

CHRE

Flexible Working: the right to apply Policy and Procedure

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1 Policy Statement

It is the policy of the Council for Healthcare Regulatory Excellence (CHRE) (the organisation) to comply with both the letter and spirit of the law with regard to the right for employees to apply for flexible working. The aim of this policy and procedure is to inform employees of their entitlement to apply to work flexibly, of their right not to be discriminated against because of exercising this right, and to ensure that they understand these rights.

This policy and procedure is subject to change in accordance with legislation and conforms to the following regulations published by the Department for Business, Enterprise and Regulatory Reform, (BERR).

Employment Rights Act 1996

Employment Act 2002

Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002

Flexible Working (Procedural Requirements) Regulations 2002

Employment Relations Act 2004

Civil Partnership Act 2004

Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2006

Work and Families Act 2006

Flexible Working (Eligibility, Complaints and Remedies) (Amendment) (No. 2) Regulations 2007

2 Introduction

Parents of children 16 years of age or under, or of disabled children aged under the age of 18 (a disabled child is determined by receipt of the disability living allowance), who have a minimum of 26 weeks' continuous service, have the right to apply to work flexibly. Employers will have a statutory duty to consider their applications seriously.

Furthermore, employees with a minimum of 26 weeks' continuous service and who have caring responsibilities for an adult aged 18 or over who is their spouse, partner or civil partner; a relative; or someone who lives at the same address also have the right to request flexible working.

The legislation will *not* provide an automatic right to work flexibly as there will always be circumstances where CHRE is unable to accommodate the employee's desired work pattern. It aims to facilitate discussion and encourage both the employee and the employer to consider flexible working patterns and to find a solution that suits them both.

The employee has a responsibility to think carefully about their desired working pattern when making an application and CHRE is required to follow a specific procedure to ensure requests are considered flexibly. In its entirety, the process of requesting and implementing flexible working can take approximately 14 weeks to complete.

3 Procedure

3.1 Eligibility – To care for a child

In order to make a request under this right, an individual will need to:

- be an employee
- have worked at CHRE continuously for 26 weeks at the date the application is made
- have a child 16 years of age or under, or under 18 in the case of a disabled child
- make the application no later than two weeks before the child's 17th birthday or 18th birthday in the case of a disabled child
- have or expect to have responsibility for the child's upbringing
- be making the application to enable them to care for the child
- not be an agency worker
- not have made another application to work flexibly under the right during the past 12 months

The right is available to:

- Parents – biological, adoptive and foster parents.
- Guardians
- Anyone who is the spouse, civil partner or partner of the child's parent, guardian, etc, provided that he or she is living with the child and has responsibility for the child's care.
- Same-sex partners who live together and share responsibility for the child's care.
- Private foster carers, and their spouse, partner or civil partner.

An adopter includes those who are adopting a child, whether domestically or inter-country and also extends to those adoptive parents whose child has not been placed by a UK adoption agency.

3.2 Eligibility – To care for an adult

The Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2006 extend the right to request flexible working to employees who have:



- a minimum of 26 weeks' continuous service as at the date the application is made;
- caring responsibilities for an adult aged 18 or over who is their spouse, partner or civil partner; a relative; or someone who lives at the same address

A 'partner' can be the other member of a heterosexual couple who are not married but are living together as if they were husband and wife, or of a same-sex couple who are not civil partners but are living together as if they were.

A 'relative' includes a mother, father, adopter, guardian, special guardian, parent-in-law, step-parent, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, uncle, aunt or grandparent. Adoptive relationships with these relatives are included.

3.3 Scope of the request

Providing employees meet the eligibility criteria above, they may request:

- a change in the number of hours they work, eg part-time working, term-time working
- a change to the times when they are required to work, eg the days of the week worked and/or start/finish times
- a change to the place of work, eg a request to do some or all of the work from home

Examples of this are working patterns such as annualised hours, compressed hours, flexitime, home-working, job-sharing, self-rostering, shift working, staggered hours and term-time working.

3.4 Obligations on the employee

Prior to commencing the process to work flexibly it is important for an employee to bear in mind that, once agreed, the flexible working arrangement will become **permanent**, unless at the time the application is made, CHRE agrees in writing a different arrangement. It is therefore very important that the employee gives careful consideration to:

- which working pattern will be of help to them
- any financial complications this might have on them in cases where the desired working pattern will involve a drop in salary
- any effects it will have on CHRE's business and how these might be accommodated.

In order for an employee's request for flexible working to be valid, it must be in writing and stipulate:

- whether the employee has made a previous application for flexible working, and if so when the application was made;
- the reason for making the request and the change applied for, e.g. the pattern of working the employee would like;
- the date on which the employee would like the change to take effect;
- the effects, if any, that the employee envisages the proposed changes requested will have on the employer; and
- how any such effect might be dealt with.

A form to request flexible working is available from Director of Governance and Operations. Your completed form should be submitted along with your formal letter of request setting out the points highlighted above.

3.5 Obligations on the organisation and consideration of the request

CHRE will consider applications to work flexibly by following the procedure specified in the regulations:

- Within 28 days of receiving the application, the organisation will arrange to meet with the employee. This will provide the opportunity to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative work patterns should there be problems in accommodating the request. This time limit may be extended by mutual agreement. The employee will, if they so wish, bring a work colleague, employee representative or trade union representative along to the meeting.
- Within 14 days after the date of the meeting CHRE will write to the employee to either agree to a new work pattern and a start date or to provide a clear business case as to why the application cannot be accepted and the reasons for this. CHRE may want to take further action before notifying the employee of the decision.
- The employee will have 14 days in which to appeal against CHRE's decision. CHRE will have 14 days in which to hold an appeal hearing and then a further 14 days in which to write to the employee to set out the decision. The appeal process is designed to encourage a satisfactory outcome for both parties within the workplace.

Each request will be dealt with individually, taking into account the likely effects that the proposed changes to working hours or place of work are likely to have on CHRE, the work of the department in which the employee making the request is employed and the employee's colleagues. Agreeing to one employee's request will not therefore set a precedent or create a right for another employee to be granted a similar change to his/her working pattern.

3.6 Protection from Detriment and Dismissal

Employees will not suffer unfair treatment or dismissal for requesting flexible work arrangements or working under agreed flexible working arrangements.



Document Control

Version Control

Printed documents are uncontrolled. This document is only valid on the day it was printed.

Version	Description of Version	Date Completed
1.0	Policy and Procedure Flexible Working	19/09/08
1.1	Policy and Procedure Flexible Working - amended to reflect current job titles	06/04/11

Associated Documentation

Version	Description of Documentation
	Form to request Flexible working
	Flexible Working acknowledgement

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