

Working flexibly and how to successfully manage it

Louise Price, Partner
2 May 2018



WELCOME AND
INTRODUCTIONS

Overview

- Changing attitudes towards the workplace
- Increasing expectation of flexibility
 - ♦ Millennials
 - ♦ Working grandparents
 - ♦ Rise of technology
- Challenges but also opportunities for employers who embrace change

Agenda

- Quick look at current legal position around dealing with flexible working requests
- Types of flexible working your employees may request
- What are the “dangers” lurking with a flexible workforce
- What are the positive opportunities from embracing flexibility
- Top tips and “do’s and don'ts”

Current legal position

- Statutory right since 30 June 2014 (ss 80F-80I *Employment Rights Act 1996*)
- Employee eligible to make a request if
 - ♦ 26 weeks' continuous service
 - ♦ Written request
 - ♦ Only 1 request in any 12 month period
- Employer's obligations
 - ♦ 3 months to respond (extended by agreement)
 - ♦ Deal with request in a reasonable manner
 - ♦ Refusal only for one of 8 reasons
- Potential tribunal complaint for failure to deal with request properly

Current legal position

- Refusal of flexible working request must be for one of these reasons:
 - ◆ Burden of additional costs
 - ◆ Detrimental effect on ability to meet customer demand
 - ◆ Inability to reorganise work among existing staff
 - ◆ Inability to recruit additional staff
 - ◆ Detrimental impact on quality
 - ◆ Detrimental impact on performance
 - ◆ Insufficiency of work during the periods the employee proposes to work
 - ◆ Planned structural changes

Types of Flexible Working

- Many different types
- No “one size fits all”
- Commonly requested
 - ◆ Working from home/remotely
 - ◆ Part time working
 - ◆ Compressed hours
 - ◆ Job sharing
 - ◆ Flexi-time – scope to change work hours outside of ‘core’ business periods
 - ◆ Term-time working – paid or unpaid leave during school holidays
 - ◆ Annual hours

“Dangers” of flexible working

- Partly driven by concerns about
 - ♦ Loss of control
 - Performance and quality of work
 - Data protection issues
 - ♦ Potential inequality of treatment
 - ♦ Resentment among staff
 - ♦ Administrative burden

Positive opportunities

- Increased employee morale
- Reduced absenteeism and tardiness
- Increased ability to recruit outstanding employees
- Reduced turnover of valued staff
- Allows people to work when they accomplish most
- Extended hours of operation
- Positive image as an employer of choice

Top tips and “do’s and don’ts”

- Meet the statutory requirements
- Avoid “technicality” points
- Demonstrate serious consideration
- Start from a “positive” perspective
- Consider alternatives
- Give genuine and careful consideration
- Explain decision and reasons fully and clearly
- Ensure consistency
- Consider relevance of ACAS Code
- Prompt response to discrimination questions
- Maintain records



CONTACT

Louise Price

Partner

029 2078 5676

louise.price@hughjames.com

H | J

hughjames.com