

FAMILY RIGHTS

Important updates:

1. As of 6 April 2009, an individual with parental responsibility is now permitted to request flexible working if the child is aged up to and including 16 years old. Under the previous law the child could be up to the age of 5
2. As of 6 April 2009 statutory maternity, paternity and adoption pay has been increased to £123.06 per week.

Hints and tips:

1. Upon return to work, update employees on any workplace changes such as changes in management and new colleagues. If the employee is on maternity leave Keeping In Touch Days can also be a useful time to update and integrate them back into working life;
2. If there has been a change in legislation or company policy, it may be worthwhile investing in training and in any event making sure that the latest copies of such policies are provided to the employee;
3. Determine whether the employee will return under a previous contract or an amended flexible working contract. If it is the latter, ensure that necessary procedures and deadlines are clearly laid out and that you not only act in accordance with the statutory position but also your company policies and handbooks;
4. If an employee makes a request to work flexibly/on a part-time basis and that request is refused remember that the time limit for them to lodge a claim runs from the date of the refusal not their application;
5. If you are going to refuse an application make sure that your refusal not only complies with the flexible working legislation but also any other applicable legislation such as sex/disability discrimination legislation. Just because you comply with the flexible working legislation it does not prevent an aggrieved employee bringing a successful claim for discrimination;
6. Make sure that you don't start off with a negative approach of why flexible working can not work but instead take requests seriously and look at how such difficulties can be resolved;
7. It is also important to carefully consider whether a job can be carried out on a flexible basis from an objective point of view. The question is whether the

rejection of the request could put a particular group at a disadvantage and if so whether that disadvantage can be objectively justified. Simply saying that it has never been carried out on a flexible basis or that doing so may increase costs is not likely to win you favour with a tribunal;

8. Remember to consider alternatives and not just the initial request put forward by the employee. This could include alternative permanent and temporary arrangements to suit the business. Doing so will make you look much more reasonable to a tribunal;
9. Make sure that you make consistent decisions with regard to flexible working and that all decisions and reasons are fully explained and recorded. If there are inconsistencies seek to explain the reason to the employee. If employees understand the reasons they are far less likely to bring a claim.

Dates for your diary:

1. As a result of the current economic climate, attempts to permit fathers to take 6 months of paternity leave in order for mothers to return back to work have been put on hold. Indications are that this may be restored at some point in the future.

This note does not constitute legal advice and is intended as general guidance only. If you would like further information or would like to arrange a meeting please email hina@partnerslaw.co.uk or call 07809 694400



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