

HOW TO DEAL WITH A STATUTORY FLEXIBLE WORKING REQUEST

IS SOMEONE ELIGIBLE TO MAKE A STATUTORY REQUEST FOR FLEXIBLE WORKING?

1. Are they an employee?
2. Have they worked for you continuously for at least 26 weeks by the time they make the request?
3. Have they made a statutory request in the last 12 months?

IF YOU ANSWERED 'NO' TO ANY OF THESE QUESTIONS THEY ARE NOT ENTITLED TO MAKE A STATUTORY REQUEST FOR FLEXIBLE WORKING. YOUR FLEXIBLE WORKING POLICY MAY PROVIDE FOR AN INFORMAL REQUEST, IF SO YOU SHOULD FOLLOW THAT PROCEDURE.

A statutory request for flexible working must include certain specified information. When a statutory request is made the three month 'decision period' is triggered. This decision period can only be extended by agreement. An employer must deal with the whole request within the decision period, including notifying the employee of the outcome of their request and dealing with any appeal if the request is rejected.

If an employer rejects a statutory request, the rejection must be on the grounds of one or more of 8 prescribed business reasons. Although there is no statutory right to appeal the outcome of a request, it is recommended that employers allow employees the right to appeal a rejection of their request. Doing so indicates that the employer is acting reasonably.

An employer that has failed to deal with a statutory request in a reasonable manner or otherwise not complied with its other obligations may be ordered by the Employment Tribunal to reconsider the request and/or pay up to 8 weeks' pay to the employee as compensation.

Employers should be mindful of any reasons for a request which could give rise to a claim for discrimination, for example if the request is made for childcare reasons or to accommodate a religious belief. Employers must also bear in mind whether the statutory request might also amount to a request for reasonable adjustments.

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