



Upcoming Changes to Flexible Working Entitlements

AUTHOR / KEY CONTACT



Edward O'Brien
Partner

✉ Edward.O'Brien@LA-Law.com
☎ 01202 786148

The Employment Relations (Flexible Working) Act 2023 has passed through Parliament and is now awaiting Royal Assent. This legislation introduces significant changes to the current flexible working regime, allowing further rights to employees making formal flexible working requests. We have summarised the key changes and some notable omissions below:

Key changes

- Under the new Act, employees are now allowed to make up to two flexible working requests within a 12-month period.
- Employers must address requests within two months if no extension is agreed.
- Before they can reject a flexible working request, employers are now obliged to have engaged in consultation with the employee. However, the Act does not specify the extent of the consultation required nor set out minimum requirements, leaving the scope of consultation at the discretion of the employer.
- Employees are no longer required to provide an explanation of the potential effects of flexible working and how such effects would be managed. This simplifies the application process for employees.

Notable omissions

- Contrary to widespread reporting, the Act does not grant employees a 'Day 1 right'. This means they still need to complete 26 weeks of service before becoming eligible to make a flexible working request. Day 1 rights may be introduced through secondary legislation at a later stage.

- The Act does not require employers to offer employees the right of appeal in the event their flexible working request is denied. While the ACAS Code of Practice on Flexible Working recommends a right of appeal, the Act does not make it a requirement.

Once the Act has received Royal Assent, as well as adapting the way that they deal with formal flexible working requests, employers should ensure that their flexible working policies are updated accordingly.

Failing to deal with an employee's formal flexible working request properly can lead to significant and expensive Employment Tribunal claims for employers. Given the relatively tight timescales involved in dealing with such requests, it's important for employers to seek advice if they're unsure how to respond or resolve such a request.

If you'd like advice on how any of these changes may affect your business or how to resolve a flexible working request, please contact us by email at online.enquiries@la-law.com, or if your query is urgent, please call 01202 786135.