

# Fact Sheet #123

## Flexible Working – Part Three

### Appeals

The employee has a legal right to appeal against the decision to refuse their application, and the process for appealing should be explained to the employee.

If the employee does wish to appeal, they should be given the opportunity to do so after receiving the employer's decision. Employees should be asked to set out the grounds of their appeal in writing.

In order to ensure the employer has acted reasonably, it would be useful for the manager making the decision to arrange for the appeal to be considered by someone uninvolved in the original decision.

The employee has the right to be accompanied at any meetings by a colleague of their choice.

### Handling an Employment Tribunal Complaint

If the employee is unsuccessful at appeal, the only remaining option is to make a complaint to an employment tribunal.

However, the grounds on which a complaint can be made are limited under the regulations and the tribunal cannot rehear the request or the appeal. Any complaint to the tribunal under the regulations has to be on the grounds that:

- the employer has failed to follow the correct procedures for holding meetings / notifying decisions;
- the reason given for the refusal was not one of the grounds listed in the Regulations; or
- the employer's decision was based on incorrect facts.

If the tribunal concludes the statutory procedures have not been followed, it can instruct the employer to reconsider the application and award compensation that is "just and equitable".

This is limited to eight weeks' pay. Further compensation of two weeks' pay can be awarded if the employee has not been allowed to bring a companion to meetings. A week's pay is subject to the statutory cap, which is currently set at £464 per week.