University of Sussex
Flexible Working Procedure

1 Introduction

1.1 The flexible working procedure gives staff, with 26 weeks’ continuous service, the right to request flexible working and places a duty on managers to properly consider such requests through a structured process. This flexible working procedure complies with the statutory right to request flexible working\(^1\) and takes account of the ACAS ‘Code of Practice for handling requests to work flexibly in a reasonable manner’ and the associated ACAS guide.\(^2\)

1.2 The University of Sussex (the “University”) recognises the potential benefits to properly managed flexible working arrangements, for example, to increase the ability of the organisation to attract and retain skilled staff; to raise staff morale; to decrease absenteeism; and to react to changing market conditions more effectively. Flexible working allows individuals the opportunity to greatly improve their ability to balance home and work responsibilities. It may also assist the University to align staff working patterns with its business needs.

2 Eligibility

2.1 In order for your request to work flexibly to be considered, you must be a member of staff, with at least 26 weeks’ continuous service at the time of making the request, and not have made a request to work flexibly under the right during the previous 12 months. If you meet these criteria, you have the right to make a request and have it considered by your manager.

3 Flexible Working Arrangements

3.1 There is scope to apply for a wide variety of different types of working pattern. Examples are to:

- change the hours worked, for example:
  - job sharing
  - part time working

- change the times when staff are required to work, for example:
  - staggered hours (where staff in a work area have different start, finish and break times – often as a way of covering longer opening hours)
  - flexitime
  - 5 in 7 day working (where staff can work across any five days of the week).

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\(^1\) Children and Families Act 2014
\(^2\) Handling requests to work flexibly in a reasonable manner: an ACAS guide
4. **Flexible Retirement**

4.1 Flexible retirement is available under certain pension schemes, for example the Universities Superannuation Scheme (USS), and allows individuals to draw a portion of their pension and tax-free benefits while they continue working at reduced hours and salary. The University has to agree that a member of staff can flexibly retire, and staff who wish to flexibly retire should therefore use this procedure to make a request. Flexible retirement is not available under all of the University’s pension schemes, and where it is available, is governed by individual pension scheme rules. Staff who are considering requesting flexible retirement should initially discuss their plans with their HR Adviser.

5. **Prioritising Competing Requests**

5.1 Where a manager receives, or anticipates that they may receive, a flexible working request from more than one member of staff and is unable to accommodate every request due to the impact this would have on the business, the following groups will have priority over other staff seeking flexible working arrangements:

i). A member of staff due to go on, already on, or recently returned from, maternity, adoption or additional paternity leave.

ii). A member of staff who is considered to be disabled within the meaning of that term under the Equality Act 2010.

iii). A member of staff who is a parent of a child under 17 or a disabled child under 18.

iv). A member of staff who is a carer of an adult in need of care (e.g. a spouse, partner, civil partner, relative, or a person who is none of the above but who lives at the same address as the member of staff).

v). A member of staff who has the right not to be discriminated against under the Equality Act 2010, where the act of refusing a flexible working request could amount to direct or indirect discrimination against him/her.

5.2 For all flexible working requests made by staff who do not fall into one of the priority groups detailed in 5.1 above, the manager is not expected to make value judgements about how deserving a request is. The manager needs to assess each case against the needs of the business to decide whether a request can be accommodated.

5.3 Where a manager is unable to grant a flexible working request because s/he already has a number of staff on flexible working patterns, and considers that any further flexible working arrangements would adversely affect the business, the manager should speak to his/her existing staff who work flexibly to see if any of them is prepared to change their working pattern in order to allow the new request to be accommodated. It is often the case that individuals’ circumstances change and some staff may welcome a different working pattern. When making a flexible working request, a member of staff needs to understand that the fact that a colleague’s similar request for flexible working has previously been granted, will not have any bearing on the outcome of their own request.
5.4 Where a manager receives more than one similar flexible working request at the same time, and is unable to agree to all of the requests, it may be helpful to meet with all of the individuals who have made a request to see if there is any room for adjustment or compromise before reaching a decision. If this is not an option, and none of the requests falls into the categories listed as priorities under 5.1 above, a manager may have to randomly select which requests can be granted.

