

Parental Right to Request Flexible Working

Working Time and Flexible Working

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Parental / Adult Carer Right to Request Flexible Working

This section describes the statutory and British Council contractual entitlements to paternity leave.

Overview

This section describes the rights of carers to request flexible working as provided for by the Employment Act 2002 and Work and Families Act 2006.

The British Council also offers other flexible working arrangements for staff who do not meet the criteria of the Employment Act 2002 or Work and Families Act 2007. These, and the procedures for carrying out and processing a request for any type of flexible working, are described in Working Time and Flexible Working.

Audience

The section applies to UK-appointed members of staff at home and overseas.

Agency temps and other workers, as defined by the Employment Rights Act 1996, are precluded from this policy.

Responsibilities

These guidelines are for all UK appointed staff and line managers.

Policy

Flexible working can help us meet the increasing demand from our clients and customers. Such arrangements enable line managers to retain the skills of staff, which in turn reduces recruitment costs, decreases absenteeism and can be a means of attracting and retaining staff.

The statutory right provided in law gives employees the right to request flexible working; it does not give the right to have flexible working arrangements.

Line managers have a statutory duty to consider such requests seriously and according to a set procedure. The British Council can refuse requests only where there is a clear business reason to do so.

The Employment Act 2002

From 6 April 2003, this act gives parents of young children under the age of six, or disabled children under 18, the legal right to request a flexible working arrangement.

An application can only be made to help a member of staff to care for a child, and not for any other purpose. This may cover a range of circumstances, such as enabling the member of staff to spend more time with a child or to take a child to school.

A parent is defined as anyone who has responsibility for the upbringing of a child, and who is either:

1. the biological parent, legal guardian, adoptive or foster parent of the child
2. married or in a civil partnership to someone listed in 1 and living with the child
3. the partner of someone listed in 1. A partner is someone of a different or the same sex, who lives with the child and the person listed in 1 in an enduring family relationship but is not a relative.

This definition does not include aunts, uncles, grandparents or other relatives unless they are legal guardians of the child. The member of staff must provide evidence that they are responsible for the care of the child.

Work and Families Act 2006

From 6 April 2007, an employee is entitled to make a flexible working request if they care or expect to care for a person aged 18 or over who is:

- A spouse or partner or civil partner
- A near relative (which includes parents, parent-in-law, adult child, adopted adult child, siblings including those who are in-laws, uncles, aunts or grandparents or step-relatives)
- Falls into neither of the above categories but lives at the same address.

Guidance

All British Council employees can apply to work flexibly but where the applicant has parental responsibility for a child under six or a disabled child under 18, or adult carer responsibilities, line managers must follow the procedures in this section, which supersede those of other British Council policies.

A member of staff can request to change:

- the number of hours worked, for example from full-time to part-time working, job-sharing or term-time working (parents' contract)
- the timing of hours worked, for example from standard hours to flexitime, reduced hours, compressed hours or annualised hours
- the place of work, for example from office-based to home working
- terms and conditions, as specified in the Flexible Working Regulations 2002.

Eligibility

To be eligible to apply to work flexibly a member of staff must:

- be an employee of the British Council
- have worked for the British Council continuously for 26 weeks at the date the application is made
- provide a reason for the application
- not have made another application under this right to work flexibly during the past 12 months.

Procedures**Making an application for flexible working**

Members of staff must make a formal application for flexible working to their line manager. The application must be:

- received at least 14 days before the child's sixth or eighteenth birthday when applying under the parental right. For applications sent by post, the date will refer to the day on which the application would have been delivered by ordinary post, unless shown otherwise

- in writing, signed and dated. A faxed or emailed application is acceptable. UK-based staff overseas may apply by telephone, if it is not possible to submit the request in writing.
 1. The member of staff must consider carefully whether to apply for flexible working and how their request can be accommodated. For more guidance, see Checklist for Staff Applying for Flexible Working.
 2. The member of staff makes a formal application using the Flexible Working Application form B. If you do not want to use the form, you can send an e-mail giving the same information as detailed in the form. The content of the application must:
 - state the age of the child or adult being cared for
 - explain how the member of staff meets the qualifying conditions in respect of their relationship with the child or adult
 - state whether a previous application has been made and, if so, when
 - state that it is a change to the member of staff's terms and conditions
 - specify the type of change requested
 - state the requested length of the flexible working arrangement
 - state the date on which it is proposed the change will become effective
 - explain what effect the change requested would have on their work and how, in their opinion, any such effect might be dealt with within the team and organisation
 3. The member of staff passes the application to his or her line manager.
 4. If the member of staff fails to provide all the required information, the line manager must:
 - inform the member of staff of what has been omitted
 - ask for the application to be re-submitted when complete
 - inform the member of staff that he or she is not obliged to consider the application until it is complete and re-submitted.
 5. The line manager:
 - acknowledges receipt of the application using the acknowledgement slip at the bottom of the Flexible Working Application form.
 - confirms the date on which the application was received. This is particularly important where there has been a delay in the application reaching the line manager.

