

Time for Training Guidance

On receipt of a Time to Train request please contact your HR Adviser who will provide advice and guidance to you. Please also refer to the [flowchart](#).

1. Employee eligibility criteria for time to train

1.1 The right to request time to train applies to all employees from 6th April 2010. Not all training requests have to be made using the time to train request. Where good workplace dialogue and training systems are already in place these can continue to be the route to request training.

1.2 To make a request for time to train an individual must:

- be an employee
- have worked for you continuously for at least 26 weeks on the date they make their request

2. Training employees can request as part of time to train

2.1 Employees can make requests to the Head of School or Professional Services Manager (or nominee) to undertake any training which they believe will improve their effectiveness and performance at the University.

2.2 The training they undertake can include accredited programmes - leading to the award of a recognised qualification - or shorter unaccredited training to help them develop specific skills relevant to their job, workplace or business.

2.3 Employees can request training that is delivered in whichever way they believe is most appropriate and effective. For example, they might request training which would be:

- undertaken on the premises or elsewhere
- delivered whilst they are performing their employment duties or separately
- provided or supervised by the University, a local college or training provider
- undertaken without supervision
- undertaken within or outside the UK

2.4 There is no limit on the amount of time - or the amount of study or training - that an employee can request. Employees can ask to undertake more than one piece of training in a single request for time to train, eg where they would like to improve their literacy and numeracy skills in addition to another piece of training.

Payment for time spent training

2.5 Employees have the right to request that you allow them time to undertake training. They do not have the right to be paid for the time spent training when you agree to their request. However, you may agree to this recognising the value of the investment.

- 2.6 It may be that you agree to their request for time to train, and reach agreement with the employee that they will work flexibly to make up the time spent training, or that they will take unpaid time off to train.

2. Information employees must include in a time to train request

- 3.1 In order for a request for time to train to be a valid request, covered by the legislation, it must be submitted in writing and contain the following information:
- a statement that the application is an 'application under section 63D Employment Rights Act 1996'
 - the subject matter of the proposed training or study
 - where and when the proposed training or study would take place
 - who would provide or supervise it
 - what qualification it would lead to (if any)
 - how the employee thinks the proposed training or study would improve their effectiveness and the performance of your business
 - the date of the application
 - the date and method - eg email or letter - that the employee's last application (if any) was submitted
- 3.2 Employees can submit requests in any written form they choose as long as they contain the above information.

Frequency of requests

- 3.3 You are only required to consider one request from an employee in any twelve month period unless your employee has requested that you ignore an earlier request.
- 3.4 If one of your members of staff submits more than one request in a given 12 month period, it would be good practice to inform them within 28 days if you do not intend to consider it.

3. Invalid time to train requests and request withdrawals

- 4.1 If you consider an employee's request to be invalid because it does not include all of the necessary information, it is good practice to notify the employee of this within 28 days. You must also inform them of the reason why you consider the application is invalid.
- 4.2 Your employee may then revise and resubmit their request with the error corrected. You would then need to treat this as a new request and would need to consider it because the initial request was not a valid one.

Withdrawal of a request by an employee

- 4.3 An employee may decide to withdraw a request at any point before you have notified them of your decision. They can notify you orally or in writing. If you do not receive written notification from the employee that their request is withdrawn, you must confirm the withdrawal of the application to the employee in writing. If an employee

withdraws a request, it will still count as a request that you have received for the purposes of this legislation.

Ignoring earlier requests

- 4.4 There are three circumstances in which the employee, having submitted a further request, may ask you to ignore an earlier request submitted within the last 12 months. These are:
- where the employee notifies you that they mistakenly submitted an earlier request before 12 months elapsed and they wish to withdraw the earlier application
 - where the employee did not undertake training that was agreed following a request because the training was cancelled - unless this was due to their own conduct in relation to the study or training
 - where the employee failed to start training that was agreed as part of a request because of some unforeseen circumstance beyond their control
- 4.5 In these circumstances, you must ignore the fact that the employee submitted an earlier application, and consider their present request.

4. Timescales for considering time to train requests

- 5.1 Within 28 days of receiving a valid request you must either:
- accept the request on the basis of the information set out in the individual's written request and inform the employee of your decision in writing
 - meet with the employee to discuss their request - then within 14 days of that meeting, you must inform the employee of your decision in writing
- 5.2 If the Head of School, Professional Services Manager (or nominee) who would normally deal with training requests is absent from work on the day the application is received, the period within which a meeting must be held is automatically extended. A 28 day extension period will begin on the day that person comes back to work. This automatic extension can last no longer than 28 days.
- 5.3 The timescales for holding meetings and issuing notices of decisions on applications and appeals can be extended by agreement with the individual who has made the request. Such an agreement must be recorded in writing and a copy given to the employee.
- 5.4 The record of agreement to extend these timescales must:
- specify what period the extension relates to
 - specify the date on which the extension is to end
 - be dated

Requesting additional information to help you consider a request

- 5.5 If you have received a valid request but feel that you need additional information before you can give the request proper consideration, you can ask the employee to provide additional information.