5.5 Where a member of staff makes a flexible working request in order to take up employment elsewhere, the individual is required under his/her conditions of employment to obtain the consent of his/her Head of School or Professional Services area to undertake this additional employment. For such requests, managers are required to:

   i). Consider whether the request to undertake the additional employment can be agreed. This will involve consideration of whether there may be a conflict of interest, and an assessment of working hours to ensure that they are not in conflict with the maximum working hours specified under the Working Time Regulations.

   ii). Consider whether the flexible working request can be accommodated.

   iii). Advice should be sought from an HR Adviser.

6 Procedure for Applying for Flexible Working Arrangements

6.1 Making a Request

When making a request for flexible working, a member of staff must include the following information:

   i). The request must be made in writing to the individual’s manager. The Flexible Working Application Form may be used to make a request, available on the web at: http://www.sussex.ac.uk/humanresources/personnel/forms/familyfriendlyforms.

   ii). The date of the request, the change to working conditions/working pattern being sought, and when they would like the change to come into effect.

   iii). What effect, if any, they think the requested change would have on their School or Division, and how, in their opinion, any such effect might be dealt with.

   iv). A statement that this is a statutory flexible working request, and if and when they have made a previous request for flexible working.

   v). If the member of staff is a member of one of the priority groups listed in 5.1, s/he should specify that this is the case, and to which group s/he belongs.

NB: Any change to a member of staff’s working pattern will be permanent unless agreed otherwise. There is no right for the member of staff to revert back to the previous working pattern.
6.2 **Considering the Request**

6.2.1 The University has a legal duty to consider all requests and establish whether the desired work pattern can be accommodated within the needs of the business. Managers should consider each request objectively on this basis, and not attempt to judge whether one applicant’s need for flexible working is greater than another’s, unless one of the requests is from a member of staff from one of the priority areas listed in 5.1. In most cases, it will be necessary for the manager to meet with the member of staff to discuss the request further, prior to being able to make a decision. Where the manager is able to agree to a request to work flexibly simply on the basis of the request itself, s/he should ask Human Resources to write to the member of staff, specifying the contract variation agreed to and the start date.

6.2.2 Flexible working requests must be dealt with in a timely manner, and managers are expected to have considered and responded to a request within 20 working days of receipt of the request, unless there are reasonable grounds for a longer timescale. The entire process, including any appeal, must be completed within 3 months of first receiving the request. Any extension of this time limit should be agreed by both parties.

6.2.3 Before any final decision is reached, a manager should discuss the provisional decision with the Head of School or Director of Professional Services area.

6.3 **The Meeting**

6.3.1 The meeting is an opportunity to discuss the proposed change in depth and consider how the requested work pattern might benefit the individual and the School or Division. If a manager is unable to accommodate a specific request, s/he should discuss the possibility of any room for adjustment or compromise with the member of staff, before reaching a decision.

6.3.2 Members of staff may be accompanied by a work colleague or trade union representative. The companion can make representations on behalf of the member of staff but cannot answer questions on their behalf. A representative from Human Resources will normally be present in an advisory capacity and to keep a formal record of the meeting.

6.3.3 The meeting should take place in a private setting where the discussion cannot be overheard. The discussion does not have to take place face to face. It can be held on the telephone or some other way provided both parties agree.

6.3.4 At the end of the meeting, the manager should give the member of staff an indication of when they will receive confirmation of the decision.

6.3.5 If a manager arranges a meeting to discuss the request and the member of staff fails to attend both this and a rearranged meeting without a good reason, the request will be considered to have been withdrawn. The member of staff will be notified of this decision.
6.4 Further Consideration of the Request

6.4.1 After the meeting, the manager should carefully consider the request looking at the benefits of the requested changes for the member of staff and the University and weighing these against any adverse business impact of granting the request. In considering a request, a manager must not discriminate unlawfully against a member of staff. Guidance should be sought from Human Resources.

