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Flexible Working: A Guide to the New UK Regulations



The Employment Relations (Flexible Working) Act 2023 has brought significant changes to the rules governing flexible working in the UK. In this article, we will explore the key amendments and the steps that employers should take to comply with the new regulations.

What is a Flexible Working Request?

- A flexible working request, also known as a 'statutory application,' is a formal request made by an employee to modify their employment contract, typically involving changes in working hours, shift patterns, or work location. It is important to note that the right to request flexible working is legally protected, and any attempt by employers to deny this right may result in an Employment Tribunal claim.
- Under the previous regulations, employees were limited to making one request in a 12-month period, and employers were required to consider the request and provide reasons for any refusals. Non-compliance with statutory codes of practice could lead to higher awards for successful claims in Tribunals.

Important New Changes to the Right to Request Flexible Work

1. Two Requests Per 12 Months: Employees can now submit two flexible working requests in any 12-month period, allowing them more opportunities to seek a better work-life balance.

2. Consultation Before Refusal: Employers are now obligated to engage in consultation with employees before rejecting their flexible working requests. This process involves a deeper exploration of the reasons behind the refusal and the possibility of alternative solutions.

3. Reduced Response Time: The timeframe for responding to flexible working requests has been shortened to two months from the date of submission. Employers should act promptly to avoid unnecessary claims and seek advice from experts if needed.

4. No Justification Required: Employees are no longer required to justify the effects of their flexible working request on the business. Employers must engage in open discussions with employees during the consultation process and explore feasible options.



Grounds for Turning Down a Flexible Work Request

While employees have the right to request flexible working, employers can turn down requests for legitimate reasons, such as:

- The business would incur additional costs that could harm its operations.
- The work cannot be redistributed among existing staff members.
- Hiring new employees is not feasible for fulfilling the flexible work arrangements.
- Flexible working may negatively impact the quality of work and overall performance.
- The business cannot meet customer demands with the proposed schedule.
- Insufficient workload during the requested working hours.
- The company is planning significant workforce changes.

Guidance on Obligation to Consult

ACAS is currently consulting on updates to its statutory code of practice on handling flexible working requests, expected to conclude in September 2023. Employers should stay informed about these updates to ensure compliance with the regulations.

Expected Future Changes

It was previously anticipated that the 26-week qualifying service requirement for flexible working requests would be removed, making it a right from day one of employment. However, this change has not been announced yet. For now, employees can make a request only after working for their employer for at least 26 weeks.

What Employers Need to Do Now

To ensure compliance and avoid potential claims:

- 1. Familiarize with the Changes:** Employers must understand the new regulations and begin adjusting internal policies accordingly.
- 2. Educate Management Teams:** Managers should be well-versed in handling flexible working requests and understand the implications of their decisions.
- 3. Provide Training:** Offer training to HR and line managers regarding the right to request flexible working to ensure proper handling of requests.
- 4. Promote a Supportive Culture:** Foster an open and supportive work culture that embraces flexible working arrangements and empowers employees to work in diverse ways.
- 5. Update Flexible Working Policy:** Prepare an updated flexible-working policy to be implemented when the changes come into force.

The new UK regulations on flexible working empower employees to seek a better work-life balance while placing added responsibilities on employers to consult and respond to requests in a timely and fair manner. Adhering to the updated regulations will not only ensure legal compliance but also contribute to a positive workplace culture and employee satisfaction. Stay informed about further guidance and changes to ensure smooth implementation of the new rules.





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