

Work Life Balance and Miscellaneous Provisions Act

The Work Life Balance and Miscellaneous Provisions Act was enacted in 2023. It brings in two important provisions for family carers:

1. Right to request flexible working arrangements for caring purposes

Employees who have a child up to the age of 12 (or 16 if the child has a disability or long-term illness) and employees who are family carers have the right to request flexible working for caring purposes for a particular period. This right is subject to a six-month continuous service requirement. Flexible working refers to changing your work arrangements, work patterns or hours of work.

You can request flexible working for the following people you are caring for:

- A person of whom the employee is the relevant parent
- The spouse/civil partner of the employee
- The cohabitant of the employee
- A parent or grandparent of the employee
- A brother or sister of the employee
- A person, other than those specified above, who resides in the same household as the employee

AND

- The person you are caring for needs significant care or support for a serious medical reason.

An employee will be required to put in writing to their employer their request for flexible working no later than eight weeks before they intend to commence the period of flexible working.

In their request, they must specify:

- The nature of the changes requested,
- The date of commencement and
- The duration of the caring period

An employee making a request for flexible working arrangements for caring purposes may be required by their employer to provide information which is reasonably required in relation to the person in respect of whom the request is being made, including:

- In the case of a child, a copy of the child's birth certificate or certificate of placement within the meaning of the Adoptive Leave Act 1995

OR

- The employee's relationship with the person which care is being provided to
- The nature of the significant care or support which the cared for person needs.
- Relevant evidence relating to the need of the person who requires significant care or support. This means a medical certificate which states the person named in the certificate is in need of significant care or support for a serious medical reason and is signed by a registered medical practitioner **OR** if the employee does not have a medical certificate, such evidence as your employer may reasonably require in order to show that the person being cared for is in need of significant care or support for a serious medical reason.

The employer must consider these requests having regard to the business needs and the needs of the employee. The employer must respond to the request within four weeks (this may be extended to eight weeks) and either:

Approve the request

When approving the request, this will include an agreement prepared and signed by the employer and the employee. The agreement will set out:

- The details of the flexible working arrangement
- The date of commencement and the duration of the flexible working arrangement

Refusing the request

When a request for flexible working has been refused, a notice in writing must be provided to the employee that the request has been refused and the reasons for refusal

Postponing the request

If an employer is having difficulty in assessing the request, they may extend period for making their decision by another four weeks.

Changes to flexible working arrangements

There may be changes to an employee's agreed request for flexible working arrangement, whether the agreement has commenced or not. This can happen only when the employee and employer both agree so in writing. The agreement signed by the employee and employer will be amended accordingly.

An employee's agreed flexible working arrangement may also be postponed where the employee has become ill or incapacitated to such an extent that they are unable to care and the agreement has not commenced. In this case, the employee may postpone the commencement of the flexible working arrangement to such time as they are no longer ill or incapacitated, and the agreement will be amended accordingly. An employee who becomes ill or incapacitated must provide notice in writing to their employer as soon as reasonably practicable after becoming ill or incapacitated and provide relevant evidence of the illness or incapacity.

Ending flexible working arrangement

If an employer believes that the agreed flexible working arrangement would have or is having a substantial adverse effect on the operation of the employer's business they may give notice to terminate the arrangement. The notice will specify the day on which the employee must return to work.

When the flexible working arrangement is terminated, the employee must return to their original working arrangement.

Early return to work

An employee may by notice in writing to their employer request an early return to their original working arrangements. The notice must set out the reasons for the early return to their original working arrangements and the proposed date for early return.

The employer who receives this notice must:

Consider the request, having regard to the needs of the business and the employee's needs

As soon as reasonably practicable, but not later than 4 weeks after receipt of the request, by notice in writing, respond to the employee and inform them that

- a. The request has been approved
- b. The request has been refused and the reasons for the refusal

Where an employer agrees to early return but refuses the proposed date of return they may propose an alternative date for return.

When the flexible working arrangement expires, the employee is entitled to return to their original working arrangement.

An employee looking to request of flexible working should check their employer's own policy on how to make this request.

2. Leave for medical care purposes

Employees have the right to take up to five days unpaid leave per year, where for any serious medical reasons, they need to provide personal care or support to a family member or person who lives in the same house. This leave cannot be taken in periods of less than one day i.e. only full days can be taken.

There is no period of work qualification or prior notice of the leave required to avail of this leave. If a person is on probation, doing an apprenticeship or undergoing training for their employment and takes leave for medical care purposes, their employer may require that their probation, apprenticeship or training be suspended during the period of leave.

The employee must, as soon as is practically possible, confirm to their employer in writing that they have taken or intend to take this leave, the date of commencement, duration and a statement of facts entitling them to this leave.

While on leave, none of their employment rights are affected and their leave cannot be treated as any other type of leave including sick leave, annual leave, adoptive leave, maternity leave and force majeure leave which they may be entitled to.

The employer can request evidence of the employee's relationship to the person being cared for, the nature of the care or support and medical certification of the serious medical issue in respect of the person being caring for.

When the leave has finished, the employee is entitled to return to their original working arrangements, hours or patterns or all.

You can take leave for medical care purposes for the following people you are caring for:

- A person of whom the employee is the relevant parent
- The spouse/civil partner of the employee
- The cohabitant of the employee
- A parent or grandparent of the employee
- A brother or sister of the employee

- A person, other than one specified in any of the above, who resides in the same household as the employee

AND

- The person you are caring for needs significant care or support for a serious medical reason.

An employee looking to avail of this leave should check their employer's own policy on how to take this leave.