value judgements about the most deserving request. You should consider each case individually looking at the business case and the possible impact of refusing a request. Cases should be considered in the order that they were received. If you have already approved others' flexible working

requests, or if you receive more than one request and require support or help please contact your HR representative for advice.

5.11 If my application for flexible working is approved, will I still be able to take advantage of flexi-time arrangements in my Department?

5.11.1 This will need to be determined by the staff member and manager on a case-by-case basis. It may not be appropriate, for example, for flexi-time to continue if the pattern agreed has been designed with office cover in mind which would then be more difficult to manage if flexi-time was also applied.

5.12 What if my circumstances change during my application and I wish to change the request?

5.12.1 During discussions or meetings regarding your application, it may be that amendments to the original request are considered to ensure that both the needs of the staff member and the University are met. However, if the applicant wishes to significantly amend their request, the University reserves the right to re-start the process.

5.13 Is there any right of appeal if an application for flexible working is refused?

5.13.1 If the request is refused, the applicant can appeal against the decision. There are no restrictions on what may constitute grounds for making an appeal. The appeal should be made to the HR Director clearly stating the grounds of appeal.

5.13.2 A further meeting must be held to consider an appeal as quickly as possible after the date of receipt of the appeal, and the outcome must be communicated to the applicant in writing as soon as possible, and at the latest within three months of receipt of the application.

5.13.3 The meeting will be chaired by another manager or senior member of the University who has had no previous involvement in the process. This member of staff will usually be of the same level or higher than the manager who made the original decision. All relevant parties will be invited

to either attend the appeal hearing, or present statements to it, so that the Chair is able to make decisions based on all of the available evidence.

5.13.4 Once again the applicant has the right to be accompanied by either a work colleague or trade union representative at this meeting if desired. The work colleague or trade union representative is able to address the meeting and to confer with the applicant during it, but they may not answer questions for the applicant.

5.13.5 If an applicant fails to meet their responsibilities under the procedure (as outlined below) and it is fair to assume that the application is no longer being pursued, the application may be treated as withdrawn. The circumstances for considering that an application has been withdrawn are:

- Failure to attend the meeting (and any reconvened meeting) to discuss the application or the appeal meeting more than once (i.e. fails to attend two meetings)
- Unreasonably refusing to provide information required in order to assess whether the request and any changes can be granted. For example, to agree to a request to work at home the employer may insist on a health and safety assessment of the home environment

5.14 Are there any consequences for not following the statutory procedure?

5.14.1 An employee will be entitled to make a complaint to an employment tribunal if there is a breach in the procedure. Where a case is taken to an employment tribunal the employer will need to demonstrate that they have gone through every step of the above procedure. The legislation does not give tribunals the power to question the commercial validity of the employer's decision. The tribunal may send the case back to the employer for reconsideration and may also order compensation.

5.14.2 Please note that employees are protected from suffering any unfair treatment for making a flexible working application.

5.14.3 If you have any further questions about the right to request flexible working, please contact your HR representative or visit the ACAS pages: <https://www.acas.org.uk/flexible-working>

6. Guidelines for Managers

6.1 From 30 June 2014 every employee has the statutory right to request flexible working if they have been employed by the University continuously for 26 weeks at the date the application is made. An employee may only make one application in any 12 month period.

6.2 Please note that the maximum time the Law permits for you to respond to the request and conduct any subsequent appeals is three months.

6.3 Please contact your HR representative for advice if you receive such a request. This should be done as soon as possible to ensure the statutory timescales can be met.

6.4 Summary of the Right

6.4.1 The right to request to work flexibly aims to encourage employees and employers to consider flexible working patterns and to seek solutions to requests that suit both parties. It does not give employees an automatic right to change their working patterns, but all requests must be considered as outlined below.

6.4.2 The right imposes a statutory duty upon employers to consider applications for flexible working seriously and employers will only be able to refuse applications for one of the "business grounds" which are outlined below.

6.4.3 Eligible employees will be able to request:

- a change to the hours they work
- a change to the times when they are required to work
- a change to the place of work.

