

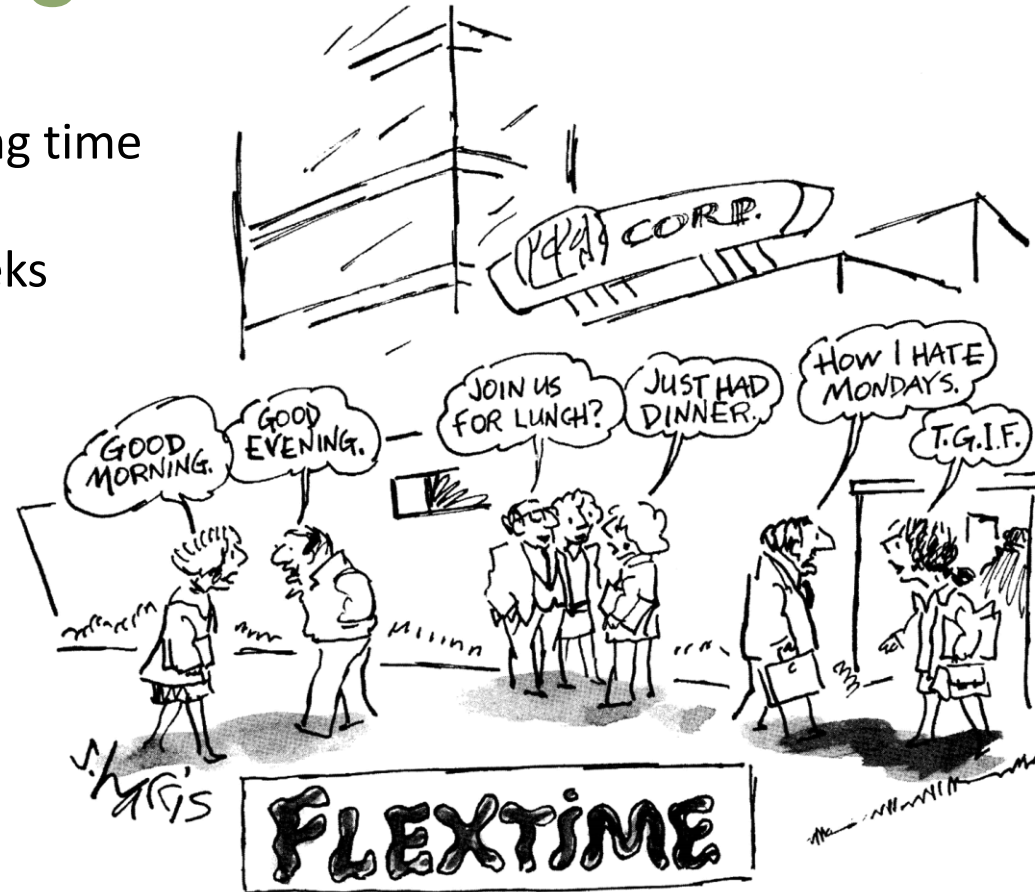
Flexible working – what is it?

Any method of working which deviates from the standard work pattern, including annualised hours, compressed hours, flexitime, home working, job-sharing, self-roistering, shift working, staggered hours, part-time working and term-time working.



Flexible working hours

- Variations to start and finishing time
- Flexible working hours or weeks
- Compressed hours
- Annual hours
- Term time contracts



Flexible places of work

- Homeworking
- Mobile working and hot-desking



Changes to the law

- Right to request flexible working became law on 6 April 2003. Initially applied to employees with children under six (which increased to children under 17 from 6 April 2009) or disabled children under 18
- From 6 April 2007, the right was extended to employees who had certain caring responsibilities for adults
- Since 30 June 2014, the right to request flexible working, for any reason, has been available to employees once they have 26 weeks' continuous service



Eligibility

- A statutory request can only be made by an employee
- The employee must have 26 weeks' continuous employment at the date the request is made
- Only one request may be made under the statutory scheme in any 12-month period
- Requests cannot be made by agency workers



Permitted changes

- 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 (as between their home and any of the employer's workplaces)
- Can be a temporary change



Key points for the employer

- The employer must notify the employee of the decision, including the decision on any appeal, within the decision period
- The decision period is:
 - Three months beginning with the date on which the employee's request is made
 - Such longer period as the parties may agree



Key points for the employer

- No requirement for meeting if request is agreed
- Requirement to deal with request in a reasonable manner
- Follow the Acas code and read the Acas guide
- Be careful not to discriminate when considering requests in respect of childcare



Meeting to discuss request

- Make employee fully aware of the impact of the change on their terms of employment, e.g. salary, bonus or pension entitlement
- Take account of operational and day-to-day issues
- Consider agreeing a trial period
- Allow the employee to be accompanied



Meeting to discuss request

- In a private place where what is said will not be overheard
- At a time and location convenient to both employer and employee
- If employee cannot make the initial date then another date and time should be arranged
- If employee does not attend a meeting and any subsequent re-arranged one without a reason then the employer will be allowed to deem the request to have been withdrawn.



The 8 grounds for refusal

- The burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes



Appeals

- Give the employee a right to appeal
- Conduct the appeal fairly



Employment Tribunal Claims

- The employer failed to deal with their application in a reasonable manner
- The employer failed to notify them of the decision on their application within the decision period
- The employer rejected the application for a reason other than one of the statutory grounds
- The employer's decision to reject the application was based on incorrect facts
- The employer treated the application as withdrawn but neither of the grounds entitling the employer to do so applied



Remedies

- An order for reconsideration of the request. If it does this the date of the tribunal's order will be treated as the date of the request
- An award of compensation to be paid by the employer to the employee, of such amount as the tribunal considers just and equitable, up to the permitted maximum
- The maximum amount of compensation is eight weeks' pay . For the purposes of calculating a week's pay, the calculation date is the date on which the employee's application was made and the statutory cap on a week's pay applies – currently £464 per week



Case study

Janet, a single parent, has worked as your receptionist for 7 years. She used to work 9 to 5 but had a child 5 years ago and now works from 9 to 3 to suit her childcare arrangements. Reception cover from 3 to 5 is covered by your PA. As your business grows and the level of calls increase, you recruit Mike to work alongside Janet on 1st November 2014. His hours of work are 9 to 5 Monday to Friday, coinciding with your hours of opening. He makes a flexible working request on 1st June 2015 to work from 8.30 am to 4.30 pm on 2 days and 9 to 5 on 3 days. His partner doesn't work but he wants to share the school run with her. You know Janet won't be happy to change her hours and you think that Mike should get his priorities right and let his partner deal with the school run.



How can we help you?

- Advice on adopting a flexible working policy
- Help with an individual request
- Representation when things go wrong

