

Embracing Flexibility – Adapting to the future of flexible working

With Amanda Chadwick

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Run Time: Approx 50 Mins

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across **Employment Law, HR and Health & Safety**



The detail contained within this webinar is based on GB & Northern Ireland employment legislation.

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Today We Will Cover

- How the law surrounding flexible working has changed
- What this means in practice for business owners
- Handling/refusing flexible working requests
- Different flexible working patterns
- Considerations for lone remote workers

What does flexible working mean?

- An arrangement that allows a person to change when, where, and how often they work.
- Can include:
 - Changing the location of work
 - start/end times
 - total number of hours
- Examples include: Job sharing, Remote working, Hybrid working , Compressed hours



Pros/Cons

Pros:

- Added value for potential recruits
- Reduced employee fatigue
- Increased moral/work-life balance
- Reduces absenteeism
- Improves retention
- Typically inexpensive to implement

Cons:

- Output and productivity levels will vary from worker to worker
- Hinders office communication
- Creates distance between employees
- Blurred the line between work and personal life.
- Reduced team cohesion



The Law Surrounding Flexible Working

- There are two types of requests that employees can make:
 - **Statutory requests** –a request made under the law on flexible working.
 - **Non-statutory requests** –a request made that is not under the law on flexible working.
- All employees can apply for flexible working **from the first day of their job** .
- Employees can now make **two requests in any 12-month period** .
- Employers must pass a decision regarding requests within **two months** of receiving them.
- Employers must provide explanations behind their reasons for rejecting a flexible working request



Recap of the most impactful changes

- Change #1 – Removal of service Qualification
- Change #2 – Requirement to consult with employee
- Change #3 – Two requests per 12 months
- Change #4 – Respond to requests within two months
- Change #5 – Remove requirement to set out effect



What has been the impact since the law was changed?

- 18% of surveyed employers have experienced an increase in flexible working requests since the introduction of the day one right.
- 1.1 million employees have left a job in the last year due to a lack of flexible working
- Hybrid working practices remain commonplace, with around 75% of businesses having some kind of provision in place.
- Organisations are more likely to grant flexible working requests, following the Employment Relations (Flexible Working) Act 2023



If you haven't already...

- Update policies and processes on responding to flexible working requests
- Revise your recruitment processes to reflect flexible opportunities
- Providing training and support for line managers in managing flexible workers
- Raise awareness of different forms of flexible working
- Develop clear and transparent policies and principles about eligibility for –and access to– hybrid working



If you haven't already...

- Provide training to managers on how to manage flexible and hybrid teams effectively and fairly
- Put more thought into the possible effects of the request and how to manage them
- Make more effort into trying to find a compromise
- Review policies offering enhanced terms over the statutory provisions as they may no longer offer 'more'
- Be wary of asking related questions in the recruitment process



Handling Flexible Working Requests

- Ensure the received request is in written form and contains:
 - The date of the request.
 - A declaration stating this is a statutory request for flexible working.
 - Details on how and when they want to work flexible hours.
 - A statement saying whether previous applications have been made (including dates).
- Invite the employee requesting flexible working to a consultation meeting



Handling Flexible Working Requests

- Employers must only pass their final decision through a 'reasonable manner' after
 - Assessing the advantages and disadvantages of the application.
 - Discussing possible alternatives to the request.
 - Offering an appeal process.
- Express your decision in writing through an outcome letter. The letter should include:
 - A statement of the agreed working changes.
 - A date for when flexible working will initiate.



Refusing Requests

- Requests can only be refused for one (or more) of the following reasons:
 - The extra costs that could harm the business.
 - The work cannot be reorganised between other staff.
 - People cannot be recruited to do the work.
 - Flexible working will affect quality.
 - Flexible working will affect performance.
 - The business will not be able to meet customer demand.
 - There's a lack of work to do during the proposed working hours.
 - The business is planning changes to the workforce.

Refusing Requests–The Risks

- Employees still have the right to appeal a refusal outcome for their flexible working request
- An employee may be able to raise an employment tribunal claim if they believe their employer:
 - Didn't handle the request in a reasonable manner/within two months
 - Wrongly treated their request as being withdrawn.
 - Dismissed or discriminated against them due to raising a request.
 - Refused the request based on incorrect facts.



Case Study: Ms Hedger v British Deaf Association

- An Employment Tribunal has awarded £36,000 to a woman whose employer denied a flexible working arrangement.
- Requested to reduce working hours after maternity leave.
- Suggested a job share between claimant and her maternity cover.
- Initial request was refused, so a second request was submitted.
- Second request was refused, but no evidence was given to support the decision and no further options were explored.
- Claimant brought claims for sex discrimination, constructive unfair dismissal and a breach of the requirements for handling flexible working requests.



Different Flexible Working Patterns

- Hybrid Work
 - Completing work duties inside and outside of their normal workplace
 - Example: an employee works in the office for three days a week and work from home for the remaining days.
 - The ratio of remote VS office work can be decided by the employee
- Remote Work
 - This is when an employee completes their work duties outside of their normal workplace
 - Example: a salesperson travelling around the country to sell products.



Different Flexible Working Patterns

- Flexitime
 - Employee is allowed to choose when they start or end their work hours (within reason)
 - Establishes core working hours and flexible working hours.
 - Example: Employee starts at 10am and finishes at 4pm, instead of their usual routine.
- Job Sharing
 - When two (or more) people share one job and split their working hours.
 - Example: Two people share day and night responsibilities for a hotel manager job.



Different Flexible Working Patterns

- Compressed Hours
 - Employee completes all their normal work hours over a shorter period
 - Example: a fulltime employee completes their 40 weekly work hours per week within four days.
- Part-Time Working
 - When an employee works less hours than their fulltime colleague
 - Example: Employee works two days a week instead of the traditional five.



Considerations for Remote/Hybrid Workers

- Set out homeworking policy rules:
 - Discuss what tasks are expected from staff.
 - Outline their work hours and breaks.
 - Explain who they should contact for any work related issues.
 - Discuss wellbeing responsibilities and management.
- It's not enough just applying your usual work rules and training. You need to create rules that specifically apply to homeworking.



Considerations for Remote/Hybrid Workers

- You are still responsible for the physical and mental wellbeing of remote workers.
- DSE Risk Assessment
- Lone Working Risk Assessment
- Maintain regular communication
- Provide cyber-security/data protection training
- Promote work-life balance



Conclusion

- There have been several flexible working changes implemented since April 2024 , including the right to request from day one.
- Potential for a large increase in requests and knock on effect on business operations
- Review your recruitment documentation and policies to make sure you're compliant with the latest changes
- If implementing a flexible working policy for your business, lay out all details for eligibility, standards of work and expectations for home workers in a dedicated home working policy

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Next Session

Wednesday 20th August @ 2:30pm

Right to Work Checks





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Thank you!

Any questions

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