6.4.4 Applications will be made to the Line Manager/Head of Department/School or College who will be best able to judge how a change in working pattern may affect the work of the individual and department or section. Please note that flexible working arrangements already in

operation in other parts of the department or section do not necessarily create a precedent, all requests are dealt with on a case-by-case basis.

6.4.5 All requests (including consideration of appeals) must be considered, and decisions communicated as quickly as possible, and at the latest within three months of first receiving the request. This timescale must allow for the possibility of meetings to discuss options, consultation with colleagues, holidays, unexpected delays and appeals.

6.4.6 An accepted application may mean a permanent change to the employee's own terms and conditions of employment. The Line Manager/Head of Department/School or College may use a trial period to assess suitability of the change. Trial periods may be up to 12 months and will be documented and reviewed to assess whether the arrangements are suitable to all parties. The University also reserves the right to grant flexible working requests on a temporary basis, subject to review, depending on business needs, e.g., the ability to deliver ongoing projects.

6.4.7 Please contact your HR representative before having a meeting with a member of staff who is considering making a request, or if you receive a formal request for flexible working.

6.5 Requests to Restrict Teaching Availability

6.5.1 If the request relates to a temporary restriction of hours the member of staff is able to teach but does not request a reduction in working hours it may be more appropriately dealt with via the Teaching Availability Request Policy. If you receive such a request please ensure you speak to your HR representative at an early stage and before any meeting with the applicant.

6.5.2 Any application for a restriction in the number of hours the member of staff is able to teach (without a reduction in the working hours) should normally follow the principles set out in the Teaching Availability Request Policy.

6.6 Benefits of flexible working

6.6.1 The use of flexible working patterns can be of benefit to both employees and employers. Various forms of flexible working already exist

within the University, for example, job share, annualised hours, flexitime, and term-time working.

6.6.2 Benefits to the University can include:

- Improved efficiency and cost savings
- The extension of service provision outside of normal office hours
- Ability to respond to changing demands throughout the academic year
- Recruitment and retention of high quality staff • Encouraging equality of opportunity and reflecting diversity
- Reduced absenteeism
- Increased loyalty and motivation.

Such potential benefits should be considered when a reviewing a request.

6.7 The application process

6.7.1 The initial onus on taking forward an application will be on the employee via Flexible Working Application Form (Part A) however employees are encouraged to discuss flexible working informally with their manager in the first instance. He/she must put the request in writing addressing it to the relevant Line Manager/Head of Department/School or College. They must include the following information in their written request before you can consider it:

- Date of their application
- Their current working pattern (days/hours worked)
- The change/s to the working conditions they are seeking (days/hours worked)
- Date they would like the change to come into effect
- What effect, if any, they think the change would have on the Department/School or College and how they think this may be dealt with
- A statement that it is a statutory request and if approved on a permanent basis they understand that this will be a permanent change to their working pattern, or if for an agreed trial period/temporary basis that this would be a temporary change
- State if they are making the request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability

- If and when they have made a previous application for flexible working.

6.8 How should I respond to a request for flexible working?

6.8.1 Please inform your HR representative of any such requests.

6.8.2 As soon as practically possible after receiving the written request we would advise that you organise and hold a meeting with the applicant to consider the request. If there is likely to be a delay in discussing the request it is good practice to inform the employee. During the meeting you and the applicant will explore any potential issues and, if appropriate, consider alternative working patterns.

6.8.3 The Line Manager/Head of Department/School or College who has received the written request will be responsible for arranging the meeting and ensuring that it takes place as soon as practically possible. The meeting will be chaired by the Line Manager/Head of Department/School or College but other individuals who work closely with the applicant may be invited if they are better able to judge the feasibility of the request.

6.8.4 The applicant will be able to bring a work colleague or trade union representative to the meeting if desired. The work colleague or trade union representative is able to address the meeting and to confer with the applicant during it, but they may not answer questions for the applicant. You will need to make the employee aware of this right prior to the meeting taking place and sufficiently in advance so that they can arrange the attendance of their work colleague or trade union representative. If it might be difficult to hold a meeting in person it is possible, under the regulations, to discuss the request via other means, such as by telephone.

