

# Flexible Working Policy

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# 1. Introduction

National Highways values our employees and is committed to attracting and retaining all the talent and experience available in the community. We are committed to increasing diversity by providing a modern flexible working environment, managed in an inclusive and trust-based way, and recognise the standard working week approach is often incompatible with the increasing demand for a better work life balance.

We expect all employees to be treated with [Respect at Work](#). By understanding and respecting their needs in their personal lives, we can enable employees to be their best self at work, increasing motivation, promoting work-life balance, reducing stress, and improving performance and productivity.

National Highways flexible working approach offers the same opportunity for everyone to formally request a variation to their normal working pattern, be that for a short time to cover a specific set of circumstances, or a permanent arrangement via a contractual variation.

Under the Employment Rights Act 1996 all employees, have the right to apply for flexible working arrangements in the form of a contractual variation and we expect managers to consider these requests in accordance with this policy.

It may not always be possible to provide a flexible working pattern in certain areas of the business or where there are specific working arrangements, but managers should always seek to accommodate the request, or where this is not possible, try to agree other suitable alternatives with the individual and to proactively support flexible and agile working wherever possible.

The right to request flexible working arrangements is a legal right for all employees from day one of employment.

## 1.1 Key Principles

The following principles underpin this policy: -

- all requests to work flexibly will be conditional on balancing the needs of National Highways and the employee. Requests for flexible working arrangements will not be unreasonably refused
- all employees, can apply for formal flexible working arrangements in the form of a contractual variation, or as an informal or short-term adjustment
- we aim to have working patterns that enable the organisation to be productive and that enable the employee to perform at their best
- working flexibly should be considered throughout the recruitment process and managers should explore options to work flexibly, depending on the requirements of the role
- start and finish times may vary according to need, and with the agreement of the manager

- for shift workers flexible working hours should be agreed around the normal shift patterns and must meet the operational needs of the business
- where employees choose to work late or work unsociable hours, they will not be eligible to claim for overtime, a late meal or night allowance/late duty allowances. Where the company requires this, the normal overtime and allowance rules for the role apply
- managers should discuss with the employee if there are any health and safety issues and consider availability of equipment before deciding on a flexible working arrangement
- an employee who makes a request for flexible working will not be subjected to any detriment or lose any career development opportunities as a result
- each application will be considered in relation to the specific role including:
  - the cost of the proposed arrangement
  - the effect of the proposed arrangement on others
  - the level of supervision the post-holder requires
  - the structure of the department and resources
  - other issues specific to the department
  - an analysis of the tasks specific to the role, including their frequency and duration; and
  - an analysis of the workload of the role; and
- the timescales within this policy may be extended where this is mutually agreed.

## 2. Who does this cover?

This policy covers everyone who is employed by National Highways, regardless of their length of service, pay band or grade, whether full or part time, fixed term contract or permanent. It does not apply to agency workers, consultants or self-employed contractors.

## 3. What are flexible working arrangements?

There are three types of flexible working arrangement:

- Informal
- short term
- permanent.

### 3.1 Informal arrangements

We understand employees have daily commitments they must manage around their working day, and managers should have regular discussions with team members to establish working patterns which meet both the needs of the business and employees. We trust our employees to ensure they continue to meet their agreed contracted hours, and managers will also monitor working patterns in line with the Working Hours and Attendance policy and Working Time Regulations policy (see [Working Time Regulations](#) folder)

Employees should ask their manager if they need to work different hours to normal e.g. to start later or finish earlier because of an appointment, due to childcare difficulties, or because they have caring responsibilities. The manager should discuss this with the employee and seek to accommodate the request, if possible, subject to business needs. During agreed hours of work, employees should ensure that they are contactable, regardless of their location.

In return managers should be flexible in their approach and trust employees to manage their daily working hours, whilst making sure delivery plans, and team and individual objectives can be met.

