



Monthly Breakfast Briefing

Flexible Working

Wednesday 05 October 2022

(First Wednesday of every month)

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AGENDA



- What is Flexible Working?
- How to deal with FW requests?
- ET claims and penalties



WHAT IS FLEXIBLE WORKING?



- Introduced 6 April 2003
- Updated 30 June 2014
- Method to vary contract of employment
- No right to FW, only a right to request FW



WHAT IS FLEXIBLE WORKING?



- [Section 80F of the Employment Rights Act 1996](#)

80F Statutory right to request contract variation

- (1) A qualifying employee may apply to his employer for a change in his terms and conditions of employment if—
- (a) the change relates to—
 - (i) the hours he is required to work,
 - (ii) the times when he is required to work,
 - (iii) where, as between his home and a place of business of his employer, he is required to work, or
 - (iv) such other aspect of his terms and conditions of employment as the Secretary of State may specify by regulations,



WHAT IS FLEXIBLE WORKING?



- Various preconditions –30 June 2014
 - Care responsibilities
- Now much more open
 - Still must be 'qualifying employee'



HOW TO DEAL WITH FW REQUESTS?



- Made in writing
- Deal with it in a reasonable manner
- Three-month response and appeal timescale (unless extended by mutual agreement)
- Agree or refuse



HOW TO DEAL WITH FW REQUESTS?



- Statutory reasons for refusal
 1. The burden of additional costs;
 2. Detrimental effect on ability to meet customer demand;
 3. Inability to reorganise work among existing staff;
 4. Inability to recruit additional staff;
 5. Detrimental impact on quality;
 6. Detrimental impact on performance;
 7. Insufficiency of work during the periods the employee proposes to work; or
 8. Planned structural changes.



HOW TO DEAL WITH FW REQUESTS?



- ACAS Code of Practice
- Multiple requests
- Trial periods
- Temporary v permanent
- Policies v ad-hoc
- Appeal



ET CLAIMS AND PENALTIES



- Stand-alone claims, including
 - Failing to deal with application in a reasonable manner
 - Failing to provide decision within three months
 - Rejecting the application for a non-statutory reason
- ET can order reconsideration and award up to 8 weeks' pay



ET CLAIMS AND PENALTIES



- Unlawful detriment
- Automatic unfair dismissal
- Discrimination risk
- Constructive unfair dismissal



ANY QUESTIONS?



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Thank you



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