6.4.2 If the manager is unable to agree a request for a permanent change to an individual’s working arrangements for one of the business reasons listed in 6.5.4, s/he should consider whether a change for a temporary period could be accommodated (if this would be acceptable to the individual) or whether a trial period could be established to better assess the impact of the change on the business, rather than rejecting the request outright. Where such arrangements are put into place, the individual will receive written confirmation of the temporary/trial arrangements, and details of review dates to discuss the impact of the arrangements, and make any further necessary adjustments. At the end of any trial period, the manager should meet with the individual to confirm his/her decision (see 6.5 below).

6.5 The Decision

6.5.1 A decision will be confirmed to the member of staff in writing as soon as is reasonably practicable after the meeting.

6.5.2 If accepted, the notification should:

i). Include a description of the new working pattern;
ii). Set out any changes to the member of staff’s terms and conditions;
iii). State the date from which it takes effect;
iv). Be dated.

6.5.3 If rejected, the notification should:

i). Provide clear business reason(s) why the request is refused (see 6.5.4 below);
ii). Give details of the appeal procedure and the notice period for the appeal;
iii). Be dated.

6.5.4 The business grounds for rejecting a request must be one of the following:

i). The burden of additional costs;
ii). An inability to reorganise work amongst other staff;
iii). An inability to recruit additional staff;
iv). A detrimental impact on quality;
v). A detrimental impact on performance;
vi). A detrimental effect on ability to meet customer demand;
vii). Insufficient work during the periods the employee proposes to work;
viii). A planned structural change(s) to the business.
6.6 **Appeals**

6.6.1 A member of staff has the right to appeal against a decision to reject a flexible working request. Grounds for appeal should be submitted in writing to the manager’s manager (the “relevant manager”, copied to the Director of HR, within 10 working days of receiving written confirmation of the decision.

6.6.2 There are no constraints on the grounds under which a member of staff can bring an appeal. Reasons could be, for example:

i). The member of staff may wish to draw attention to something the manager may not have previously been aware of.

ii). The member of staff may wish to challenge a fact or facts quoted in the explanation of the organisational reasons for the refusal.

iii). The member of staff may believe that the request was not considered reasonably in line with the above procedure.

6.6.3 The relevant manager (or nominee) is responsible for dealing with appeals promptly and will hold a meeting with the member of staff to discuss the reasons for appeal.

6.6.4 The member of staff may be accompanied at the appeal meeting by a work colleague or trade union representative. The companion can make representations on behalf of the member of staff but cannot answer questions on their behalf. A representative from Human Resources will normally be present in an advisory a capacity and to keep a formal record of the meeting.

6.6.5 If the relevant manager (or nominee) arranges a meeting to discuss the appeal and the member of staff fails to attend both this and a rearranged meeting without a good reason, the appeal will be considered to have been withdrawn. The member of staff will be notified of this decision.

6.6.6 The relevant manager (or nominee) will confirm the outcome of the appeal in writing to the member of staff within 10 working days of the appeal meeting. The outcome will either be to:

i). Uphold the appeal and provide a description of the new working pattern with a start date from which this will take effect: or

ii). Dismiss the appeal, stating the grounds for the decision.

6.6.7 All requests, including any appeals, must be concluded within a period of three months from receipt of the original request, unless agreed otherwise with the member of staff.

6.6.8 The appeal decision is final.
Summary of Flexible Working Request Process

Your request for flexible working is received by your manager.

Your request is accepted, or you and your manager have met to discuss the request.

You receive written notification of the decision.

Request is ACCEPTED

You and your manager will need to consider the arrangements that need to be made for when your working pattern is changed.

Request is REJECTED

You need to decide if you wish to appeal against the decision. If so, you will need to do so in writing setting out the grounds for your appeal.

A more senior manager has received your written appeal.

You and the relevant manager have met to discuss the appeal.

You receive written notification of the decision.

Appeal is ACCEPTED

You and your manager will need to consider the arrangements that need to be made for when your working pattern is changed.

Appeal is REJECTED

There is no further internal appeal process under this policy.