



SMART WORKING FAQs

What is smart working?

Smart working is often referred to as flexible working by many people and organisations. The terms flexible working/dynamic and smart working are used interchangeably in this document. The government's definition of flexible working is:

"A way of working that suits an employee's needs"

There are many forms of dynamic working. It can describe a place of work, for example working from home, or a type of contract, such as part time working, flexitime, job sharing and shift work.

What are the different types of flexible working options?

The below list of dynamic working options is not exhaustive, however we have included some of the most common provisions below. They have been divided into individual contractual changes to working arrangements and broader flexible ways of working on a day to day basis.

Contractual dynamic working

- Job sharing: Two people doing one job and splitting the hours.
- Part time: Usually by working less days, an employee works less than the full-time hours.
- Compressed hours: Working a full working week in terms of hours but compressed into fewer days.
- Staggered hours: The employee has a different start and finish time.

Day to day flexibility

- Working remotely: Where possible, doing some or all of the work outside of the office. This can be either contractual (working 1 day a week) or flexible (working remotely when required without the need for sign off) depending on the firm's policy.
- Flexitime: All employees must work 'core hours' for example 10:30am - 3:30pm however they are able to choose when they start and end work outside of these hours as long as they are working their agreed contracted weekly hours.

In the broadest definition, smart working is allowing employees to do their best work, where and when it works for both them and the organisation.

Are we seeing more men with families take advantage of flexible working arrangements?

Yes. Whilst historically flexible working may have been associated with working mums, employees of both sexes and across the age groups are now valuing a better work life balance. A study carried out by Timewise showed that 84% of male full-time employees either work flexibly already or say they want to and of the reasons why people wanted to work flexibly, only 29% said it was for caring for children or other dependants.

Is flexible working available to everybody?

Yes, all employees have the statutory right to ask their employer for a change to their contractual terms and conditions of employment to work flexibly provided they have worked for their employer for 26 weeks. An employee can make one statutory request in any 12-month period.

Employees who have been employed for less than 26 weeks do not have a statutory right to request flexible working however employers may consider such requests.

Whilst flexible working is available to everybody, firms may have different policies and cultures which may impact how many people in the firm have dynamic working arrangements. If an individual would like to discuss their options with their employer they should speak to their line manager and HR department.

Are there any organisations leading the way that should be emulated?

Yes, as previously described, whilst employees have the legal right to make a request for flexible working, the culture and how flexible working is embraced by the firm and its employees may differ. There are a number of leading companies in the UK with regards to adopting and promoting a flexible working culture. Barclays recently received industry wide praise for their 'Dynamic Working' policy:

<https://www.home.barclays/content/dam/barclayspublic/docs/BarclaysNews/2018/Feb/dynamic%20working%20pdf.pdf>

FOR EMPLOYEES

We have provided below answers to some of the most common questions employees may have, however for full guidance on your rights with regards to smart working requests, please refer to:

<https://www.gov.uk/flexible-working>



How do I request flexible working?

Employees can make one application for flexible working a year. To make a request for flexible working employees must:

- Make their request in writing, state the date the request is made, the change to working conditions they are seeking, and the date they would like the change to take effect
- State whether they have made a previous application for flexible work and the date of that application
- What change to working conditions they are seeking and how they think this may affect the business e.g. cost saving to the business
- If they are making their request in relation to the Equality Act 2010, for example, as a reasonable adjustment for disabled employee.

The employer will consider the request and make a decision within 3 months - or longer if agreed with the employee. If the employer agrees to the request, they must change the terms and conditions in the employee's contract. If the employer disagrees, they must write to the employee giving the business reasons for the refusal. The employee may be able to complain to an employment tribunal.

Isn't smart working only applicable for working mums?

No. Before June 2014 the right to request flexible working only applied to the parents of children under 17 or 18 in the case of parents of disabled children or to those caring for an adult. Now any eligible employee can apply to work flexibly for any reason. As stated in research by Timewise, the strongest reason why individuals want to work flexibly is for work/life balance or because it is generally useful or convenient. Other key reasons include commuting issues, leisure or study interests and caring responsibilities.

Are there only particular reasons that I can ask for dynamic working?

No, all employees have the right to request dynamic working arrangements (provided they have worked for their employer for 26 weeks continuously at the date the application is made) for any reason. Employers must consider each and every working request.

Could working flexibly limit/affect my career development?

Having a flexible working arrangement should not impact your career development. However, to a certain extent, it may depend on the prevailing culture within the firm and the attitudes of individual line managers

Who do I need to speak to for advice on smart working options?

You can either speak to your line manager and or your companies HR department for advice on the policies and processes at your firm.

What should my employer do after I have made a flexible working request?

The employer will consider the request and make a decision within 3 months - or longer if agreed with the employee.

If the employer agrees to the request they should write to the employee with:

- A statement of the agreed changes
- A start date for flexible working

They should also change the employee's contract to include the new terms and conditions. This should be done as soon as possible but no later than 28 days after the request was approved.

Can my employer reject my smart working request?

