

Flexible Working

Since April 2003, the right to request flexible working has been available to qualifying employees who care for a child or children under the age of six or, in the case of a disabled child, under the age of 18: s.80F, Employment Rights Act 1996. This right is extended from the 06 April 2009, so that from that date those with parental responsibilities have the legally enforceable right to request flexible working ‘... before the day on which the child concerned reaches the age of 17 or, if disabled, 18:’ Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2009, SI 2009/595.

In other words, eligible parents and others with parental responsibilities for the care of a child or an adolescent under the age of 17 or, if disabled, under the age of 18, have the statutory right to make a request to their employers for flexible working to help them fulfil childcare responsibilities. Note that there is no automatic entitlement to flexible working; the employer simply has a duty to consider a request seriously and will be able to turn it down on specified business grounds.

To make a request to an employer for flexible working, an employee must be eligible, being an employee who:

- **has been employed by the employer continuously for at least 26 weeks by the date that the application for flexible working is made;**
- **is the mother, father, adopter, guardian or foster parent of the child or is married to or the partner of the child’s mother, father, adopter, guardian or foster parent; and**
- **expects to have responsibility for the child’s upbringing.**

The definition of ‘flexible working’ is the right that employees have under the Flexible Working Regulations to request changes to the terms and conditions of the contracts of employment which exist between them and their employers and which must relate to:-

- the hours that an employee is required to work;
- the times at which an employee is required to work;
- the place at which an employee is required to work; and
- such other aspect of the terms and conditions of employment as the Secretary of State may specify by Regulations.

To make an application for flexible working, an employee must follow the statutory formalities which are that an application must:-

- **be in writing either on paper or in electronic form;**
- **be dated;**
- **specify the changes requested;**
- **state the date on which the proposed change should take effect;**
- **state the date of any previous application(s); and**
- **expressly state that the application is an application to work flexibly under the flexible working procedures as stated by s.80F, Employment Rights Act 1996;**
- **contain a statement by the employee stating what effect, if any, she or he thinks the proposed change will have on the employer and how the employer may deal with any such change;**
- **in addition, the employee must self-certify that the relationship she or he has with the child, for whom the benefit to work flexibly is sought, entitles the employee to make the request.**

There are a number of statutory business grounds upon which an employer can refuse the employee's request for flexible working. If the employee's request is refused by the employer, the employee can make an appeal by submitting a written notice of appeal to the employer.

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