5.6 If the employee refuses to provide you with additional information you need to consider the request, you can treat their request as withdrawn. To do this, you must inform the individual in writing that you consider their request to be withdrawn.

5. Considering whether to accept or reject a time to train request

6.1 There may be cases where you are content to accept in full the employee's proposals for training as set out in their request.

6.2 There may also be cases where you are content to accept the request, but think the training need can be met in a different way to the request proposal. For example, you may prefer to deliver training in-house rather than using an external training provider, or you may be aware of different courses or qualifications that you believe would better meet the training need the employee has highlighted.

6.3 In such cases, you will need to discuss the employee's request with them before reaching your final decision and confirming it, in writing, to the employee.

6.4 Once the training method has been agreed you will need to consider how the costs of the training will be met. You do not have to pay for training, but you may choose to do so.

6.5 You may only refuse an employee's request for time to train for one of the following business reasons:

- the proposed study or training would not improve the employee's effectiveness
- the proposed study or training would not improve the performance of the school, service or University
- the burden of additional costs
- agreeing to the request would have a detrimental effect on your ability to meet customer demand
- you would be unable to reorganise work among existing staff
- you would be unable to recruit additional staff
- agreeing to the request would have a detrimental impact on quality
- agreeing to the request would have a detrimental impact on performance
- there would be an insufficiency of work during the periods the employee proposes to work
- there are planned structural changes during the proposed study or training period

Meeting an employee to discuss their time to train request

6.6 Your HR Adviser will attend a meeting. The law does not prescribe how you should carry out meetings to discuss requests but there are certain requirements concerning the attendance of companions at such meetings.

6.7 The employee has a statutory right to be accompanied by a colleague of their choosing who also works for you, eg a union representative. You may choose to allow an employee to be accompanied by someone who does not work for you - for example, where they have special needs of some kind - but you are not required to do so.

- 6.8 The companion can address the meeting and confer with the employee during it, but may not answer questions independently of the employee.
- 6.9 If the companion is unable to attend the meeting, the employee can ask that you rearrange the meeting. The time the employee proposes must be convenient for all attendees, and should take place within seven days of the date originally proposed for the meeting.
- 6.10 You must pay the employee and their companion for the time taken away from their normal working duties to attend the meeting.

Employee failure to attend meetings to discuss their request

- 6.11 If the employee more than once fails to attend a meeting to discuss a request - or a meeting to discuss an appeal - without reasonable cause, you can treat the request as withdrawn. You should confirm in writing that the application is withdrawn.

6. Communicating decisions on time to train requests

- 7.1 Once you have considered your employee's request for time to train and reached a final decision, you will need to confirm that decision to the employee in writing.

Notifying an employee that you have accepted their request

- 7.2 You must confirm the details of your agreement to an employee's request in writing. Your HR Adviser will draft the letter which will include the following details:
- the subject of the study or training
 - where and when you expect that it will take place, and over what period
 - who will provide or supervise the training
 - what qualification (if any) the training will lead to the award of
 - how the training time will be taken - eg whether it will be paid, unpaid, or whether the employee will work flexibly whilst undertaking the training
 - how the costs of the training will be met
- 7.3 If your approval of an employee's request involves changing their terms and conditions - eg a change in working hours or because you have agreed that the training time will be unpaid - then you should follow normal practices for making such changes.

Notifying the employee that you have accepted part of their request

- 7.4 An employee might request more than one type of study or training at once. You could decide to agree to part of the application and refuse another part. The decision notice must include the information above and make clear which part of the application you agree to and which part you refuse.

Where you and your employee agree a different training outcome

- 7.5 As a result of your discussions with them about their request, you might reach an agreement with the employee to meet their training need in a different way. Your written notification should confirm the details of that agreement, including written

evidence of the employee's agreement to it. It can be helpful to draft such an agreement with the employee at the meeting where this is discussed.

Later withdrawal of agreement

7.6 You might agree to an employee's request, but foresee circumstances in which you may need to later withdraw that agreement. In such cases, you should agree with your employee the circumstances in which you will withdraw your agreement. You should also confirm this in writing to the employee as part of your written acceptance of their request. It can be helpful to draft such an agreement with the employee at the meeting where this is discussed.

Notifying an employee that you have rejected their request

7.7 If you decide that you cannot accommodate an employee's request for time to train, your HR Adviser will draft a letter, setting out:

- which of the business reasons you are turning down their request for
- why the business reason, or reasons, apply in their circumstances
- the appeal procedure
- the date of the notice

7. Internal appeals process for time to train requests

8.1 An employee can appeal to you to challenge your decision. They must make their appeal in writing within 14 days of receiving your written notice refusing their request or part of their request. On receipt of an appeal you must contact your HR Adviser who will be able to advise you.

