



Fact Sheet No.10

Caring for Someone While Working

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Introduction

Caring for a person is often very challenging and care arrangements can be complex. There are a number of areas that you and your employer can explore to help you combine your caring role and work more easily. All employees have certain statutory rights in this regard. Employees may also have contractual rights, which may be more generous than the statutory rights.

This Fact Sheet incorporates information on important changes in the law brought about by The Employment Relations (Flexible Working) Act 2023 and The Carer's Leave Act 2023.

It will generally be in your employer's best interest to consider making reasonable changes to your work pattern to help you work and continue caring.

The Carers Hub is a focal point to help unpaid carers in Brighton and Hove get the information, advice and support that they need. This may be useful to you in this connection.

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Email: info@carershub.co.uk

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Flexible Working

Flexible working is a way of working that suits an employee's needs, for example having flexible start and finish times or working from home. All employees have the legal right to make a request for flexible working from their first day in a job and can make two such applications in any 12-month period. Employees can request changes to:

- the number of hours they work
- when they start or finish work
- the days they work
- where they work

This is known as making a statutory application.

Some employers provide better entitlement to flexible working than the basic statutory rights so you should check your contract of employment, staff handbook, human resources policies etc. for any conditions and procedures for making a request in this regard.

Examples of flexible working are:

- Job sharing - two people do one job and split the hours.
- Remote working and working from home - working from anywhere other than the employee's usual workplace.
- Hybrid working - a combination of working remotely and working in the employee's usual workplace.
- Part time - working less than full-time hours usually by working fewer days.
- Compressed hours - working full-time hours but over fewer days, for example a 9-day fortnight (the employee has a day off every other week and works longer hours on the other days)

- Flexitime - the employee chooses when to start and end work within agreed limits but works certain 'core hours', for example 10am to 4pm every day.
- Annualised hours - the employee has to work a certain number of hours over the year but they have some flexibility about when they work. There are sometimes 'core hours' which the employee regularly works each week, and they work the rest of their hours flexibly or when there is extra demand at work.
- Staggered hours - the employee has different start, finish and break times from other workers.
- Phased retirement - default retirement age has been phased out and older workers can choose when they want to retire. This means they can reduce their hours and work part time.
- Shift working – employees have a choice of shifts.

Applying for Flexible Working

An employee should email or write a letter to their employer to apply for flexible working. The [Advisory, Conciliation and Arbitration Service \(Acas\) has a flexible working request template](#) that employees can use. But employers may ask employees to use a standard application form for this purpose.

The application must include:

- the date of the request
- a statement that this is a statutory request for flexible working
- details of how the employee wants to work flexibly and when they want to start
- a statement saying if and when they have made a previous application - include the date of the previous request.

You are not required to give reasons why you are making the request, but it should help your application if you give as much information as possible. You do not have to declare your circumstances, i.e. that you are a carer, but again the more details you can give the better your chances of success are likely to be.

It may be worth suggesting that a trial work period might help. This would give both you and your employer an opportunity to try out the proposed working pattern to see what effect it has on both you and the business.

Dealing With a Request

The basic steps are:

- The employer must consider the request in a 'reasonable manner'.
- Handling requests in a reasonable manner includes assessing the advantages and disadvantages of the application, discussing possible alternatives to the request and offering an appeal process.
- The employer should discuss the employee's request with them and make a decision on it within 2 months - or longer if agreed with the employee.

If an employer does not handle a request in a reasonable manner, the employee can take them to an employment tribunal.

Agreeing an Application

If the employer agrees to the request:

- they must change the terms and conditions in the employee's contract of employment.
- they must write to the employee with a statement of the agreed changes and a start date for the changes.
- these things should be done as soon as possible but no later than 28 days after the request was approved.

Refusing an Application

If the employer disagrees, they must tell the employee giving the business reasons for the refusal. Employers can refuse an application for any of the following reasons:

- extra costs that will damage the business
- the work cannot be reorganised among other staff
- people cannot be recruited to do the work
- flexible working will affect quality
- flexible working will affect performance
- the business will not be able to meet customer demand
- there is a lack of work to do during the proposed working times
- the business is planning changes to the workforce

Appeals

Employees do not have a statutory right to an appeal against a refusal but may still be able to appeal. They should check with their employer to see if they offer an appeals process. If you feel that a request was not properly considered you may wish to seek legal advice.

For further information on the subject you can refer to the [Advisory, Conciliation and Arbitration Service \(Acas\) code of practice on flexible working requests](#).

Emergency Leave

All employees have the right to take a reasonable amount of time off work to deal with an emergency involving a dependant. This would include a breakdown in care arrangements. The time off would be generally unpaid. There may be other leave arrangements that your employer may be able to offer such as compassionate leave.

Unpaid Carer's Leave

Employees have the legal right to unpaid leave to give or arrange care for a 'dependant' who has:

- a physical or mental illness or injury that means they are expected to need care for more than 3 months
- a disability as defined in the Equality Act 2010
- care needs because of their old age.

The dependant does not have to be a family member. It can be anyone who relies on them for care.

Employees are entitled to carer's leave from their first day of work for their employer. Their employment rights such as holidays and returning to their job are protected during carer's leave.

Employees can take up to one week of leave every 12 months. A 'week' means the length of time they usually work over 7 days. For example, if someone usually works 3 days a week, they can take 3 days of carer's leave. They can either take a whole week off or take individual days or half days throughout the year.

There is a means of working out how much carer's leave an employee can take if their working hours change each week.

Taking Carer's Leave

Employees need to give their employer notice before they want their leave to start. If the request is for half a day or a day, the notice period must be at least 3 days. If the request is for more than one day, the notice period must be at least twice as long as the requested leave. For example, if the request is for 2 days, the notice period must be at least 4 days. The notice period needs to be in full days, even if the request includes half day amounts. The request does not have to be in writing. Employees do not need to give evidence of their dependant's care needs.

Delaying Carer's Leave

Employers cannot refuse a carer's leave request but can ask the employee to take it at a different time. They can only do this if the employee's absence would cause serious disruption to the organisation.

If they delay it, the employer must:

- agree another date within one month of the requested date for the leave
- put the reason for the delay and new date in writing to the employee within 7 days of the original request, and before the requested start date of the leave.

You can [find out more about carer's leave](#) on the Acas (Advisory, Conciliation and Arbitration Service) website.

Unpaid Parental Leave

If you have at least one year's continuous service with your employer and have legal responsibility for a child aged under 18, you can take up to 18 weeks in total unpaid parental leave to look after the child's welfare. The limit on how much leave each parent can take in a year is 4 weeks for each child.

Support

You should be able to find out about support available at your workplace from your line manager, the human resources/personnel department, your welfare officer or occupational health adviser or your union or staff representative.

Further Information

Carers UK have a useful Fact Sheet covering Your Rights in Work which can be printed or downloaded from their website.

Tel: 020 7378 4999

Email: advice@carersuk.org

Website: www.carersuk.org

Carers UK also provide a large range of digital resources for all carers including sections on working and caring. Carers can sign up to use these resources using the link <https://efcdigital.org/> The resources are free to all carers, not just employees, in Brighton and Hove because the City Council is a member of the scheme thus providing free access. To register you will need an email address, a password and the following access code provided by the City Council. **#EFC1498**

Our Fact Sheet No.8 – Employment and Training contains information and advice about career development, job searches, job applications, IT training etc.