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# Coronavirus (COVID-19): Flexible working during the pandemic and beyond

Use this guide to plan your flexible working approach in the short and long term following the COVID-19 pandemic

In recent months, the coronavirus pandemic has led to a significant amount of the workforce working from home. Many employees have also found themselves working more flexibly in terms of the hours or days that they work, often as a result of balancing work and other responsibilities such as home schooling or childcare.

Before the pandemic, only around 5% of the workforce worked mainly from home. The number of people working from home has increased steadily over the last five years, but the current situation has escalated remote working at a rapid pace. However, current forms of flexibility are very different from typical flexible working approaches: many employees are balancing work with childcare, home-schooling and supporting vulnerable relatives, as well as working from kitchens and living rooms. This is not reflective of normal flexible working and organisations should take care not to make any decisions around flexible working based purely on this period. This is a good opportunity to review the benefits which flexible working can offer but the unusual nature of the situation should be borne in mind.

Organisations should also be careful not to conflate flexible working and homeworking – remote or homeworking is just one form of flexible working, of which there are many and the type of homeworking we have been experiencing recently is not the usual experience.

What organisations can do following this period of enforced homeworking is to review the fact that flexible working has many potential benefits for organisations and employees. There is a wide range of research and a strong evidence base for how flexibility can support inclusion, help to reduce the gender pay gap, support sustainability initiatives, attract and retain talented individuals, increase productivity and support wellbeing.

Prior to the pandemic, flexible working uptake was slow and it is generally considered that

the overall demand for flexible working outstripped supply in the pre-COVID-19 world. However, there are now [early indications](#) that many employees will wish to continue to undertake some degree of homeworking (or flexible working in general) after the current restrictions have passed.

This guide will consider how flexible working may be approached in the short and long term, both to support health and safety obligations to employees returning to the traditional workplace, but also to generate potential people benefits and opportunities for organisations following the pandemic.

## What is flexible working?

[Flexible working](#) describes a type of working arrangement which gives a degree of flexibility on how long, where, when and at what times employees work. There are many forms of flexible working including homeworking, part time or reduced hours, job shares, flexi-time, compressed or annualised hours, career breaks, staggered start and finish times or self-rostering.

Flexible working can be formal (and part of the contract of employment) or informal – agreed between the employee and their manager and taking place on an ad-hoc or occasional basis.

The CIPD has a range of resources and information on flexible working available on the [flexible working topic page](#), including case studies and information on the types of flexible working.

UK employment law sets out a number of minimum standards regarding flexible working with which employers must comply, so employers should make sure they're aware of these when reviewing their flexible working arrangements.

## Flexible working and the law

Under current legislation, any employee with more than 26 weeks continuous service may make a formal request for flexible working. They may make only one request in a 12-month period. Upon receipt of a request, the employer has to consider the employee's request in a reasonable manner and within a reasonable timeframe. The entire process (including an appeal where one is offered) should be concluded within three months.

When a request is agreed, it becomes a permanent change to the employee's contract of employment. A request for flexible working can only be refused on a number of specific grounds, including the burden of additional costs, a detrimental impact on quality, performance or ability to meet customer demand or an inability to reorganise work

amongst other employees or recruit new staff.

A supporting [ACAS Code of Practice](#) sets out guidance for employers when responding to a flexible working request.

Many employers choose to enhance their flexible working policies to go above and beyond the statutory minimum requirements. For example, some employers allow employees to request flexible working from day one of employment, rather than requiring them to wait the 26 weeks service criteria set out in the legislation.

More information on flexible working and employment law can be found in [the Q&As](#). In December 2019, the Government confirmed its intention to introduce changes to flexible working legislation to bring in what is sometimes referred to as 'flexible by default', where jobs would be considered flexible unless the employer has a good reason to designate them otherwise. There is no further information available at this time about these proposals but you can keep up to date with the recent and forthcoming legislation timetable. Although there is an established legal framework the pandemic has led to the introduction of flexible working arrangements in practice without the need for policy or formal requests to drive the change. This is likely to continue in the short term and is something which employers should consider carefully.