Considering an Application for Flexible Working

The application is effective from the date it is received by the line manager. Within 28 days of receipt of the application, the line manager must:

1. consider whether it meets the qualifying conditions and can be accepted
 2. hold a meeting to discuss the application, that is the proposed working arrangements.
1. The line manager must discuss the application with HR Services. HR Services:
 - can advise the line manager whether the application is practicable and, if not, provide reasons for why it is not practicable
 - may be able to advise how similar requests have been put into effect in other teams.
 2. The line manager arranges a meeting with the member of staff at a time and place convenient to both parties. The member of staff has the right to be

accompanied to the initial meeting by either a recognised trade union representative or a British Council colleague:

- This person is a companion to, rather than a representative of, the member of staff.
 - A British Council colleague has the right to paid time off for the purpose of supporting the member of staff.
 - If the representative is unable to attend the meeting, the member of staff must either re-arrange the meeting for a date within seven days of the originally proposed time, ensuring the new time is convenient to all parties, or consider an alternative representative.
3. The line manager and member of staff must prepare for the meeting. For further information, see Guidelines for a Flexible Working Request Meeting.
 4. At the meeting, explore any potential issues and, if appropriate, consider alternative work patterns. The colleague or union representative, if present, can address the meeting and confer at the meeting but not answer questions on behalf of the member of staff.

Communicating the decision

The line manager must give the member of staff written notice of a decision within 14 days of the meeting being held. If this is not possible, see Extending the procedural deadline below. The notice must either:

- state acceptance of the application and establish a start date for the new arrangements to take effect
 - confirm any compromise agreed in the meeting
 - refuse the application, providing a clear explanation for refusing the application and details of the appeal process.
1. The line manager informs the member of staff in writing of the decision:
 2. If refusing the application, see Refusing an application below.
 3. If accepting the application, go to step 2.
 4. Complete a Flexible Working Application Acceptance form to confirm the member of staff's new working pattern. The agreed new working pattern will be a permanent change to the member of staff's terms and conditions of employment, unless agreed otherwise. Where a trial period or time limited period has been agreed, this should also be included.
 5. The line manager must:
 - advise HR Services of the new working pattern
 - check with Payroll Services if the member of staff's pay needs amending
 - check that all health and safety requirements have been satisfied (this is especially relevant where the member of staff is to work from home).

Extending the procedural deadline

1. Both parties must agree on all extensions to the procedural deadline. Extensions can be made up to a maximum of 28 days.
2. The line manager must record the agreement to an extension using the Flexible Working Extension of Time Limit form, specifying:
 - what time limit the extension relates to

- the date on which the extension ends.
3. The line manager signs and dates the form and sends a copy to the member of staff.

Changing the contract of employment

- An accepted application means a **permanent** change to the member of staff's terms and conditions of employment.
 - (Under the Employment Act 2002) Foster parents, like other parents, will have to bear in mind that, if their application is accepted, it will mean a permanent change to their terms and conditions of employment. This might be an issue for parents who change their work pattern on the assumption that they will be caring for a child on a long-term basis, which ends sooner than expected. In such circumstances, they may request to revert to their former work pattern but there is no automatic right.
 - (Under the Employment Act 2002) Once the child turns six, or 18 (where disabled), the member of staff's contract of employment does not automatically revert to the original terms and conditions of employment, nor does it go back to their original working arrangements. If a member of staff wishes to change their working arrangements, they must first discuss this with their line manager. The line manager must discuss the matter with HR Services before any contractual changes are negotiated and/or made.
 - A member of staff must usually wait 12 months after the date of the agreed application to change their working arrangements under this policy. The member of staff would need to proceed through the same application process under this policy. They may, however, apply to change their working arrangements before the 12 months has elapsed under the British Council's application process for flexible working.
1. The member of staff and the line manager may want to consider the use of a trial period before the desired work pattern becomes permanent. For example, this may involve a review period between the member of staff and their line manager three months before agreeing to a permanent work arrangement.
 2. Any changes to the working pattern varying the member of staff's contract of employment must be set out in a letter from HR Services.
 3. The member of staff and line manager sign the letter varying the contract of employment.
 4. A copy must be given to the member of staff and the original placed on the member of staff's personal file.
 5. If at any point after the application has been agreed, there is a change of circumstances to the member of staff's working arrangements, the member of staff must, in the first instance, discuss this change with their line manager. A change in working arrangements can only be made in agreement with the line manager. The line manager may want to seek advice from HR Services about any further changes to work arrangements.

