

# Jersey Employment Law: Flexible Working Arrangements

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## Introduction

**This briefing note is intended as an overview of some of the legal issues which should be considered when a request has been made by an employee for flexible working arrangements. An amendment to the Employment (Jersey) Law 2003 which became effective on 1 September 2015 brought these provisions into force.**

## Flexible Working

Any employee who has been continuously employed for a period of not less than 15 months may make an application to their employer to request flexible working. This application is to amend their terms and conditions of employment if the change relates to:

- The hours the employee is required to work;
- The place the employee is required to work; and
- The times when the employee is required to work

and the reason for the change is to enable the employee to provide care for another person.

An employer is required to consider an employee's application and hold a meeting within 28 days of receipt of the application with the employee and make its decision within 6 weeks.

Where the employer agrees to the employee's application, the terms and conditions of employment should be amended to record the flexible arrangement and stating the date on which the change is to take effect.

An employer may only refuse an application on any of the following grounds:

- The granting of the application would create a burden of additional costs;
- The application would have a detrimental effect on the employer's ability to meet customer demand;
- The employer would be unable to re-organise work among existing staff or recruit additional staff;
- The granting of the application would have a detrimental effect on the quality or performance of the employer's business;
- There would be insufficient work for the employee to do during the periods the employee proposes to work;
- The granting of the application would have a detrimental effect on the employer's planned staffing changes; or
- The employee received, or would receive, remuneration for the care that he or she provides, or would provide to care for another person.

Should the employer decide to refuse the employee's application the employer must:

- State which of the grounds for refusal, specified above, apply;
- Provide a sufficient explanation as to why those grounds apply; and
- Set out the process should the employee wish to appeal.

Employees can not make more than one flexible working request in any 12 month rolling period.

An employee is entitled to appeal the decision by the employer to refuse the application. The employee must provide the employer with a notice to appeal within 14 days of the date of the refusal setting out the grounds for the appeal.

The employer is required to meet the employee within 14 days of receiving the appeal notice in order to discuss the appeal. The employer must then revert to the employee within 14 days after the meeting to notify the employee of the employer's decision.

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Should the employer uphold the decision to decline the flexible working arrangement, the employee is entitled to file a complaint to the Tribunal setting out the reason why he/she felt that the employer has failed to comply with the law or that the decision by the employer was based on incorrect facts. The Tribunal can require the employer to re-consider and award compensation of up to 4 weeks' pay.

This briefing is only intended to give a brief summary of the subject matter. It does not constitute legal advice.

If you would like legal advice or further information, please contact us using the contact details below.

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