



Office attendance – do I need to apply the same rules to all staff?

For many staff, the ability to work from home for at least part of the week is a welcome benefit. It frees up time in the day which would usually be spent commuting and it can make it easier for staff to balance their childcare responsibilities with work or to pursue other interests.

However, for a multitude of reasons from improving collaboration to maintaining culture, there are many reasons why businesses want to see staff back at the office or workplace on a more regular basis. But do you need to apply the same rules to all staff or is it possible to require certain staff to attend the office more regularly than others?

Essentially, you can have different arrangements in place for different staff and there are a number of reasons why you may want to do this. For example, you may want a higher level of attendance for staff in certain roles who require access to specialist equipment, staff who are required to work closely alongside others as part of their role, new joiners or staff who have been identified as underperforming or in need of extra training and support.

However, it's important to plan your policy carefully and ensure that any requirement for certain groups of staff to attend the office more regularly than others can be objectively justified. This will be important not only in seeking to avoid bad feeling between staff but also in mitigating the risk of an indirect discrimination claim. If, for example, a staff member with a disability or a female staff member with childcare responsibilities is in a role which requires them to attend the office more regularly and they claim that this subjects them to a disadvantage, in order to defend an indirect discrimination claim you would need to be able to show that the requirement for them to attend the office more regularly was objectively justified as a proportionate means of achieving a legitimate aim.

If you are introducing different hybrid working arrangements for different individuals or teams, it will also be important to adapt the running of your organisation accordingly in order to mitigate the risk of any discrimination claims from the very staff you have sought to grant most flexibility to. For example, you will need to ensure that training isn't just carried out in person (which may mean that employees working predominantly from home are denied the opportunity to attend) and that home workers aren't passed over for new projects as more visible office based workers have put their hands up first.

Therefore, while it's certainly possible to have a variety of different working arrangements in place across one business, care should be taken when planning and implementing such a policy.