

The right to request flexible working

There are many forms of flexible working. It can describe a place of work, for example home working, or a type of contract, such as a temporary contract. Other common variations include: part time working, flexitime, job sharing and shift work.

Changes coming 30 June 2014 to flexible working regulations

The Government is extending the right to request flexible working to all employees and removing the current statutory procedure for considering requests. Instead employers will have a duty to consider all requests in a reasonable manner; however, employers will continue to have the flexibility to refuse requests on business grounds. These changes are introduced by Part 9 of the Children and Families Act 2014, new Regulations for flexible working and an Acas Code on handling in a reasonable manner requests to work flexibly.

On 30 June 2014 new Flexible Working Regulations and Part 9 of the Children and Families Act 2014 will come into force. This will mean that the right to request flexible working will be extended to cover all employees after 26 weeks' service, rather than only those with children under the age of 17 (or 18 if the child is disabled) and certain carers. The statutory procedure for dealing with requests will be replaced by a duty to deal with requests reasonably and a statutory ACAS code of practice which relates to that duty.

Acas published a draft code of practice which it submitted to the Secretary of State. The Secretary of State approved the draft and laid it on 1 April 2014 before both Houses of Parliament for a 40 day period of consideration on 1 April 2014. The 40 day period has now come to an end and ACAS has published the Code below. This Code will come into effect on 30 June; to coincide with the change in law from that date an employer has a duty to deal with requests to work flexibly in a reasonable manner and the Code relates to that duty.

From 30 June 2014 every employee has the statutory right to request flexible working after 26 weeks employment service.

(Before 30 June 2014, the right only applies to parents of children under the age of 17 (or 18 if the child is disabled) and certain carers. [See information on requests made before 30 June 2014.](#))

Key points

1. Requests should be in writing stating the date of the request and whether any previous application has been made and the date of that application
2. Requests and appeals must be considered and decided upon within three months of the receipt of the request
3. Employers must have a sound business reason for rejecting any request
4. Employees can only make one request in any 12 month period

Making a request

Although employees with less than 26 weeks service do not have a statutory right to request flexible working, some employers may allow all staff to make a request.

To make a request for flexible working employees must:

5. make their request in writing, state the date the request is made, the change to working conditions they are seeking, and the date they would like the change to take effect
6. state whether they have made a previous application for flexible work and the date of that application
7. what change to working conditions they are seeking and how they think this may affect the business e.g. cost saving to the business
8. if they are making their request in relation to the Equality Act 2010, for example, as a reasonable adjustment for disabled employee

Handling requests to work flexibly

Once a request has been received the employee should arrange a meeting to discuss the request, this should be done as soon as possible, this is not a statutory requirement but is good practice.

This meeting can provide an opportunity to see what changes the employee is asking for and reasons for the change, although the employee may not wish to say why it also allows any compromise to be explored. Although not a statutory requirement, it would be good practice to allow the employee to be accompanied at a meeting by a work colleague or trade union representative.

The law requires the process to be completed within three months of the request being received, this includes any appeals.

Any request that is accepted will make a permanent change to the employment contract, so if the employee wants a temporary change then an agreement may be reached together with any compromise if the original request can not be accommodated.

However, if the employer is willing to grant a request then meeting may not be necessary, but it still may be useful to discuss a request to ensure that the proposal made by the employee is the best solution for both employer and employee.

Employers should consider requests in a reasonable manner and can only refuse them if there is a business reason for doing so, this reason must be from the following list:

9. the burden of additional costs
10. an inability to reorganise work amongst existing staff
11. an inability to recruit additional staff
12. a detrimental impact on quality
13. a detrimental impact on performance
14. detrimental effect on ability to meet customer demand
15. insufficient work for the periods the employee proposes to work
16. a planned structural change to the business

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