

UK Government Extends Right to Request a Flexible Working Arrangement

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On 30 September 2010 it was announced by the UK Government that the right to request a flexible working arrangement will once more be extended from April 2011, with the stated aim of creating a fairer and more family-friendly society.

A request to work flexibly can entail a change to the hours that an employee works, a change to the times when the employee is required to work, or a request to work from a different location (for example, from home). Initially, only employees with children under the age of six or with a disabled child under the age of 18 were entitled to make a request to work flexibly. However, there has been an expansion to the categories of employees who are entitled to make a request to work flexibly. Currently, the right to request flexible working is available to parents of children under the age of 17, parents of disabled children under the age of 18, and those responsible for the care of certain adults. Starting April 2011, the right to request a flexible working arrangement will be extended to parents of all children under the age of 18.

The right to request a flexible working arrangement is limited in nature. It consists of a right to request to work flexibly, which must be made according to a statutory procedure. Once an employer receives the request, it has an obligation to consider the employee's application; an employer can refuse to grant the request only if there is a clear business reason for doing so. It is important to note that the statutory right to request does not create a right to work flexibly or part-time—it simply provides a statutory framework through which a request made by an eligible employee to work flexibly must be considered.

Although the introduction of the statutory right to request to work flexibly was initially met with concern from employers, many larger employers have offered the right to request to a wider group of employees than those who are legally permitted to make such requests with the thought that doing so can have a positive effect on staff morale and retention. However, smaller employers and those employers which require a highly specialised workforce face more of a challenge when seeking to accommodate requests to work flexibly from their employees.

It was also announced on 30 September that a consultation will be launched later this year looking at how to extend the right to request flexible working to all employees, whether or not they have responsibility for children.

Employers should therefore look to amend their existing flexible working policies in line with the extension to the right to request a flexible working arrangement, to take effect as of April 2011. In addition, employers should keep up to date on the conclusions drawn as a result of the consultation and

be aware that the right to request a flexible working arrangement may be further extended in the future, requiring further amendments to be made to flexible working policies.

If you have any questions or would like further information on any of the issues discussed in this LawFlash, please contact any of the following Morgan Lewis attorneys:

London

Mark S. Dichter	+44 (0)20 3201 5663	mdichter@morganlewis.com
Christopher Hitchens	+44 (0)20 3201 5654	chitchens@morganlewis.com
Matthew Howse	+44 (0)20 3201 5670	mhowse@morganlewis.com

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