

Making a Flexible Working Application



SWU Trade Union Advice and Representation Officer **Julie Long** shares a piece of advice

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Flexible working is a way of working that suits an employee's needs, whether wanting flexible working hours, or to work from home. When making a flexible working request, there are two options to consider. The first is to make a formal statutory request, under the rules of law, and the second is a non-statutory request.

A statutory request is a request made under the law on flexible working. You and your employer must follow a process that is set in law when negotiating your flexible working request. To make a statutory request you must have worked as an employee for 26 consecutive weeks by the date of your application. Agency workers, employee shareholders and previous requesters in the last 12 months are unable to make a request. However, agency workers returning from parental leave and employee shareholders who have returned from parental leave within the last 14 days, are able to. Employers must deal with a request in a reasonable manner by assessing the advantages and disadvantages of the application, holding a meeting to discuss the request with the employee and by offering an appeal process. If you are ineligible for a statutory, a non-statutory application can still

be put forward. An employee can take the employer to an employment tribunal if the request is not handled in a reasonable manner. An employer can refuse an application if they have a good business reason.



You can make a non-statutory request for flexible working if you are not entitled to a statutory one. There is no set procedure for a non-statutory request, and it isn't made under the law of flexible working. You should make your request in writing, so it is clear to your employer. It is also worth checking if the employer runs their own scheme, which could be more generous than a statutory request.

If your flexible working request is accepted, the change in your contract will be permanent. It is advisable to agree a trial period to ensure both parties are happy with the new arrangements. You can also agree to a temporary change with your employer.

Redundancy

If you are facing redundancy at work, your employer has a set of rules they must follow. There must be no discrimination during the redundancy. It is discrimination if you're made redundant at least partly because you're a man or a woman, pregnant or on maternity leave, from a particular race, ethnicity or country, married or in a civil partnership, disabled, from the LGBT community, your religious beliefs or you're older or younger than the other people you work with. These categories are called protected characteristics and it is discrimination if being in one of these groups made you more likely to be chosen.

There has to be fair reasons for the redundancy. It is unfair if you were chosen at least partly because you asked for one of your work rights, made a complaint about health and safety, reported your employer for illegal practices, work part-time or fixed term, are in a trade union, have been on strike or have been on jury service.

If the employer is making 20 or more people redundant, a group consultation for collective redundancy must be held.

Union representatives must be present, or representatives for the group must be chosen, if there is no union. The consultation must be longer than 30 days before the first person is made redundant and the representatives must have written details of why there is redundancy, how many people are being made redundant, the areas of the business chosen, the process of how they'll choose and how they'll make redundancy payments.

If you have worked for the employer for more than 2 years, your employer has to be genuine and reasonable when choosing you for the redundancy. There must be a genuine reason for the redundancies, and they must consider the right group for the redundancy and then choose the right people from this group. If under 40, you are entitled to one week's pay for every year of service and it's a week and a half for the over 40's.

Always talk to a SWU Union rep if you have redundancy concerns.