If a manager is concerned about an employee's working hours or their level of performance, they should arrange a one-to-one discussion immediately and give feedback on the areas of concern. They may propose an alternative working pattern and may also consider the [Managing Attendance](#) Policy and [Managing Performance](#) policy. Details of any discussions and agreements should be recorded and if no improvement is made, managers should call HR Shared Services on 0300 470 3000 or send a [query](#) to HR for advice on what action to take.

### 3.2 Short-term arrangements

An employee may need to adjust their normal working pattern because of a temporary change in circumstances (normally no longer than six months) and should speak with their manager in the first place. The manager should approach the request with a view to accommodating it, and if it is agreed:

- if there is no change to the total number of hours worked each week, this can be by local agreement, notifying HR Shared Services of the temporary working pattern.
- if there is a change in the number of hours to be worked, the employee should submit their request using the [flexible working form](#) (*log into MyHR first*).

Where it is not possible to agree a request, the manager should call HR Shared Services on 0300 470 3000 or send a [query](#) for advice before giving a decision, which must be in line with the reasons given in 3.3.3 [rejecting a request](#).

### 3.3 Permanent flexible working requests

Where an employee (regardless of their length of service) is seeking to make a permanent change to their contract of employment, they must make a statutory flexible working request using the [flexible working form](#) which must include:

- the date of the application
- the proposed changes to the terms and conditions of employment in relation to their hours, times or place of work

- the date on which it is proposed these changes would come into effect
- If (and when) the employee has made a previous request for flexible working. Additional detail can be provided in the 'justification' box.

A maximum of two flexible working request can be made in any 12-month period, and an employee may only have one live request for flexible working at any one time.

### 3.3.1 Considering a request

The manager must consider whether an application can be approved and within 14 days of receiving it must:

- where approval can be given without the need for further discussion, arrange for agreement to be given in writing including a start date and details of the working pattern/arrangements; or
- arrange a formal consultation meeting with the employee, giving at least two working days' notice, to discuss the application. The employee may be accompanied at the meeting by a trade union representative or work colleague who may speak during the meeting and confer privately with the employee but may not answer questions on their behalf. If the employee's companion/representative is unable to make the initial meeting, the manager should ask the employee and the companion/representative to propose an alternative date within five working days of the date of the initially proposed meeting.

The meeting is an opportunity for the manager and employee to consider their request. They should have to a reasonable discussion about the benefits or other impacts that accepting or rejecting the request, and any practical considerations involved in implementing it. Notes should be taken and shared with the employee after the meeting.

If the original request cannot be accepted in full, they should discuss if it may be possible to accept it in part, and to enable some of the flexibility the employee is looking for. They should discuss, for example, any potential modifications to the original request, or any alternative flexible working options that may be available and would suit both the employee and the business. A trial period may also be considered to assess the feasibility of an arrangement.

After the meeting the manager will consider the flexible working application and decide if it can be approved. Each request will be considered on a case-by-case basis and agreeing to one request will not set a precedent for future requests.

Requests will be concluded as soon as possible and in any event within two - months from receipt of the request, including any appeal.

Where an employee fails to attend both an arranged meeting and a rearranged meeting without good reason, their application will be deemed to have been withdrawn.

Where the manager is not available to deal with their flexible working request (for example, due to sickness absence), the request will be reassigned to the Countersigning Manager to deal with.

### **3.3.2 Notification of a decision**

Within 7 calendar days of the formal meeting, the manager will confirm their decision in writing via HR Shared Services.

The request may be granted in full or in part, for example:

- a. if the request is agreed, the manager and employee should discuss how and when the changes will take effect. Any changes to terms and conditions of employment will be put in writing as a contract variation by HR Shared Services
- b. a modified version of the request may be proposed as a compromise
- c. the request may be granted on a temporary basis; or
- d. a trial period, specific to the circumstances, may be requested for both parties to try out the arrangement, which can be reviewed at any time during the trial, and the flexible working request may be refused at any point during the trial, if it becomes apparent that the arrangement should not continue because of any of the reasons set out below at paragraph 3.3.3. The trial period should be for at least eight weeks and no more than three months.