Requests to work flexibly must be considered objectively and an employer can only refuse them if there are business reasons for doing so. Employers can reject an application for any of the following reasons:

- Extra costs that will damage the business
- The work can't be reorganised among other staff
- People can't be recruited to do the work
- Flexible working will affect quality and performance
- The business won't be able to meet customer demand
- There's a lack of work to do during the proposed working times
- The business is planning changes to the workforce

Employees do not have a statutory right to an appeal however an employer offering an appeals process helps to demonstrate that the employer is handling requests in a 'reasonable manner'. The employee must follow the company's procedures for appealing.

Employees can complain to an employment tribunal if the employer:

- Didn't handle the request in a 'reasonable manner'
- Wrongly treated the employee's application as withdrawn
- Dismissed or treated an employee poorly because of their flexible working request, e.g. refused a promotion or pay rise
- Rejected an application based on incorrect facts

Employees can't complain to a tribunal just because their flexible working request was rejected.

At what stage should an employee have the conversation about dynamic working?

Existing employees can make one statutory request in any 12-month period. If you are wanting to apply for a job and require flexible working arrangements you could speak to either the recruitment agency or HR department at the prospective firm for their dynamic working policies and culture.



Is my dynamic working arrangement dependant on my line manager?

No. Whilst any request for dynamic working should be discussed with your line manager and the HR department, an employer can only reject an application for the aforementioned reasons.

FOR EMPLOYERS

We have provided below answers to some of the most comment questions employers may have, however additional detail can be found at:

<http://www.acas.org.uk/media/pdf/1/7/The-right-to-request-flexible-working-the-Acas-guide.pdf>

What is the benefit of flexible working for the company?

There are many benefits to flexible working including:

- A more content workforce
- Lower sickness levels
- High employee retention rates
- Attracting top talent
- Loyalty to the employer
- Increased diversity amongst work force

As stated in the Timewise research, "the UK appetite for flexible working has been grossly underestimated. The proportion of full-time workers who are already working flexibly (63%) far surpasses previous estimates, let alone the proportion of people who would prefer to (87%)." Therefore, in order to attract the best talent, employers need to be proactive in developing a culture which offers flexible working for all employees and should be explicit about their policies in job advertisements and benefits to employees.

How does a company deal with multiple flexible working requests?

Where a company receives multiple flexible working requests, the requests should be reviewed and considered in the order that they are received. Whilst it may be possible to grant all of the requests received, the employer will need to look at each request in turn and the impact that it would have on the business before making a decision.

What if all my staff ask to work 3 days a week?

As previously described, requests for flexible working need to be assessed in the order they are received. If a request cannot be accepted due to other employees already working flexibly meaning that any further request would adversely impact the company, and employer could consider asking for volunteers

to change their flexible working arrangements to create capacity for new requests. If a request for flexible working would adversely impact the business, the request can be rejected, or a compromise discussed with the employees. In the case of all staff asking to work a 3-day week, if this would have a detrimental impact on the business then other alternatives could be discussed such as compressed hours.

If I allow one person flex working, does that mean I have set a precedent?

No, requests should be considered in the order they are received. Having considered and approved the first request the employer should remember that the business context has now changed and can be taken into account when considering the second request.

How do I know they are actually working?

Part of the mind-set of dynamic working is shifting from measuring an employee's performance on input to measuring output. This should be clearly defined so that both employee and employer can discuss progress on an ongoing basis.

A study carried out by Stanford economics professor Nick Bloom actually showed that workers that had dynamic arrangements were more productive and happier.

How do we change perception of dynamic working and how are co-workers educated on the benefits?

Whilst all employees have the statutory right to request flexible working arrangements, the culture and mind-set of both individuals at a firm and the firm as a whole varies greatly. There are a number of things that a firm's HR team can do to drive change and encourage a forward-thinking culture.

- **Policies.** Do not rely on the minimum framework of the statutory legislation but develop a strong corporate dynamic working policy which sets the tone within the organisation. Whilst this in isolation will not change the culture, it is a starting point and encourages employee discussion and requests.
- **Promotion.** Carry out training to all staff on the firm's policies and the benefits of flexible working to the firm, this could include success stories or case studies of staff who are working flexibly successfully.
- **Challenge.** Where managers are more resistant to flexible working arrangements within their team, work with them to understand their concerns and discuss appropriate options for how flexible working could successfully work within their team. Provide managers with guidance on how to handle flexible working requests and potentially undertake trials.
- **Advertise.** When recruiting, include the firm's policy on flexible working and encourage hiring managers to be explicit about it in the recruitment process.

Sources:

<https://www.gov.uk/flexible-working>

<http://www.acas.org.uk>

<http://www.acas.org.uk/media/pdf/1/7/The-right-to-request-flexible-working-the-Acas-guide.pdf>

<https://www.gsb.stanford.edu/faculty-research/working-papers/does-working-home-work-evidence-chinese-experiment>

https://timewise.co.uk/wp-content/uploads/2017/09/Flexible_working_Talent_Imperative.pdf

