

Current Issue



MT Expert - Legal: Giving staff time off to train

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Do you have to give employees time off to train on request? Burges Salmon's Adrian Martin explains.

Employers could be forgiven for thinking that now is hardly the time for giving employees yet another right. However, on 6 April, employees became entitled to – you guessed it – another right: to request time off for training.

The good news for employers is that employees can't just request time off for any old training course – it has to be something that will make them more effective at work, or improve the performance of the business. What's more, the right to request time off is not the same as a right to have time off. And even if it's granted, that time off doesn't need to be paid.

'Glass half-full' types may see granting a request as a great opportunity to improve employee engagement. If an ambitious employee wants to undergo training that is genuinely in the business's interests, agreeing to it could help with their motivation and ensure their long-term commitment to your company, as well as helping them develop their skills.

That said, turning down a request could just as easily lead to a negative reaction. So you need to tread carefully, as failure to deal with a request properly could cost you up to £3,040. In a worst case scenario, a disgruntled employee could use a declined request as the basis for a discrimination claim – although they would of course need to show that they had been treated less favourably than others on grounds such as age or sex.

So how will the new right operate? In terms of procedure, it is pretty much a clone of the right to request flexible working (which most managers will already be familiar with). The right applies to employees who have been employed for six months prior to the request, and they can only make one such application a year.

Employers have to consider every request seriously, and there's a fixed procedure for this laid out in the regulations. This includes a meeting that has to be held within 28 days of the request, and for the employer's decision to be set out in writing. If the request is not accepted, the employee has a right of appeal. The appeal process provides, once again, for another meeting and a decision given in writing.

Employers can refuse a request. But this must be based on one or more of a number of specified business reasons. These include the training not actually improving the employee's effectiveness; the burden of additional costs you would have to incur; the effect on customer service; or an inability to reorganise work amongst your staff. In practice, if you can show that you really do have a genuine business reason for turning down a request, one of the reasons laid out above will probably apply.

So what should employers do about the new right? The key point is to ensure that HR teams and line managers are aware of what employees are entitled to, so any requests are dealt with properly and you are confident you have complied with the regulations. Employers might also want to consider putting in place new procedures for dealing with this right within the business, or otherwise updating the policies you already have to deal with requests for time off work. Bear this in mind, and the transition shouldn't be too painful.

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