

Employment law: upcoming reforms

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What will we cover?

- Flexible working requests
- Predictable working pattern requests
- Carer's leave
- Sexual harassment: duty to prevent
- Pregnancy and family leave: redundancy protections

Flexible working requests

- 6 April 2024 reforms
 - ‘Day one’ right
 - Two requests, not one, in 12-month period
 - Employee will not have to explain effect of change, and how it could be dealt with
 - Requests cannot be refused unless employee consulted (permitted grounds for refusal remain the same)
 - Two months to respond, not three

Predictable working pattern requests

- September 2024
- Applies to workers where:
 - there is a lack of predictability in any part of the worker's work pattern (contracts of 12 months or less deemed as such)
 - request relates to their work pattern, and
 - the worker's purpose in applying for the change is to get a more predictable work pattern

Predictable working pattern requests

- Qualifying period: 26 weeks
- Two requests per 12-month period
- A flexible working request that would result in a predictable working pattern counts also as a predictable working request
- Only one active flexible working or predictable working request running at the same time

Predictable working pattern requests

- Requests must be dealt with reasonably and within one month
- Can reject on specified grounds e.g. costs, insufficiency of work
- Broadly the same right applies to agency workers in respect of their agency but agency workers can also apply to their hirer for direct contract with that hirer

Carer's leave

- 6 April 2024
- Covers employees who need to be absent to provide or arrange care for a **dependent** with long-term care need
 - a spouse, civil partner, child or parent of the employee
 - someone who lives in the same household as the employee, other than the employee's boarder, employee, lodger or tenant, or
 - someone who reasonably relies on the employee to provide or arrange care

Carer's leave

- Long-term care need
 - an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months
 - a disability for the purposes of the Equality Act 2010, or
 - require care for a reason connected with their old age

Carer's leave

- Leave entitlement
 - One week's unpaid, per 12-month period
 - Can be taken in 0.5-day blocks or as a continuous week
- Employee must give employer notice (can be verbal)
 - The earlier of either twice as many days as leave requested, or three days before
 - No evidence of entitlement required

Carer's leave

- Postponing leave: employer
 - Can postpone on business disruption grounds, giving notice in writing with reasons no later than the earlier of (i) seven days after the employee gave notice or (ii) before first date in employee's notice
 - Must consult with employee and provide leave within one month of original date requested
- If similar contractual right, can take advantage of most favourable right only

Sexual harassment: duty to prevent

- October 2024
- Pro-active duty on employers to take reasonable (was all reasonable) steps to prevent sexual harassment
- What are reasonable steps?
 - Understand and assess risks, clear policies, staff training, communication, robust reporting mechanisms
 - EHRC guidance

Sexual harassment: duty to prevent

- EHRC can enforce on standalone basis where reasonable steps are not taken
- Sexual harassment awards can be uplifted by 25% where the employer breached duty

Pregnancy and family leave: redundancy protections extension

- Pregnancy
 - Notifications from 6 April 2024
 - Protected from date employer told of pregnancy (which then carries on into statutory maternity leave)
 - Where a woman miscarries, and they are not entitled to statutory maternity leave, protection applies until 2 weeks after end of pregnancy provided the employer informed before then

Pregnancy and family leave: redundancy protections extension

- Maternity leave
 - Where leave ends on or after 6 April 2024
 - 18 months after expected week of birth (or actual week of birth if employer told)
- Adoption leave
 - Where leave ends on or after 6 April 2024
 - 18 months after child's placement or date entered Great Britain (for adoptions from overseas)

Pregnancy and family leave: redundancy protections extension

- Shared parental leave
 - Where SPL starts on or after 6 April 2024
 - For SPL of six or more weeks, and where the employee has not taken maternity or adoption leave, employee protected until 18 months from the date the child was born, placed for adoption or entered Great Britain (for adoptions from overseas)

Further information

<https://www.local.gov.uk/our-support/workforce-and-hr-support/employment-relations>

<https://www.local.gov.uk/our-support/workforce-and-hr-support/employment-relations/advisory-bulletins-employment-law-updates>