

TIME TO TRAIN
The Right to Request Time Off Work to
Study or Train

ADVICE NOTE

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Employment

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Eligible employees of businesses with 250 or more employees are now able to request time off of work to undertake study or training.

This has been the case since 6 April 2010 and this right will be extended to all employers from 6 April 2011.

“Eligible employees” are those who have worked for their employer for at least 26 weeks, excluding agency workers and those employees who are of a compulsory school age.

An employee may only make one application to an employer in any 12 month period. However, the employee can make a request for more than one type of training in the same application.

The employee’s application should be dated and sent to the employer in writing, including the following information:

- the subject matter of the study/training;
- where and when the study/training would take place;
- who would provide or supervise the study/training;
- what qualification (if any) it would lead to;
- why the employee believes that the study/training would improve the employees effectiveness in the employer’s business and/or improve the performance of the employers business; and
- the date on which any previous application was made & how that application was made.

Employers now need to seriously consider such requests, and respond within a reasonable period of time.

The employer must now hold a meeting with the employee to discuss their application within 28 days of receiving the employee’s request and the employee has a right to be accompanied by a colleague.

The employer must also write to the employee with notice of the decision within 14 days, and this should contain specified business reasons for any refusal if the study/training is not accepted.

Within 14 days of the employer’s refusal the employee can appeal. There is, however, no statutory right to have the request for “time to train” granted.

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Further, if "time to train" is granted the amount of time allowed off is at the discretion of the employer.

Employers are not obliged to pay the employee during the period of training, or for the cost of the studying/training. Employers should consider whether they will pay for the employee's requested course and clearly confirm the position to the employee from the outset.

The new right to request "time to train" introduces some new procedural requirements and employers need to consider drafting or reviewing their time to train policies.

Employers may also need to update their staff handbook and train their staff accordingly in order to comply with the new requirements.

The penalty for employers failing to comply with the procedures is up to eight weeks' pay (or two weeks' pay for a breach of the right to be accompanied provisions) and/or an order for the employer to reconsider the employee's application.

Furthermore, it will be automatically unfair to dismiss an employee by reason of their application.

If you would like further advice on this or any other employment issue then please contact a member of our Employment Team on either 01306 880110 or 01483 861848.