



Changes to flexible working regulations

What is flexible working?

Flexible working can take on many forms and tends to cover the hours, times and place someone works. It can also include patterns of work, such as part-time working, flexitime, job sharing and shift working.

Parents of children aged 16 or under, or disabled children under the age of 18 currently have the right to apply to their employer to work flexibly if they :

- Are an employee (this does not include agency workers or members of the armed forces).
- Have worked for their employer for 26 weeks continuously at the date that the application is made.
- Have not made another application to work flexibly under the right during the past 12 months.

Changes coming to flexible working regulations

From 30 June 2014, all employees (not just parents and carers) will have a statutory right to apply to their employer for flexible working provided they have worked for their employer for 26 weeks or more.

Current position	Changes from 30 June 2014
Employers have a statutory duty to consider applications and have a strict timetable for dealing with requests.	Unchanged, however, employers must consider and deal with requests within three months unless otherwise agreed with the employee.
An employee has the right to appeal if necessary against the outcome.	No right of appeal, but we recommend consideration of appeals as good practice. The ability to negotiate if requested hours are not possible should still be offered.
Right of accompaniment to the meeting to discuss request.	No right of accompaniment but we recommend consideration of allowing a work colleague as good practice.

As an employer, where do you stand legally?

You are under no statutory obligation to grant a request to work flexibly, however, all requests must be considered objectively and can only be refused if there are business reasons for doing so.

Business reasons can include:

- The burden of any additional costs.
- The inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- The change will have a detrimental impact on quality.
- The change would have a detrimental effect on the business' ability to meet customers demand.
- It would have a detrimental impact on performance.
- There is insufficient work during the periods the employee proposes to work.
- Planned structural changes, for example, where the employer intends to reorganise or change the business and considers the flexible working changes may not fit with these plans.
- To avoid unlawful discrimination.

Developing a “right to request” policy

You may want to consider having an internal policy for handling flexible working requests to ensure consistency and awareness. It should also help explain to employees how the new right to request flexible working is open to not only parents and carers, but all employees.

To ensure an employee makes an application correctly, your policy should provide guidance on how to make the application, who to make the application to, and what information the application must contain.

The right to request flexible working legislation requires that employees must make their request in writing, setting out:

- The date of the application, the change to working conditions they are seeking and when they would like the change to come into effect.
- What effect they think the requested change would have on the employer and how, in their opinion, any such effect might be dealt with.
- That this is a statutory request and if they have made a previous application for flexible working and the date of that application.
- If they are making their request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability.

At QualitySolicitors we have expert employment solicitors who are able to guide you through the new Code of Practice to ensure all requests to work flexibly are handled correctly and follow the correct procedures.