Refusing an application

There will always be circumstances where, due to the needs of the business, the line manager feels unable to accept a request to work flexibly. A line manager can refuse a request only on one or more of the specified grounds:

- agreeing to the request will have a detrimental effect on the ability of the team/organisation to meet customer demand
 - agreeing to the request will have a detrimental impact on quality or performance
 - inability to re-organise work among existing staff
 - inability to recruit additional staff
 - the additional costs involved will impose a burden
 - there is insufficient work during the periods the member of staff wishes to work
 - a planned structural change
1. The line manager must consider the request carefully on its own merits in the light of current business requirements, before refusing.
 2. The line manager refuses the application using the Flexible Working Application Rejection form.

The member of staff can make a further request 12 months from the date of their last application. They can submit an application before the 12 months has elapsed under the British Council's application process. If a member of staff makes another application after this period:

- The line manager must hold another meeting to assess the second application within 14 days. The member of staff has the right to be accompanied to meetings.
- The line manager then has an additional 14 days to inform the member of staff of the decision in writing. There must be a specific business reason to decline an application.
- Time limits can be extended by agreement if the line manager confirms the changes in writing.

Appealing against the decision

- A member of staff has 14 days to appeal to their line manager after the date of notification of the decision.
 - A meeting must be held within 14 days of receiving the notice of appeal. If the line manager's line manager, who would normally deal with the application, is sick or on holiday at the time it is received, the time limit is extended to 28 days after they return to work.
 - The member of staff may bring a representative to the appeal meeting, see Considering an application for flexible working above.
1. The member of staff must:
 - Appeal in writing, using a Flexible Working Appeal form, setting out the grounds of the appeal.
 - Sign and date the form and pass it to the line manager.
 2. A meeting must be held, at a time and place convenient to all parties, attended by:
 - the member of staff
 - the member of staff's line manager
 - the line manager's line manager.
 3. The line manager's line manager must inform the member of staff of the outcome of the appeal within 14 days after the date of the meeting, using a *Flexible Working Appeal Reply form*:
 - If the appeal is successful, the form must specify the variation agreed to, and the date it will take effect.

- If the line manager's line manager dismisses the appeal, the form must set out grounds for that decision.

Note: If the member of staff makes an application under these procedures i.e. parental right to request flexible working they cannot make a further application to the line manager within 12 months of the date of the initial application. The member of staff may, however, make a further application before the 12 months have elapsed under the British Council's application process.

Grievance Procedures

A member of staff can complain through the British Council's grievance procedures if a line manager does not:

- respond to an application
- hold meetings to consider the application
- allow the member of staff to be represented or accompanied at meetings.

For more information on the British Council's grievance policy and procedure, see Grievances.

Withdrawing an application

1. If a member of staff wishes to withdraw their application they must do so in writing, using the Flexible Working Notice of Withdrawal form.
2. If the member of staff tells their line manager that they wish to withdraw their application, but does not confirm it in writing, the line manager must write to the member of staff seeking clarification as to why they have withdrawn the application.
3. The line manager must acknowledge any written withdrawal notices in writing.

There are occasions when the member of staff may fail to meet their responsibilities under the procedure. In these circumstances, it is fair for the line manager to assume that the application is no longer being pursued and can view it as 'withdrawn'. For example, the member of staff may fail to attend two meetings without reason and/or unreasonably refuse to provide the line manager with the information that they require in order to assess whether to agree to the request. The line manager must:

- warn the member of staff that they risk their application being treated as withdrawn if they miss a second meeting without reasonable cause and/or unreasonably refuse to provide them with the required information
- confirm the withdrawal of the application in writing, if not provided by the member of staff.