The written decision should offer the employee an opportunity for a discussion to clarify any further information that may be helpful in implementing the agreed arrangement.

Where a permanent contractual change has been agreed, any subsequent changes would be a further contractual change, requiring mutual agreement. Whilst there is no requirement for further reviews unless specifically requested by either party, the arrangements can continue to be discussed during one to ones. But there is no automatic right for the employee to request to revert to their previous working arrangements.

### **3.3.3 Reasons for rejecting a request**

If considering rejecting a request, managers must first contact HR Shared Services on 0300 470 3000 or send a [query](#). A request can only be rejected on one of the following 'specified business grounds':

- the burden of additional costs
- an inability to reorganise work among existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance

- a detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to the business.

Requests will not be rejected for any other reason, and a refusal must be set out in writing giving:

- the business grounds, which must be one of the 'specified business grounds' (see above)
- a full explanation as to why those business grounds apply to the post
- the right of appeal
- the date of the decision.

Where a request cannot be accommodated, the manager must also be able to show that they have considered other possible alternative working arrangements, which should have been discussed as part of the formal consultation meeting (see [3.3.1](#)).

### 3.4 Appeals

If the employee is not satisfied with the decision of the manager, they may appeal the outcome using the [standard appeals process](#). They should submit it within 14 calendar days of receipt of the written decision, clearly stating the reason for the appeal (i.e. why they feel the result is wrong or not appropriate).

The employee will be invited to attend an appeal meeting, normally within 14 calendar days of their appeal being received. The appeal meeting should be heard by an appropriate Appeal Officer (AO).

The AO will independent, not having been previously involved in considering the request. They may be from the same directorate (including within the management chain of the appellant) or from another directorate and will be at the same level or more senior to the deciding manager.

The employee has the right to be accompanied at the meeting by a companion as detailed in [3.3.1](#) above.

The AO will consider the grounds of appeal any new evidence only and will assess whether the decision reached by the manager in respect of the flexible working application was appropriate. As soon as possible after the meeting, the AO will inform the employee of their decision in writing. In some circumstances where there will be a delay in confirming the outcome to the employee (for example where more time is needed to consider the appeal), the AO will inform the employee of the revised timescale. This is the end of the procedure and there is no further right of appeal.



### 3.5 Moving to a new role

Where an employee moves to a new role within the organisation, any prior agreed flexible working arrangements will be reviewed with a view to these being maintained wherever possible, depending on the requirements of the new role.

## 4. Data protection and confidentiality

Any personal data collected will be processed in accordance with our data protection policies: [Staff Privacy Notice](#) and [Data Protection Policy](#).

Our aim is to deal with requests sensitively and with due respect for the privacy of any individuals involved. All Employees must treat as confidential any information communicated to them in connection with a request.

Data collected at any stage of the process will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the request. Any inappropriate access or disclosure of Employee data should be reported in accordance with the data protection policy immediately as this may constitute a data breach. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

*The flexible working policy is non-contractual and National Highways reserves the right to change it from time to time. We will discuss any changes with the TUS as required, to adhere to business or legislative requirements.*

## 5. Appendices

**Appendix 1** [flexible working application form](#) (you will need to be logged into MyHR)

**Appendix 2** see the flexible working flow chart in [Guidance](#)

**Appendix 3** [acas-code-of-practice-on-flexible-working-requests 2024](#)

**Appendix 4** Examples of flexible working arrangements

### Job-sharing

*What is it?*

An arrangement whereby two (or more) part-time employees share the responsibilities of one position.

In a "shared responsibility" arrangement the individuals both carry out all the duties of the job, simply picking up the work where the other one left off, while in a "divided



responsibility" arrangement the duties of the position are divided between the two individuals, with each being able to provide cover for the other where necessary.

#### *Benefits to employee*

Permits more time for caring responsibilities or other commitments.

The employee works at regular, defined times, permitting arrangements in their free time to be made in advance.