8.2 The appeal notice must be dated and must set out the employee's grounds for making the appeal.

8.3 An employee might appeal because they want to either:

- challenge a fact you gave to explain why the business reason applies
- bring to your attention something you weren't aware of when you rejected the application, eg that another member of staff is now willing to cover the hours the employee wishes to train.

8.4 There are no restrictions on the grounds for this appeal.

8.5 You must act within 14 days of receiving the employee's appeal notice. If you decide to accept the appeal, you should write to the employee setting out the same information as is required when accepting an initial request.

Arranging an appeal meeting

8.6 If you do not accept the appeal, you must arrange an appeal meeting. This must be held within 14 days of the date you received the employee's appeal notice.

- 8.7 If it is practical, the appeal should be heard by a different manager to the person who considered their initial request.
- 8.8 The principles on the right to be accompanied, pay for attending the meeting and what happens if the employee fails to attend are the same as for the initial meeting.

Notifying an employee of your decision following the appeal meeting

- 8.9 You must inform the employee of the outcome of their appeal in writing within 14 days of the date of the meeting.
- 8.10 If your decision is still to refuse the request, you must send the employee a dated, written notification including:
- the grounds for your decision
 - why the grounds apply in their circumstances
- 8.11 The time limit for arranging an appeal meeting or notifying the employee of your decision on the appeal can be extended with the employees consent.

9. Dealing with unresolved time to train requests

- 9.1 There may be occasions where an employee is not satisfied with the way that you have dealt with their application, even after an internal appeal.

Informal resolution

- 9.2 You should first try to resolve any problems informally. For example, if a manager misses a deadline to respond to an employee's request, you should tell them to deal with the application as quickly as possible to discourage the employee from taking more formal action.
- 9.3 If you cannot resolve the issue internally, you could try using an external third-party mediator or conciliator.

Internal grievance procedure

- 9.4 If the issue is still unresolved, the employee may use the internal grievance procedure

Tribunal claims

- 9.5 If all other methods have failed, the employee may feel that a complaint to an employment tribunal is necessary.
- 9.6 Acas may be able to offer its pre-claim conciliation service if you believe the employee is about to make a complaint to an employment tribunal.
- 9.7 An employee may only make a complaint to an employment tribunal where either:
- your decision to reject an application was based on incorrect facts (although this issue should first be covered in the appeal meeting)

- you didn't follow the correct procedure, eg you didn't hold the meeting to discuss the request within the correct timescale or you didn't provide a complete and proper explanation to the employee of your decision to refuse their request
- 9.8 An employee cannot make a complaint because they simply disagree with the business grounds you give.
- 9.9 The employment tribunal does not have power to question your business reasons, although it can examine the facts on which the business reason was based to see if they are factually correct. However, if a case is brought jointly with other legislation, eg the Sex Discrimination Act 1975 or other discrimination legislation, an employment tribunal may examine how the request was considered.

Remedies and compensation

- 9.10 An employment tribunal can order you to:
- pay an award to the employee
 - reconsider the request by following the procedure correctly
- 9.11 It can order you to do either or both of these things.
The maximum level of compensation is eight weeks' pay - although there is a statutory cap on the amount of a week's pay.
- 9.12 There is a separate award of up to two weeks' pay if you did not allow the employee to be accompanied at a meeting.

- **Employment protection and time to train requests**

- 10.1 You must not treat an employee detrimentally or dismiss them for a reason relating to their request for time to train. In addition, you should note that rejecting a request for time to train could give rise to a discrimination claim.
- 10.2 Employees are protected from suffering a detriment or being dismissed because:
- they made - or proposed to make - a request for time to train
 - they exercised - or proposed to exercise - a right under the time to train procedure
 - they have made - or have stated their intent to make - a complaint to an employment tribunal in respect of a request for time to train
 - they exercised - or sought to exercise - their right to be accompanied at a meeting to discuss their request or they accompanied another employee to such a meeting
- 10.3 A detriment is where you act - or deliberately fail to act - in a way that results in unfair treatment of the employee, eg where you fail to offer them promotion, facilities or training opportunities that you would otherwise have offered or made available to them.
- 10.4 Employees who suffer a detriment or are dismissed in these circumstances may make a complaint to an employment tribunal.

Discrimination

- 10.5 In some circumstances, rejecting an employee's request for time to train could open up the possibility of a claim for discrimination on grounds of sex, race, religion or belief, sexual orientation, disability or age.

Less favourable treatment of part-time workers and employees on fixed-term contracts

- 10.6 You must not treat a part-time worker or an employee on a fixed-term contract less favourably than a comparable full-time worker or permanent employee - unless that treatment is justified by objective business grounds.