Ruth Seddon HR

Guidance On Flexible Working requests

Eligibility

Any employee has the right to make a flexible working request as long as they have (a) worked continuously for the employer for at least 26 weeks and (b) not made another flexible working request in the last 12 months.

It is a right to make a request, not the right to change their hours without the employer's agreement.

"Flexible working" is a bit misleading – an employee does not have the right to work "flexibly" in terms of hours or days, i.e. when they like. It is simply a change to their current contractual terms.

Process

The employee must put the request in writing and it should include:

- a statement that it is being made under the employee's statutory right to apply for flexible working;
- the employee's reason for making the application;
- the employee's proposed flexible working plan, and an explanation of what effect the employee thinks it will have on the Company's business and how it can be dealt with;
- a start date for the proposed change which allows reasonable time for the Company to consider and implement the proposal; and
- the date on which the application is made and the dates and results of any previous applications to work flexibly.

All flexible working requests must be dealt with within a period of three months from first receipt to notification of decision on appeal. A meeting should be arranged as soon as possible after receipt of the application. The employee may be accompanied at the meeting. In the meeting, all potential issues (negative or positive) should be explored, and potential different options discussed. The employer should be candid about any difficulties for the business or other workers.

The decision should be given in writing and should be one of the following:

- Accept the request and confirm the start date as well as any other action; or
- Confirm a compromise agreed at the meeting; or
- Reject the request and give clear business reasons for doing so together with details of the appeals process.

The Employer can only refuse a valid request to work flexibly on one or more of the following grounds:

- The 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; or
- Planned structural changes.

Where a request to flexibly is granted there is no automatic right for the employee to return to their previous pattern of work. A letter confirming the change to contract will be issued.

Exceptionally, the employer could decide to trial the proposal if it is not clear whether it is workable. If that is the case, the latter should state clearly the change is temporary and when it will be reviewed.

If the request is refused, a right to appeal must be offered.