

EMPLOYMENT UPDATE

Flexible working requests

The UK Government has published its response to a consultation on proposals to amend the right to request flexible working. In this note, we summarise the key changes and potential timings for when those changes will be in force.

Background

The Government's consultation set out specific proposals intended to help ensure that the legislative framework for flexible working remains fit for purpose and is in-line with the modern way of working, particularly as employers and employees move towards hybrid and flexible working practices.

Summary of current position

The right to request flexible working is only available to employees that have 26 weeks' continuous service.

If an employer refuses a request it must be for one of the following prescribed reasons:

- extra costs that will damage the business
- will not be able to meet customer demand
- the work cannot be reorganised among other staff
- additional staff cannot be recruited to do the work
- flexible working will affect quality
- flexible working will affect performance
- the business' ability to meet customer demand will be negatively affected
- there is a lack of work to do during the proposed working times
- the business is planning structural changes

Employees can only make one application requesting flexible working to the same employer in each 12-month period.

Employers must respond to a flexible working request within three months.

Summary of Government's response

Proposed changes

The right to request flexible working will become a 'day one' right (rather than having to wait 26 weeks).

Employees will be allowed to make two (rather than one) flexible working requests within a 12-month period.

The response time for employers will be reduced from three to two months.

The requirement for employees to set out how the effects of their flexible working request might be dealt with by the employer will be removed.

Employers will be required to consult with their employees, as a means of exploring the available options, before rejecting their flexible working request.

Positions that are due to remain the same

The right to request flexible working will remain a right to *request* and not an *entitlement* to flexible working.

If an employer refuses a request it must still be for one of the business reasons listed on the left.

Timings

As part of the Government's response, it has also endorsed a [private member's bill](#) covering most of these proposed changes. This bill is currently making its way through parliament, which means in practice we could expect these proposals to be law sometime during 2023.

Key takeaways

Employee-friendly changes to the right to request flexible working are expected to be in force sometime during 2023. In practice, given the move to increased flexible working during the pandemic (and the need to attract talent at a time when vacancies in many industries are high), many employers will already be complying with these new proposals. As a matter of good practice, employers should check and review internal policies and processes dealing with flexible working requests to align with these new proposals (and offer training to managers and HR teams on any updates needed).

If you would like any further advice or assistance on this development, please contact Jamie Feldman (jamie.feldman@northridgelaw.com).