## Flexible working in the short term

Many employees may have short to medium term needs for flexible working as a result of the current situation. For example, they may be living with a health condition that makes them especially vulnerable, they may be struggling to balance work and childcare or they may have ongoing caring responsibilities. In these circumstances it may not be helpful to follow normal policies and processes for requesting flexible working.

In the short term, as lockdown restrictions ease and many employees continue to work from home or during a phased return to the workplace, it is likely that teams will find there is a mix of virtual and physical working. During this time, organisations and their people managers need to ensure fairness and consistency in the treatment of all employees whether working flexibly or not, as well as ongoing communication and engagement. Considerations for effective people management during this interim period should include:

- Effective communication to make sure all employees receive key messages, whether they are in the office or working from home.
- Providing managers with guidance, training and support for managing remotely.
- Encouraging regular 1-2-1 or 'check-in' meetings to monitor wellbeing and reduce any feelings of isolation for homeworkers.

- Fair workload distribution and regular reviews of workload and objectives.
- Regular team meetings and social spaces to maintain connections and build relationships.

## Addressing short term employee needs

Employers should consider allowing requests for short term flexible working or time-limited changes to terms and conditions of employment. These could include:

- Allowing employees to request temporary changes to their working pattern; for example, for three or six months. At the end of any agreed period, the employee would automatically return to their substantive working pattern unless otherwise agreed.
- A short and simple application process. For example, aim to make decisions quickly (in no more than a week or two) and provide employees with a simple form to complete.
- Removing usual policy requirements, such as stipulating 26 weeks service in order to make a request or allowing more than one request in a 12 month period.
- Outlining specific requests employees may make, for example a reduction of hours or flexi-time.
- An assumption that requests will be agreed wherever possible where they employee has a good reason for needing the change.

Any changes should be mutually agreed, confirmed in writing and have a clear end date. Where employees are seeking a permanent flexible working arrangement (or seek one when a temporary change has ended), the organisation's normal policies and procedures should apply. People managers will need to be briefed and trained on how to handle requests fairly and consistently.

## Returning to the workplace

Short term flexible working may also support the return to the normal workplace. We will be living and working with risks related to COVID-19 for many months. There may be limitations to public transport (and employees with concerns about using it), and in order to maintain social distancing there will need to be limitations on the number of people who may be able to work in any single office building. The following forms of flexible working can support social distancing and help maintain hygiene, therefore supporting a safe return to the workplace:

**Homeworking:** Where they can do so effectively, organisations should considering allowing employees to continue to work from home for at least some of their working time. Employees could work from home for all of their hours, or employers could consider a system where employees work from home and from the office on a rota basis.

Recent months have demonstrated that a great deal of work can be undertaken from the home. However, not everyone has found this transition easy. Some employees have reported finding it difficult to switch off and set boundaries between their work and their non-work activities. In some cases this has been compounded by not having a suitable workspace.

Where employees will be undertaking more long term homeworking, consider:

- Providing guidance or training on maintaining an effective work-life balance. Homeworking can lead to people working longer hours than they would in the office so consider suitable messaging to counteract this possibility.
- Provide guidance or training to people managers on supporting homeworkers.
- Ensuring employees continue to take annual leave.
- Providing general wellbeing support to all employees.

**Staggered hours:** A staggered hours system may allow workers some discretion, within prescribed limits, in fixing the time when they start and finish work. For example, some employees may work 7am-3pm with others working 10am-6pm. Staggered shifts or hours can help ease congestion on public transport and traffic at certain peak hours, as well as avoiding large groups of people arriving and leaving offices at the end of the day. More information on staggered hours and how they can be implemented can be found the [flexible working measures for returning to the workplace guide](#).

**Compressed hours:** Compressed hours allow employees to work their normal contracted hours over a reduced number of days. A typical pattern would involve working four longer days and not working on the fifth day. This pattern could reduce the number of employees in the office on some days. Compressed hours can result in employees working long days so it is important to reiterate messages about taking breaks to avoid fatigue.