Reviewing and terminating arrangements

1. The member of staff and their line manager must agree on a review period of any flexible working arrangements. It is recommended that this is initially three months after the arrangement is established, then six monthly thereafter, depending on the length of the arrangement.
2. Where personal circumstances and/or the job changes, then the line manager and the member of staff need to review the arrangements of the flexible working practice and make the necessary adjustments or terminate the arrangement.
3. If changes are made to the flexible working practice, you must advise HR Services to make the necessary contractual amendments.

Checklist for Staff Applying for Flexible Working

Overview

This section provides a checklist for staff to work through before they submit an application for flexible working. The application is an opportunity for you to set out your reasons for requesting flexible working and the desired working pattern. Use the Flexible Working Application form to make the request or as a guideline for making an application.

Audience

This section applies to all UK-appointed staff only.

Checklist

- Consider the personal and financial implications of the proposed working arrangements. If necessary, seek assistance from the EAP Information / Counselling Service.
- Consider how your work will be reallocated if you do choose a flexible working arrangement. Think about what effect changing your working pattern will have on your job. You should aim to show in your application that your plans will not harm your line manager's work programme and may, in fact, enhance it.
- Think about how any potential problems your plans may present to your line manager may be overcome and ensure that you include these in your application.
- Take time to consider how your colleagues will manage if your working pattern is changed. If you have any colleagues or friends who are already working flexibly, ask them about their experiences.
- Consider how long you would like to work flexibly.
- If you are due to go on maternity leave, think carefully about when to make your request. You might want to mention to your line manager before you take leave that you are interested in applying to work flexibly on your return. Bear in mind that you may need to attend meetings with your line manager so that your request can be properly considered. If you want the changes to start on your return from maternity leave, you should make your application in good time.
- Remember that the more notice you give your line manager, the more likely they will be able to implement the change when it suits you. So once the application is complete, submit it to your line manager immediately.
- It is to your advantage to provide as much detail as possible about the pattern you would like to work.
- You may want to consider a trial period for the proposed working arrangements, with an agreed review period with your line manager, before making a permanent change.
- When completing a request for flexible working, include the following:
 - a statement of whether a previous application has been made and, if so, when (parents only)
 - the age of the child being cared for (parents only)
 - an explanation of how you meet the qualifying conditions with regard to your child (parents only)
 - a statement that the proposed working arrangements are a change to your terms and conditions of employment
 - why you are requesting the proposed working arrangement
 - what the proposed working arrangements are

- how long the proposed working arrangements will last
- the date on which the proposed working arrangements would become effective
- an explanation of the change in terms of your work, including how your work could be reallocated
- an explanation of how any changes might be dealt with within the team/organisation, particularly in relation to the business needs of the British Council
- your signature and date.

Guidelines for a Flexible Working Request Meeting

Overview

This section advises members of staff and line managers on how to prepare for a meeting to discuss a request for flexible working.

Audience

This section applies to all UK-appointed staff only.

Responsibilities

Line manager

You must ensure that the meeting is held at an appropriate time and place that is convenient to both parties. In most cases, it will probably be the usual place of work, but both parties should be prepared to be flexible. For UK-appointed staff based overseas, it may be possible to have either a telephone or videoconference meeting. You might want to:

- Familiarise yourself with you have this guidance and the different types of flexible working.
- Speak with HR Services before holding the meeting. Discuss any issues that may transpire from agreeing to the application.
- Consider involving external expertise.
- Ask your other staff if they would want to cover any extra work that may be created as a result of granting the request.
- Make a list or draft an agenda of the issues you want to discuss at the meeting, for example, if you are already aware that the request can be granted, you may want to discuss a suitable start date before formally accepting the request.
- Inform your staff member of anyone asked to join the meeting.

Member of staff

- Be prepared to expand on any points within your application.
- Be prepared to be flexible. Your line manager may ask if there are any other working patterns you would be willing to consider or if you would consider another start date or trial period.

- If you are taking a representative with you, make sure they are fully briefed on your request in advance. Provide your representative with a copy of your application, and inform your line manager that a companion will be present. This will save time during the meeting.
- Familiarise yourself with this guidance and other sources of information on flexible working before the meeting.