

How To – Refusing A Request To Work Flexibly

An application can be refused only where

- 1) there is a clear business reason and
- 2) where the employee has been consulted with as a means of exploring the available options.

The business ground(s) for refusing an application must be from one of those listed below. These are recognised business reasons from the Employment Act 2002:

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes.

Notifying the Employee of the decision

The manager should consider and decide on requests reasonably and within a **two month** period unless an extension has been agreed with the employee. This includes time for the outcome of any appeal, as appropriate.

Following consultation with the employee, the manager should notify them of the decision in writing within a reasonable timescale. This should

- advise the employee in writing of the business ground(s) why the request cannot be accepted,
- set out the appeals procedure.

NB: Experience shows that an employee who understands why a business reason is relevant will accept the outcome and be satisfied that their application has been considered seriously, despite being disappointed that their application has been refused. It is recommended that managers include information to summarise the consultation meeting and fully explain the reason for the request being refused:

- be accurate and clearly relevant to the business ground.
- avoid use of unfamiliar jargon/be in plain English.
- explain to the employee, in terms that are relevant, why the requested working pattern cannot be accepted as a result of the business ground applying in the circumstances.

An example might be a Manager in a small team who receives a request from an employee to not work Thursdays.

The Line Manager rejects the request, as the highest customer calls made to the office are on a Thursday and all staff are required to answer telephone calls and receive the public.

The explanation might include:

'I am sorry that I cannot grant your request to change the days that you work. To allow you to not work on a Thursday would have a detrimental effect on service delivery. Thursday is our busiest day of the week, when all staff are required to ensure that the telephone calls coming into the office are answered and passed to appropriate Officers within the agreed timescales and that all visitors are met by staff.'

As I indicated when we met to discuss the application, if you could consider having a non working day earlier in the week, then I would be happy to reconsider your application'.

- Any facts quoted in the explanation must be accurate.
- Any facts must be able to be backed up should they be subsequently disputed.
- A decision based on incorrect facts to reject an application would provide an employee with a basis for appeal or to make a complaint to an employment tribunal.
- A tribunal will want to see evidence of any facts relied upon to reject the application and that the employer has provided the employee with sufficient explanation as to why the business ground applies to the application.

The employee in the above example might at appeal/tribunal argue they can recall instances of when calls have been left unanswered on a Thursday.

See also [Acas Code of Practice Flexible Working](#)