**Adjusted shift rotations:** Where employees work in shifts, for example, a rotating shift pattern where one group of employees takes over from another on rotation, processes can be introduced to reduce contact between different shifts and their employees. Handovers should be undertaken by the same individuals while observing social distancing. The same teams should rotate in order so that they always follow the same individuals. Groups starting and leaving work should do so on a phased basis to reduce interaction or crowds forming in certain locations. This approach may lead to a reduction of flexibility in some aspects; for example, employees may previously have been empowered to swap shifts or self-roster, but this may not be appropriate in the current circumstances.

**Any 5 from 7:** Many workplaces (especially offices) operate between Monday and Friday. Where it is feasible to do so, opening seven days a week and asking or allowing employees to work some of their physical workplace hours on weekends can also reduce the amount

of people in the workplace at any time.

Some of these working arrangements may differ from those set out in employees' contracts of employment. Employers may not make unilateral variations to the terms set out in employee contracts, even when such changes are temporary: to do so would amount to a breach of contract. Even when a contract has a clause allowing employers flexibility to change working patterns, care should be taken as such clauses must still be used in a reasonable way and must not discriminate against any employee with a protected characteristic under the Equality Act.

Depending on the nature of the changes proposed, employers may wish to seek legal advice on their plans and their organisation's specific contracts of employment.

There are several ways that a contract may be changed but the most effective of these is usually to do so by agreement.

Employers who wish to introduce changes to ways of working should:

- Communicate proposals clearly to all employees, including those currently on furlough leave, setting out as much practical detail as possible and how long any such changes are likely to last.
- Brief people managers fully on the proposals, including how to respond to employee concerns and questions.
- Include trade unions or employee groups in discussions.
- Seek feedback from employees and provide a way for them to ask specific questions or make suggestions.
- Identify employees who may be particularly vulnerable and engage specifically with them, either directly or by creating a group of employee representatives.

The specific personal circumstances of employees should always be taken into account: some employees may be unable to change their working hours for a variety of reasons including childcare or family responsibilities. Care should be taken not to discriminate.

Following communication and feedback, the proposals for change should be set out formally in writing to employees and their explicit agreement for change sought. Where agreement is reached, employers may implement the changes: they should keep any new working patterns under review and be prepared to change them as the situation evolves or if Government advice changes.

Where employees do not agree to the changes there are other options open to employers, including imposing the changes unilaterally or terminating the existing contract of employment and offering re-engagement on new terms. These actions should be a last resort in the current circumstances and any employer considering such action should take legal advice before doing so.



More information about contracts of employment can be found on the [terms and conditions of employment topic page](#).

## Flexible working – longer term considerations

Early research is emerging that suggests an increasing future demand for flexible working (especially homeworking) as a result of employees working this extended period from home. There are many potential reasons for this. Employees may now be aware of how possible it is to work effectively from home and have learned how to use the technology that supports them to do so. They may have found that they have personally benefited from working from home, perhaps through reduced commuting time (and associated costs) and an improved work-life balance.

Although there are no timescales yet in place, the Government still intends to introduce legislation to support 'flexible working by default'. Whilst it is currently thought likely that employers will still be able to turn down flexible working requests where there is an operational reason for doing so, this change in legislation will also raise awareness of flexible working in general. Employers and HR professionals should therefore be prepared for an increase in flexible working requests in the months to come, both as a result of the pandemic and if more information becomes available about legislative changes. They should also be aware that if they are unable to fulfil this employee demand, this may have an impact on retention or employee engagement.

Where an organisation is willing to see this increased demand as an opportunity, they may be able to harness a number of business and employee benefits including increased productivity, workplace inclusion, talent acquisition, employee wellbeing and sustainability. However, if such an opportunity is to be realised there are a number of key areas of consideration.

## Making flexible working work

Current circumstances provide organisations with an opportunity to review their approach to flexible working as well as learn from employee experiences of recent months. Consider undertaking a listening exercise in order to understand:

- What challenges have employees experienced whilst working remotely and flexibly?
- What benefits have they experienced?
- What impact have these changes had on the lives of employees?
- What aspects of working remotely do employees wish to retain, and what are they keen to lose?

The information gathered can help organisations reflect on and determine their longer-term strategy for flexible working.

