

Briefing Note: Flexible Working

An Introduction to the Briefing Note

This Briefing Note outlines how your business should respond to a flexible working request from one of your employees.

This briefing note should not be relied upon as legal advice and you should contact us for advice on your specific circumstances.

Who can make a request?

The right to request flexible working is available to employees who have been continuously employed by your business for at least 26 weeks to care for either a child or an adult.

Caring for a child

An employee can make a request to care for a child under the age of 17 (18 if the child is disabled). From April 2011, the right to request flexible working will be extended to cover all children under the age of 18. Your employee must have responsibility for the child's upbringing and be either:

- The child's mother, father, adoptive parent, guardian or foster parent.
- The spouse, civil partner or partner of the child's mother, father, adoptive parent, guardian, or foster parent.

Caring for an adult

An employee can make a request if they expect to be caring for a person aged 18 or over who is in need of care and is one of the following:

- Married to, or the civil partner or partner of your employee.
- A relative of your employee.
- Falls into neither category but lives at the same address as your employee.

Patterns of care giving will vary considerably. However, care-giving activities are likely to include:

- Help with personal care (for example, dressing or bathing).
- Help with mobility (for example, getting in and out of bed).
- Giving or supervising medicines.

What kind of change can be applied for?

Your employee will need to make a written request for flexible working. In doing so, they must set out their proposed pattern of flexible working and how they believe your business can accommodate it. In making a request, your employee can ask to change the:

- Hours they work.
- Times they work.
- Location they work (for example, by asking to work from home).

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Summary:

Responding to a request for flexible working.

For detailed advice on all employment law matters please contact:

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The right to request procedure

There is a detailed statutory procedure that your business must follow once it has received a flexible working request. You should take legal advice as soon as you receive a request to ensure that you comply with your obligations to consider the request.

Rejecting or refusing the request

Your business may have legitimate reasons for being unable to accommodate a flexible working request. In rejecting a request, you must identify one or more of the following grounds as the reason for doing so:

- It would have a detrimental impact on the quality of your product or service.
- There is insufficient work available during the times when your employee wants to work.
- You are planning structural changes to the organisation of your business.
- The work cannot be re-organised among existing staff.
- There would be a detrimental impact on your business' performance.
- You are unable to recruit the additional staff that your employee's proposal would require.
- There would be a detrimental impact on your business' ability to meet customer demand.
- The burden of additional costs that would be incurred.

Your business can request evidence of your employee's relationship with the person they are caring for before agreeing to the request.

If you would like to know more about this topic or our other legal services, please contact Paul Maynard:

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