6.8.5 All requests (including consideration of appeals) must be considered, and decisions communicated as quickly as possible, and at the latest within three months of first receiving the request. This timescale must allow for the possibility of meetings to discuss options, consultation with colleagues, holidays, unexpected delays and appeals.

6.9 Could the meeting be postponed for any reason?

6.9.1 If you are absent from work due to illness or the applicant, work colleague or trade union representative are unable to make the meeting it should be rearranged once. The rearranged meeting should take place at a time that is convenient to everyone and should take place as soon as is practically possible.

6.9.2 If the applicant is unable to attend the meeting, they should contact you as soon as possible. If they fail to attend the meeting twice without a reasonable explanation the employer can consider the application to be withdrawn. Prior to making this decision you should find out and consider the reasons for the employee failing to attend the meetings. If you deem an application to be withdrawn, you must inform the employee in writing.

6.10 How can I prepare for the meeting?

6.10.1 It may help to:

- Draft an agenda of the issues you want to discuss
- Inform the applicant of anyone you have asked to join the meeting
- Ask other colleagues if they would want to cover any extra hours that may be created as a result of granting the request, with the agreement of the applicant
- Carefully consider the benefits of the requested changes in working conditions for the employee and the business needs
- Carefully consider any potential adverse impacts, such as the ability of the department/school or college to deliver their objectives should the request be granted, and possible ways in which these might be overcome
- In considering the request you must be careful to not discriminate against the employee (advice is available from your HR representative)
- Familiarise yourself with the information on flexible working
- Speak to your HR representative
- If the request relates to the hours the member of staff is able to teach, ensure you speak to your HR representative and refer to the principles set out in the Teaching Availability Request Policy.

6.11 Making the decision

6.11.1 You should first discuss your response with your HR Representative.

6.11.2 As soon as practically possible following the meeting you must notify the member of staff of your decision in writing using Flexible Working Application Form (Part B below) that you have either:

- accepted the request, established a start date and any other action
- confirmed a compromise agreed at the discussion, such as a temporary agreement to work flexibly or a trial period including review periods
- refused the request, setting out clear business reasons relating to one of the "business grounds" specified below.
- Advise the member of staff that their request should be processed under the Teaching Availability Request Policy

6.11.3 An accepted application may mean a permanent change to the applicant's own terms and conditions of employment. The University also reserves the right to grant flexible working requests on a temporary basis, subject to review, depending on business needs, e.g. teaching requirements.

6.11.4 If there are any concerns at the end of the trial/temporary period these should be discussed with HR.

6.12 In what circumstances can an employer refuse a request for flexible working? If you decide to refuse an application please contact your HR representative before you notify the applicant of your decision. Employers are only able to refuse applications for one or more of the following "business grounds":

6.12.1 If you decide to refuse an application please contact your HR representative before you notify the applicant of your decision

6.12.2 . Employers are only able to refuse applications for one or more of the following "business grounds"

- burden of additional costs;
- detrimental effect on the ability to meet customer demand (this would include the ability to fulfil the academic activity of the University);
- 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 period the employee proposes to work;
- planned structural changes;
- Such other grounds as the Secretary of State may specify by regulations.
- You should notify the applicant in writing, specifying the business ground(s) and the reasons why they apply in these circumstances.

For further advice on applying these grounds and case studies please visit the ACAS pages <https://www.acas.org.uk/flexible-working>

7. Equality and Diversity

7.1 An Equality Impact Assessment was undertaken as part of the flexible working policy.

8. Related Information and forms

8.1 You should not be treated unfairly because you have made an application for flexible working. If you have any concerns in this regard, please contact your HR representative for advice.

VERSION CONTROL

Current Status Version: 3.0

Approved by: HR SMT

Owner: Human Resources

Review date: March 2022

Review by: 2024