Where an organisation wishes to improve its approach to flexible working, there are three initial areas on which to focus. These are organisational culture, policy and manager training.

## Organisational culture

Organisational culture can be resistant to change and building a culture of flexibility for the long term is a journey rather than a sprint. Unfortunately, there can be negative stereotypes associated with flexible workers with research suggesting that flexible workers are often considered to be less committed, cause increased work for others and are more difficult to manage. Some organisation cultures, prior to the COVID-19 outbreak, did not lend themselves to flexible working. For example, many organisations (and people managers) judge people on their presence in the workplace. Other organisations have a propensity for face to face meetings, or had not adopted the technology that would enable flexibility.

Some of the barriers to flexible working, both cultural and practical, have been challenged by the recent months of homeworking. However, some will remain. Organisations, and their HR departments will need to consider how they can create cultures in which flexible working can thrive.

The following elements of culture and activities are typically present in organisations where flexible working is working well:

- High trust.
- Performance judged on outcomes rather than presence and availability.
- Availability of a range of flexible working options.
- Effective communication of flexible working opportunities and ongoing awareness raising activities.
- Flexible working available for all employee groups in principle regardless of job role. Each request is considered on its own merits.
- Supportive senior leaders including visible role models.
- Jobs advertised as suitable for flexible working.
- Consistent application of policy – for example ensuring all areas of the organisation takes a similar approach to decision making.
- A high level of understanding across the organisation of the benefits of flexible working.

Changing culture means changing attitudes, beliefs and behaviours. This is not



necessarily a quick process and will require consistent effort.

HR can play a key role in supporting organisation change. As well as advising on policy and process, HR professionals can encourage their business to be ready for a more flexible future by providing insight, sharing good practice and learning from other organisations and providing constructive challenge. Above all, they can understand the evidence for flexible working and share this internally within their own organisations, using it as a driver for change. More information on organisational culture is available in the [factsheet](#).

## Policy

Any change of approach to flexible working (in the short or long term) may require a review of policy. Where the policy follows the statutory procedures only, the full benefits of flexible working may not be realised. For example, the law only permits employees to request flexible working formally after being employed for 26 weeks. This may discourage employees from applying for a role with a new organisation. Proposed legislative changes around 'flex for all' could result in this requirement being removed.

Policy changes that support flexible working include:

- Allowing flexible working requests from 'day 1' of employment.
- Advertising all roles as open to applications for flexible working.
- A simple application process that does not require employees to specify why they want to work flexibly.
- Automatic consideration of transferring existing flexible working arrangements to internal promotions / job role changes.
- Short timescales for considering a request.

## Manager training

Providing training to people managers on the benefits of flexible working as well as how to manage flexible workers is one of the most effective ways to increase both the quality and quantity of flexible working arrangements. It will also support the transition to a more flexible future.

Managers hold the key to flexible working: they can either be an enabler and supporter, or a barrier to effective implementation.

Practical aspects of people manager training should include:

- An overview of the relevant employment law relating to flexible working.
- The organisation's own policy on flexible working.

- The process for applying – and the line manager’s specific responsibilities within that process.
- How to assess a job for flexible working potential.
- The business case for flexible working and why it is so important.

Manager training can be complimented with practical tools such as ‘how to’ guides, case studies, process maps and standard forms.

However, simply providing information on policy and process is unlikely to be sufficient to move people towards a more flexible working culture. Managers will also need to understand how to manage flexible workers and a mixed team of office based and remote workers, as well as the many potential business and individual benefits of working more flexibly.

Flexible working has the potential to bring significant benefits to organisations and their employees. It can both support the return to the workplace on a practical level, help employees to cope with ongoing issues relating to the pandemic and help to maintain hygiene and social distancing whilst the virus still presents a considerable risk.

In the longer term, it can enable organisations to address some of their key people strategies including talent acquisition, productivity, employee engagement, retention, gender pay and sustainability. Flexible working will therefore be a key issue for HR professionals in the months to come and beyond.

More information from the CIPD on enabling flexible working, including successful case studies, can be found on the [flexible working topic page](#).

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