



The right to request flexible working?

Summary?

From 30 June 2014 employees with at least 26 weeks' continuous employment can make a request for flexible working under the statutory scheme for any reason. If they do so:

- The procedure to be followed will be far less prescriptive than that previously in force. The employee triggers the procedure by making a written request. The employer then has the three-month decision period (which can be extended by agreement) within which to consider the request, discuss it with the employee (if appropriate) and notify the employee of the outcome.
- The employer must deal with the application in a reasonable manner.
- The employer can still only refuse a request for one (or more) of the eight reasons set out in the legislation.
- The employer may treat the request as having been withdrawn by the employee if, without good reason, the employee fails to attend a meeting arranged to discuss their request and a further meeting rearranged for that purpose. Similar provisions apply in respect of a meeting to consider an employee's appeal against the rejection of a request.
- The employee can complain to a tribunal if the employer:
 - fails to deal with their application in a reasonable manner;
 - fails to notify them of the decision on their application within the decision period;
 - fails to rely on one of the statutory grounds when refusing their application;
 - bases its decision on incorrect facts; or
 - treats the application as withdrawn when the grounds entitling the employer to do so do not apply.
 - Only one request can be made in any 12-month period.

What kind of change can be applied for?

An eligible employee may request a change to their employment terms if the change relates to:

- A change to the hours they work.
- A change to the times when they are required to work.
- A change to the place of work (as between their home and any of the employer's workplaces).

Refusal of request for a prescribed reason?

The legislation recognises that an employer may have entirely legitimate business reasons why it cannot accommodate a flexible working request. There are eight specific grounds for rejecting a request, which are the same grounds that applied before 30 June 2014, and only these grounds may be relied on as reasons for rejection:

- 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.
- Planned structural changes.

Watch this space for further updates on employment law.