Can allow the employee to become more accustomed to increased leisure time in the run-up to retirement.

Can permit an employee to continue with the security of regular employment while at the same time working on a self-employed basis.

#### *Benefits to employer*

Two individuals are likely to bring increased skills and expertise to the position.

Peak periods of demand can be covered by hours when the two individuals work simultaneously.

Sick leave and annual leave can be covered.

Overtime savings may be made.

#### *Points to watch*

Increased costs are likely to result from benefits (eg car and health benefits), training, overlap time and equipment where it cannot be shared.

The arrangement is likely to be unsuccessful unless regular communication and handovers take place between the individuals.

Account must be taken of what happens if one individual leaves.

Demands on line managers increase in line with the number of individuals for whom they have responsibility.

There must be no less favourable treatment of job-sharing part-time workers in relation to pay and other benefits such as pension, sick pay, holiday and training, unless such detrimental treatment can be objectively justified.

One individual's prolonged sickness or other absence or an issue with their conduct will impact on the other individual in the arrangement.

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**Part-time working** – *additional help and support is available from the [Part-time-Working Network](#)*

*What is it?*

A system whereby the employee is contracted to work fewer than the standard number of contractual hours per year for the type of work in question.

*Benefits to employee*

Employee can fit paid work around childcare and other commitments.

Can allow the employee to become more accustomed to increased leisure time in the run-up to retirement, or to supplement a pension from another employer.

Can permit an employee to continue with the security of regular employment while at the same time working on a self-employed basis.

*Benefits to employer*

Periods of peak demand in production or service can be targeted.

Can be used to retain the skills of employees after maternity, adoption or shared parental leave.

*Points to watch*

Reduced pay may not make it feasible for all employees.

There must be no less favourable treatment of part-time workers in relation to pay and other benefits such as pension, sick pay, holiday and training, unless such detrimental treatment can be objectively justified.

A reduction in the number of hours worked may be a reasonable adjustment permitting a disabled individual to do or continue in a job.

Overtime rates will be payable only when the employee has worked beyond the normal full-time contractual hours for the position.

**Annualised hours**

*What is it?*

A system whereby the employee's contractual working hours are expressed as the total number of hours to be worked over the year, allowing flexible working patterns to be worked throughout this period.

Usually the hours are divided into rostered hours, which are set, and reserve hours, when the employee can be called into work as demand dictates (and to cover unplanned work and employee absence). Payment is usually in 12 equal instalments (although some arrangements permit pay for the work actually done in the period to which the payment relates).

### *Benefits to employee*

The set hours that an employee is rostered to work will usually be known well in advance.

Offers regular salary level throughout the year even though hours of work vary.

Usually results in improved basic pay for staff (and possibly salaried status) as the new rate of pay takes into account the loss of overtime hours. Other improved benefits such as better pension, sick pay and annual holiday are often negotiated in the package.

### *Benefits to employer*

Particularly suitable where there are predictable fluctuations in activity level for different teams over different periods, or where the situation is less predictable but workload is likely to be heavy at points throughout the year and light at others.

Greater flexibility to match staffing to the demands of work.

The working hours necessary to produce an effective customer relationship can be guaranteed.

Reduced overtime payments.

Improved productivity.

A reduction in the cost of employing temporary or bank staff.

### *Points to watch*

Employees can be called in at short notice so may find they have less freedom in planning their leisure hours.

Long hours at particular times of the year in industries with seasonal demand can result in increased stress and absence, and difficulties for employees with caring responsibilities.

Overtime opportunities for employees are reduced or non-existent, so these can no longer be used as an incentive.

The employer may find itself paying for hours not actually used.

Effective communication may be a problem, especially where rostering arrangements mean individuals are away from work for long periods at a time.

Demands on administrative time and resources are often high.

The need for overtime may not be removed completely.

Annualised hours are rarely available on an individual basis. The option is usually introduced to provide greater flexibility in the way work is organised to accommodate peaks and troughs in demand for an organisation's product or service.

Adopting an annualised hours system requires careful planning and communication, and will usually require union agreement and a lengthy period of employee consultation.

The annualised hours arrangement should set out what happens to reserve hours that have not been used throughout the year.

Account must be taken of what happens when an employee leaves part way through a year.

Averaged pay will affect the calculation of maternity and other benefits.

### **Term-time working**

#### *What is it?*

A system whereby the employee works under a permanent contract but can take unpaid leave of absence during the school holidays. Arrangements start on 1 January and should normally be to work for 39 weeks of the year, between September and July.

Salary is usually paid in 12 equal monthly instalments (which is why arrangements start on 1 January. The contract usually specifies that no annual holiday should be taken during term time.

Dates to be worked should be notified to the manager at the start of the academic year.

Part weeks or full weeks can be taken as unpaid, however, the general working pattern must be the same.

#### *Benefits to employee*

The problem of finding childcare during school holidays is removed, and the employee can spend more time with their children during this time.

Offers regular salary level throughout the year.

Enables future planning for when time will be worked, and when annual leave will be taken.

#### *Benefits to employer*

The recruitment and retention of individuals whose childcare responsibilities might otherwise keep them out of the employment market is made possible. This is particularly valuable in areas where recruitment is hard, and as a means of attracting employees back to work.

It assists with the forward planning of resource.

#### *Points to watch*

Other employees may be put under pressure not to take their annual holiday during the school holidays.

Employees may request to start an arrangement partway through the year, however it can only start on 1 January (for calculating annualised hours and pay).

Averaged pay will affect the calculation of maternity and other benefits.

Where a long break from work would be disruptive to the job or service provided, or where the employee has unique knowledge or skills that are needed on a consistent basis throughout the year, this system may be unsuitable.

Where a managerial role is being considered for term-time working, account must be taken of whether the team involved can work extended periods without direct supervision.

### Compressed hours

At National Highways the standard working week (37 hours) is over either 5 or 6 days, depending on which part of the company the employee works in. Compressed hours are where an employee requests to work their contractual weekly hours over a non-standard pattern e.g. 37 hours over four working days in a week, 74 hours over eight or nine days in a fortnight.

If an employee submits a flexible working request for compressed hours, the manager should agree the hours and days they will work, ensuring it will not affect business needs.

Those working compressed hours are given a public holiday plan, which should be used to book bank holidays that fall on the employee's usual working day. No deduction is needed if the bank holiday falls on a day they would not normally work.

By compressing their hours, employees are agreeing to work the same amount of hours as their original working pattern, and therefore the annual leave entitlement would not increase as this is allocated based on your weekly working hours, not daily working hours.

**Scenario:** An employee's child minder is having an operation and will not be able to work for 6 weeks. The employee has made alternative arrangements but is unable to find cover every other Friday.

**Scenario:** An employee has a relative who has to attend a hospital appointments over a short period of time for a course of treatment.

**Solution to both:** the employee could **work** compressed hours by **working** an additional 8 hours over a 9 day fortnight enabling them to **work** 5 days one week then **works** 4 days the next. It could also be covered by using any accrued TOIL or annual leave if they do not have the **flexibility** to **work** the additional hours.

## Caring responsibilities

The Carers Support [guidance](#) outlines how National Highways supports employees who also have caring responsibilities. *Additional help and support is available from the [Carers-Network](#).*

Under the [Special Leave policy](#) carers can take up to one week's unpaid leave to care for a spouse, civil partner, child, parent, someone living in the same household or a person who reasonably relies on the employee for care, and who has a long-term care need (a physical or mental illness or injury defined as a disability or issues relating to old age).

However, should there be a need to combine work with longer term caring arrangements, these can be facilitated as either an informal, short-term, or permanent flexible working arrangement.

Working carers should consider what type of arrangements would work best for them - it could be a small change or something more significant.

Although giving reasons why a request is being made, or proof of circumstances, is not required, it may strengthen an application. The more details given can increase the chances of success of an application.